



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

MAY 06 2014

In Reply Refer to:
BSS:L031450

Sonoma County Agricultural
Preservation and Open Space District
747 Mendocino Ave #100
Santa Rosa, CA 95401

REVOCATION OF WATER RIGHT CERTIFICATE L50 (APPLICATION L031450), UNNAMED STREAM TRIBUTARY TO NORTON SLOUGH THENCE FOSS CREEK THENCE WEST SLOUGH THENCE DRY CREEK THENCE THE RUSSIAN RIVER IN SONOMA COUNTY

Pursuant to Water Code section 1228.5, subdivision (d), Water Right Certificate L50 has been revoked for failure to renew the registration or pay the renewal fee. This is a final action not subject to reconsideration by the State Water Resources Control Board (State Water Board).

It is your responsibility to remove or modify diversion works and impoundments to ensure that water subject to this revocation is not diverted and used. Unauthorized diversion and use of water is considered a trespass and subject to enforcement action under Water Code sections 1052 and 1831. Pursuant to Water Code section 1052, any diversion of water from the point of diversion identified in this water right certificate may be subject to administrative civil liability of up to \$500 per day without further notice. The State Water Board also may issue a cease and desist order in response to an unauthorized diversion or threatened unauthorized diversion pursuant to Water Code section 1831.

Before initiating any work in a stream channel, you should consult with the California Department of Fish and Wildlife and the Regional Water Quality Control Board to ensure that removal of project facilities does not adversely affect a fishery or result in unregulated sediment discharge to a waterway. You must also consult the Department of Water Resources, Division of Safety of Dams if a jurisdictional size dam will be removed or breached (dam height 15 feet or more, or reservoir volume 50 acre-feet or more). These agencies may require a permit or other approval prior to any construction activity.

Some diverters claim rights to divert independent of a permit, license, registration or certification issued by the State Water Board, such as diversions under riparian or pre-1914 rights. With limited exceptions, Water Code section 5101 requires that a Statement of Water Diversion and Use be filed for these diversions. Water Code section 5107 (c)(1) provides that the State Water Board may impose a civil liability of \$1,000, plus \$500 per day for each additional day on which the violation continues if the person fails to file a statement within 30 days after the board has called the violation to the attention of that person. These penalties are in addition to any penalties that may be imposed if the diverter does not hold a valid right or diverts in excess of

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

what is authorized under that right. This letter serves as your notice of the statement requirement and potential penalty.

If you require further assistance, please contact Bryan Stedman at (916) 322-9632. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Bryan Stedman, P.O. Box 2000, Sacramento, CA, 95812-2000.

Sincerely,

ORIGINAL SIGNED BY:

Katy Lee, Senior
Russian River Watershed Unit
Division of Water Rights

cc: Department of Fish and Wildlife
Bay Delta Region
7329 Silverado Trail
Napa, CA 94558

ec: katherine.lee@waterboards.ca.gov , john.o'hagan@waterboards.ca.gov

**RENEWAL OF
LIVESTOCK STOCKPOND USE REGISTRATION**

**CERTIFICATE NO. L50
APPLICATION L031450**

The subject appropriation meets the requirements for renewal specified in section 1228.5 of chapter 1, part 2, division 2 of the Water Code, and is hereby renewed for the next incremental five-year period which expires on September 24, 2013, based on the first filing date of the completed registration.

The renewed appropriation is subject to the conditions of the original certificate and any previous amendments.

Approved by:

KATHY MROWKA, Chief
Inland Streams Unit

Date of Renewal: January 26, 2010

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

DIVISION OF WATER RIGHTS

LIVESTOCK STOCKPOND USE REGISTRATION

CERTIFICATE NO. L 50

**Application L31450 of Donald Beauregard, Passacreek, LLC/HMB Partners, Inc.
88 Steele, Suite 300
Denver, CO 80206**

filed with the State Water Resources Control Board (SWRCB) on September 24, 2003, meets the requirements for registration of livestock stockpond use specified in Article 2.7 (commencing with section 1228) of Chapter 1 of Part 2 of Division 2 of the Water Code. The appropriation is subject to the following conditions.

1. Source:

Unnamed Stream

Tributary to:

Norton Slough thence

Foss Creek thence

West Slough thence

Dry Creek thence

Russian River thence

Pacific Ocean

within the County of **Sonoma**.

