

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21203

Application 30695 of

Chris Hanna
Hanna Bismark Vineyard
9280 Highway 128
Healdsburg, CA 95448

filed on April 10, 1998, has been approved by the State Water Resources Control Board (State Water Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

Unnamed Stream

Tributary to:

Agua Caliente Creek, thence Sonoma Creek,
thence San Pablo Bay

within the County of Sonoma

2. Location of point of diversion

By California Coordinate System of 1927 in Zone # 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
North 251,900 feet and East 1,871,800 feet	NE ¼ of NE ¼	19	6N	5W	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Irrigation	SW ¼ of SE ¼	18	6N	5W	MD	2
	SE ¼ of SE ¼	18	6N	5W	MD	1
	NW ¼ of NE ¼	19	6N	5W	MD	20
	NE ¼ of NE ¼	19	6N	5W	MD	20
	SW ¼ of NE ¼	19	6N	5W	MD	10
	SE ¼ of NE ¼	19	6N	5W	MD	10
	NE ¼ of SE ¼	19	6N	5W	MD	3
	SW ¼ of NW ¼	20	6N	5W	MD	10
	NW ¼ of SW ¼	20	6N	5W	MD	8
Frost Protection	Same as Place of Use for Irrigation					

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

5. The water appropriated shall be limited to the quantity, which can be beneficially used and shall not exceed **15** acre-feet per annum to be collected from **December 15** of each year to **March 31** of the succeeding year. (000005C)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

The capacity of the reservoir covered under this permit shall not exceed **15** acre-feet. (000005N)
6. Complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2017. (000009)
7. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to State Water Resources Control Board policy on use of water for frost protection. Action by the State Water Resources Control Board will be taken only after notice to interested parties and opportunity for hearing. (000020)

8. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before starting construction, Permittee shall submit plans and specifications of the outlet pipe, or alternative facility, to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir, Permittee shall furnish evidence which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0050043A)
9. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, Permittee shall file a report pursuant to Water Code section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, San Francisco Bay Region, or by the State Water Resources Control Board.

(0000100)
10. For the protection of fish and wildlife, Permittee shall limit all diversions to the period of December 15 of each year to March 31 of the following year and shall bypass a minimum of 0.06 cubic feet per second (27 gallons per minute) immediately below the Point of Diversion on the Unnamed Stream above Agua Caliente Creek. The total stream flow shall be bypassed whenever it is less than the designated amount. The bypass flow will be measured and maintained in accordance with the accepted Compliance Plan dated May 1, 2006, and included in the file for Application 30695. To ensure compliance with this condition in association with a yearly progress report submitted to the State Water Resources Control Board compliance staff, Permittee shall file a report containing the following information:
 - a. Dates during the previous period of December 15 of each year to March 31 of the following year when water was diverted under this permit;
 - b. Flows measured in the unnamed tributary to Agua Caliente Creek during this same period.

(0140200M)
11. No water shall be diverted under this permit until Permittee installs a device, in accordance with the accepted Compliance Plan on file for Application 30695, to measure the bypass flow required by the conditions of this permit. Permittee shall maintain a record of all gage readings in accordance with the compliance plan. Permittee shall furnish evidence that substantiates that the streamflow-measuring device has been installed. If the measuring device is rendered inoperative for any reason, all diversions shall cease until such time as the device is restored to service. Said measuring device shall be properly calibrated, operated, and maintained by Permittee (or successors-in-interest) as long as any water is being diverted under any permit or license issued pursuant to Application 30695.

The monitoring data shall be maintained by Permittee for ten years from the date of collection and made available to the Chief of the Division of Water Rights, upon request. Any non-compliance with the terms of the permit shall be reported by the Permittee promptly to the Chief of the Division of Water Rights.

Diversion and use of water prior to installation of facilities as specified in the Compliance Plan is not authorized. Before storing water in the reservoir, Permittee shall furnish evidence that the May 1, 2006, Compliance Plan on file for Application 30695 has been implemented. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0140200M)
(0000070M)

12. The Permittee shall obtain all necessary federal, state, and local agency permits required by other agencies prior to construction and diversion of water. Copies of such permits and approvals shall be forwarded to the Chief of the Division of Water Rights.

