STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

LIVESTOCK STOCKPOND USE REGISTRATION

RENEWAL ORDER FOR CERTIFICATE NO. L77

Application L031424 of Jean Thomas was filed with the State Water Resources Control Board (State Water Board) on May 2, 2003. The State Water Board issued Certificate No. L77 on March 29, 2006.

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 to May 1, 2013, based on the above-stated date of first filing the completed registration.

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

Katherine Mrowka
for *Victoria A. Whitney, Chief*
Division of Water Rights

Dated: MAY 27 2008

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

DIVISION OF WATER RIGHTS

LIVESTOCK STOCKPOND USE REGISTRATION

CERTIFICATE NO. L 77

Application L31424 of **Jean Thomas**
P. O. Box 1967
Fort Bragg, CA 95437

filed with the State Water Resources Control Board (State Water Board) on May 2, 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 Spring**

Tributary to: **Unnamed Stream thence Ackerman Creek thence Russian River**

within the County of **Mendocino.**

2. Location of Point of Diversion: By California Coordinate System of 1927, **Zone 2**	Point is within (40-acre subdivision)	Section	Township	Range	Base and Meridian
North 557,773 feet and East 1,621,027 feet	**SE¼ of NW¼**	**06**	**15N**	**13W**	**MD**

3. Purpose of Use:	4. Place of Use:	Section	Township	Range	Base and Meridian	Acres
STOCKWATERING, INCIDENTAL AESTHETIC, RECREATIONAL, FISH AND WILDLIFE	**SE¼ of NW¼**	**06**	**15N**	**13W**	**MD**	

The place of use is shown on a map on file with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 7 acre-feet per annum to be collected from November 1st of each year to April 30th of the succeeding year. The capacity of the reservoir shall not exceed 7 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 State Water Board 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 State Water Board, and other parties as may be authorized from time to time by the State Water Board, 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 State Water Board, 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 State Water Board, 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 State Water Board if 1) the State Water Board 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 State Water Board finds that the registrant is in violation of the conditions of this registration.

Dated: MAR 29 2006

STATE WATER RESOURCES CONTROL BOARD

Steven Herrera for

Victoria A. Whitney, Chief
Division of Water Rights

State of California – The Resources Agency
DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 944-5500

ARNOLD SCHWARZENEGGER, Governor

July 7, 2005

Ms. Jean Thomas
Post Office Box 1967
Fort Bragg, CA 95437

Dear Ms. Thomas:

Registration of Livestock Stockpond Use
Appropriation by Jean Thomas for Three Livestock Stockponds
Diverting from Multiple Unnamed Springs
Tributary to Ackermen Creek, Thence the Russian River,
Mendocino County

Department of Fish and Game (DFG) personnel have visited the site on October 15, 2003 and reviewed your State Water Resources Control Board (SWRCB) registration applications submitted to DFG in October 2003 and May 2003 for appropriations for Livestock Stockpond Use.

The three existing ponds considered in these three registration applications are all located on several unnamed spring fed tributaries to Ackermen Creek, thence the Russian River, located at Assessor Parcel #155-200-01 (pond #1), Assessor Parcel #150-320-02 (pond #2), and Assessor Parcel #155-03-01 (pond #3) in Mendocino County, respectively. The three registration applications included the following information regarding storage for each pond:

Table 1

Name	Maximum Depth (ft)	Surface Area (acres)	Capacity (acre ft)
Pond #1	12	.3	2.1
Pond #2	10	.6	5.0
Pond #3	12	.8	7.0

The three registration applications request to collectively divert and use water from November 1st to April 30th of the following year. Ponds #1 and #2 are located near the top of their respective sub-watershed areas while Pond #3 is located low in the watershed, close to Ackermen Creek.

The Russian River supports anadromous fish including a small population of Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*Oncorhynchus kisutch*) and steelhead trout (*Oncorhynchus mykiss*). Local Chinook, coho and steelhead have been listed by the National Marine Fisheries Service (NOAA Fisheries) as "threatened" under the Federal Endangered Species Act (FESA).

Pursuant to Section (§) 1228.3 of the State Water Code, registration of appropriations for Livestock Stockponds require consultation with DFG. DFG will not place any bypass flow requirements on the current facilities based on our site visit, the fact that the current use is basically non-consumptive, as well as the location and size of the stockponds. However, there is the possibility that stocked fish inadvertently released from these ponds may cause significant adverse impacts to the populations of sensitive native salmonids utilizing downstream reaches. For these reasons, DFG's terms and conditions are limited to a prohibition on any future stocking of Pond #1 and Pond #3, therefore these ponds shall not be stocked with fish.

The issuance of this letter by DFG does not constitute a valid water right. SWRCB must first issue you a valid Livestock Stockpond Use Registration certificate before you may divert water. Under State Water Code § 1052, the diversion and use of water without a valid basis of right is a trespass against the State of California and is subject to enforcement action by SWRCB.

This letter may be subject to modification or cancellation by DFG should facts warranting such action come to light at a later date or if the purpose of use changes. If you have questions regarding these conditions, please contact Mr. Jeremy Sarrow, Environmental Scientist, at (707) 944-5573; or Ms. Linda Hanson, Staff Environmental Scientist, at (707) 944-5562.

Sincerely,

Robert W. Floerke
Regional Manager
Central Coast Region

cc: See Next Page

cc: Ms. Victoria Whitney, Chief
Attention Ms. Yoko Mooring
State Water Resources Control Board
Division of Water Rights
Post Office Box 2000
Sacramento, CA 95812-2000

Dr. William Hearn
National Marine Fisheries Service
777 Sonoma Avenue, Room 325
Santa Rosa, CA 95404-3528

Mr. Michael Domenici
Fort Bragg Trout Farm
18000 Ocean Drive
Fort Bragg, CA 95437