2. Location of Point of Diversion: By California Coordinate System of 1927, Zone 2	Point is within (40-acre subdivision)	Projected Section	Township	Range	Base and Meridian
North 355,591 feet and East 1,754,684 feet	NW¼ of SE¼	9	9N	9W	MD

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For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.*

3. Purpose of Use:	4. Place of Use:	Projected Section	Township	Range	Base and Meridian	Acres
STOCKWATERING, INCIDENTAL AESTHETIC, RECREATIONAL, FISH AND WILDLIFE	NW¼ of SE¼	9	9N	9W	MD	

The place of use is shown on a map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 7.8 acre-feet per annum to be collected from October 15 of each year to April 15 of the succeeding year. The capacity of the reservoir shall not exceed 7.8 acre-feet which is the stated capacity shown in the registration.
6. Appropriation of water pursuant to this registration shall be made in accordance with the information set forth in the completed registration form as to source, location of point of diversion, purpose of use, place of use, and quantity and season of diversion. This information is reproduced as conditions 1 through 5 of this certificate.
7. After the initial filling of the storage reservoir, registrant's right under this certificate extends only to water necessary to keep the reservoir full by replacing water beneficially used and water lost by evaporation and seepage and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season.
8. Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this registration, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.
9. Registrant shall allow representatives of the SWRCB, and other parties as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms and conditions of this registration.
10. If the registrant does not own the point of diversion, this registration shall not be construed as conferring upon the registrant right of access to the point of diversion.
11. This appropriation is subject to prior rights. Registrant may be required to curtail diversion or release water stored during the most recent collection season should

diversion under this registration result in injury to holders of legal downstream senior rights. If a reservoir is involved, registrant may be required to bypass or release water over, around, or through the dam. If release of stored water would not effectively satisfy downstream prior storage rights, registrant may be required to otherwise compensate the holders of such rights for injury caused.

12. To the extent that water available for use under this registration is return flow, imported water, or wastewater, this registration shall not be construed as giving any assurance that such supply will continue.
13. Diversion works shall be constructed and water applied to beneficial use with due diligence.
14. No work shall commence and no water shall be diverted, stored or used under this certificate until registrant has received a stream or lake alteration permit from the California Department of Fish and Game. Compliance with the terms and conditions of the permit is the responsibility of the registrant. If a permit is not necessary for this project, the registrant should retain a written waiver from the California Department of Fish and Game.
15. In compliance with section 5937 of the Fish and Game Code, if storage or diversion of water under this registration is by means of a dam, registrant shall allow sufficient water at all times to pass through a fishway or, in the absence of a fishway, allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist below the dam; provided that, during a period of low flow in the stream, upon approval of the California Department of Fish and Game, this requirement will be satisfied if sufficient water is passed through a culvert, waste gate, or over or around the dam to keep in good condition any fish that may be planted or exist below the dam if it is impracticable or detrimental to pass the water through a fishway. In the case of a reservoir, this provision shall not require the passage or release of water at a greater rate than the unimpaired natural inflow into the reservoir.
16. No construction shall be commenced and no water shall be diverted under this registration until all necessary federal, state, and local approvals have been obtained, including obtaining and complying with any waste discharge requirements from the appropriate California Regional Water Quality Control Board.
17. This registration does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 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 registrant shall obtain authorization for an incidental take prior to construction or operation of the

project. Registrant shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this registration.

18. More than one appropriation for livestock stockpond use may be in effect at any time if stockponds subject to registration for this registrant do not exceed the ratio of one per 50 acres.
19. This registration is subject to the submittal of a report of water use and satisfactory renewal of the registration, on forms to be furnished by the SWRCB, including payment of the then-current renewal fees prior to the expiration of each five-year period following the date of first filing the completed registration.
20. The point or points of diversion and the place of use registered herein may be changed by filing a completed amended registration form with the SWRCB, including payment of the then-current registration fee. Such change shall not operate to the injury of any legal user of the water involved.
21. The appropriation registered herein shall be totally or partially forfeited for nonuse if the diversion is abandoned or if all or any part of the diversion is not beneficially used for a continuous period of five years.
22. The appropriation registered herein is subject to enforcement, including but not limited to revocation, by the SWRCB if 1) the SWRCB finds that the registrant knowingly made any false statement, or knowingly concealed any material fact, in the registration; 2) the registration is not renewed as required by the conditions of this certificate; or 3) the SWRCB finds that the registrant is in violation of the conditions of this registration.

Dated: **OCT 27 2003**

STATE WATER RESOURCES CONTROL BOARD



Harry M. Schueller *For.*
Chief Deputy Director