(0000203M)

13. An erosion control plan and revegetation plan for the area where construction equipment will be used and an implementation schedule, prepared by a licensed civil engineer, shall be submitted to and approved by the Chief of the Division of Water Rights, prior to starting construction. The plan shall conform to the requirements of Sonoma County and the Streambed Alteration Agreement issued by the California Department of Fish and Game. Before storing water in the reservoir, Permittee shall furnish evidence, which substantiates that the erosion control/revegetation plan has been implemented. Evidence includes photographs showing the project area vegetation and slopes.

Erosion control measures shall be implemented in accordance with the requirements of the Sonoma County Permit and Resource Management Department.

(0000207M)

14. No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.

(0000208)

15. Should any buried archaeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archaeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and spilt lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.

(0000215)

16. If human remains are encountered, then the Permittee shall comply with Section 15064.5 (e) (1) of the California Environmental Quality Act Guidelines and the Public Resources Code Section 7050.5. All project related ground disturbance within 100 feet of the find shall be halted until the county coroner has been notified. If the coroner determines the remains are Native American, the coroner will notify the Native American Heritage Commission to identify the most-likely descendants of the deceased Native Americans. Project-related ground disturbance shall not resume, in the vicinity of the find, until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Chief of the Division of Water Rights.

(0380500)

17. Permittee shall not use more water under the basis of riparian right on the place of use authorized by this permit than Permittee would have used absent the appropriation authorized by this permit.

Based on the information in the Division of Water Rights' files, riparian water has not been used on the place of use. Therefore, consistent with this term, Permittee may not divert any additional riparian water for use on the place of use authorized by this permit under basis of riparian right. With the Chief of the Division of Water Rights approval, this information may be updated, and Permittee may use water under basis of riparian on the authorized place of use, provided that Permittee submits reliable evidence to the Chief of the Division of Water Rights quantifying the amount of water that Permittee likely would have used under the basis of riparian right absent the appropriation authorized by this permit. The Chief of the Division of Water Rights is hereby authorized to approve or reject any proposal by Permittee to use water under the basis of riparian right on the place of use authorized by this permit.

(0560300b)

18. The Permittee shall obtain a Building Permit from Sonoma County Permit and Resource Management Department and will be subject to all requirements within the Uniform Building Code for Seismic Zone 4.

(0000203M)

19. Prior to commencing construction of the reservoir, Permittee shall obtain all appropriate grading permits and other permits required by the County of Sonoma. The plans and specifications for the reservoir construction shall be prepared by a licensed civil engineer and submitted to the Chief of the Division of Water Rights. The actual construction work shall be limited to the dry season and shall be carried out under the direct supervision of a licensed civil engineer. The project will be constructed in accordance with the Conditions and Specifications for the Irrigation Pond (Summit Engineering, April 2001), and the Suggested Geotechnical Specifications (Bauer and Associates, 2001)

(0000203M)

20. Construction of the storage dam shall not begin until the Sonoma County Engineer, the United States Natural Resource Conservation Service, or a civil engineer registered by the State of California has approved the plans and specifications for the dam. Construction of the dam shall be under the direction of said approving party.

(000000K2)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)
- C. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said State Water Resources Control Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the

State Water Resources Control 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.

The continuing authority of the State Water Resources Control Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of Permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Resources Control Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Resources Control Board also may be exercised by imposing further limitations on the diversion and use of water by the Permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Resources Control Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the Permittee and an opportunity for hearing, the State Water Resources Control Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Resources Control Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the Permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the California Department of Fish and Game and the Permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the Permittee. If a stream or lake agreement is not necessary for this

permitted project, the Permittee shall provide the Division of Water Rights a copy of a waiver signed by the California Department of Fish and Game.

(0000063)

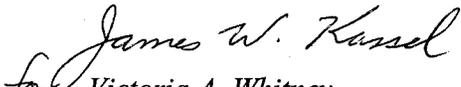
This permit is issued and Permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD


for Victoria A. Whitney
Division Chief

Dated: **AUG 23 2007**



State Water Resources Control Board

SURNAME



Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

Linda S. Adams

Secretary for

Environmental Protection

Arnold Schwarzenegger

Governor

SEP 14 2007

In Reply Refer
to:332:KIW:30695

Hanna Bismark Vineyard
c/o Barbara Brenner
Stoel Rives, LLP
770 L Street, Suite 800
Sacramento, CA 95814

Dear Ms. Brenner:

PERMIT 21203 (APPLICATION 30695) OF HANNA BISMARK VINEYARD TO
APPROPRIATE WATER FROM AN UNNAMED STREAM TRIBUTARY TO AGUA CALIENTE
CREEK, THENCE SONOMA CREEK, IN SONOMA COUNTY

Your WATER RIGHT PERMIT is enclosed. Please note that, with respect to other water rights
attaching to this source, the priority of your right is identified by the filing date of your
application. Therefore, in times of water shortage, those diverters with water rights senior to
yours can take their water first. Additional limitations on your diversion and use of water are
specified by the terms of this permit. Please read the terms and conditions of your permit
carefully so that you are familiar with your responsibilities as an appropriator of water.

