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

## DIVISION OF WATER RIGHTS

# LIVESTOCK STOCKPOND USE REGISTRATION

## CERTIFICATE NO. L97

**Application L031393 of** **McMicking Family Ranch**
**500 Sansome Street, Suite 608**
**San Francisco, CA 94111-3219**

filed with the State Water Resources Control Board (State Water Board) on **January 28, 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: | Tributary to: |
|---|---|
| **Unnamed Spring** | **Unnamed Stream thence** |
| | **Bluegum Creek thence** |
| | **McDonnell Creek thence** |
| | **Maacama Creek thence** |
| | **Russian River** |

within the County of **Sonoma.**

| 2. Location of Point of Diversion: By California Coordinate System of 1983, **Zone 2** | Point is within (40-acre subdivision) | Section | Township | Range | Base and Meridian |
|---|---|---|---|---|---|
| **North 2,014,993 feet and East 6,345,557 feet** | **NW¼ of NW¼** | **28** | **10N** | **8W** | **MD** |

| 3. Purpose of Use: | 4. Place of Use: | Section | Township | Range | Base and Meridian | Acres |
|---|---|---|---|---|---|---|
| **STOCKWATERING, INCIDENTAL AESTHETIC, RECREATIONAL, FISH AND WILDLIFE** | **NW¼ of NW¼** | **28** | **10N** | **8W** | **MD** | |

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

5. Quantity and Season: The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 5 acre-feet per annum to be collected from November 1 of each year to May 31 of the succeeding year. The capacity of the reservoir shall not exceed 5 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 (DFG). 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 DFG.

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 DFG, 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: DEC 0 5 2008

**STATE WATER RESOURCES CONTROL BOARD**

Steven Herrera for

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