The State Water Resources Control Board (State Water Board) requires that you submit annual
reports showing the progress you have made in the construction of your project and the use of
water made under this permit that will qualify for licensing purposes. We will mail the forms to
you when the reports are due.

Annual permit fees are required. The California Board of Equalization will mail you a Notice of
Determination (billing) on behalf of the State Water Board when the fee is due. Please pay the
fee promptly. Nonpayment of the fee may result in revocation of your permit.

You must comply with all of the conditions in your permit. The State Water Board will not issue
a license for any water diverted and used for any purpose or at any place not authorized in the
permit. Nor will the State Water Board credit you for any development or use that occurs after
the date specified in the permit unless you request and receive an extension of time to use the
water. An extension of time to continue development of a project requires public noticing and
reevaluation of then-current environmental considerations, and is becoming considerably more
difficult to obtain.

After the project has been completed, an inspection will be made to determine the amount of
water that has been placed to beneficial use within the terms of the permit. A license will then
be issued confirming a right to that amount of water. Please keep sufficient records of your
diversion and use of water to facilitate this process.

SURNAME	California Environmental Protection Agency	Kassel 8/16/07	
Washburn 8/1/07	PGL 8/6/07		

30695
Application 30740

Please inform us of any changes in address or ownership.

Sincerely,

Steven Herrera, Chief
Water Rights Permitting Section

Enclosure

cc: (w/ enclosure)

Chris Hanna
Hanna Bismark Vineyard
9280 Highway 128
Healdsburg, CA 95448

KIWashburn:kiw/dv/willa:08-01-07

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

ORDER WR 2007-0030-DWR

In the Matter of Application 30695
Hanna Bismark Vineyard

ORDER APPROVING ISSUANCE OF PERMIT

SOURCE: Unnamed Stream tributary to Agua Caliente Creek, thence Sonoma Creek, thence San Pablo Bay

COUNTY: Sonoma

WHEREAS:

1. Application 30695 of Hanna Bismark Vineyard (Applicant) was filed with the State Water Resources Control Board (State Water Board) on April 10, 1998.
2. The protest to approval of the application has been resolved 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 30695. Application 30695 seeks authorization to divert 15 acre feet per annum (afa) of water to storage in a proposed onstream reservoir. Summit Engineering prepared a water availability analysis on March 2, 2004 (revised on May 24, 2004 and February 16, 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 30695 on March 17, 2000. There were no protests to approval of the application on the basis of injury to prior rights. Based on the water availability analysis, water is available to serve this application without 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. Summit Engineering, Inc., Golden Bear Biostudies, and

Nancy Dakin performed site-specific evaluations and recommended project modifications. Permit conditions were included in the permit to conform the project to the Draft Guidelines.

6. The proposed water use is beneficial. The applicant requested to divert 15 afa to storage for irrigation and frost protection of 84 acres of existing vineyard.
7. Pursuant to Resolution No. 2002-0106, the State Water Board has delegated authority to the Chief of the Division to administer the duties required under the California Environmental Quality Act (CEQA). (Attachment to Resolution No. 2002-0106, section 2.9.) The Division Chief has redelegated this authority to the Assistant Division Chief, the Chief of the Permitting Section, and the Chief of the Hearings and Special Projects Section. (Redelegations memo from Edward Anton (June 19, 2003).)
8. 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 with the State Clearinghouse.

NOW, THEREFORE, IT IS ORDERED THAT A PERMIT IS ISSUED FOR APPLICATION 30695, subject to the conditions of the attached permit.

STATE WATER RESOURCES CONTROL BOARD

James W. Kassel
for *Victoria A. Whitney, Chief*
Division of Water Rights

Dated: **AUG 23 2007**

Attachment