



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

DIVISION OF WATER RIGHTS

RIGHT TO DIVERT AND USE WATER

APPLICATION 30449

PERMIT 21336

Right Holder: Jackson Family Investments, LLC
1190 Kitty Hawk Blvd
Santa Rosa, CA 95403

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein SUBJECT TO PRIOR RIGHTS. The priority of this right dates from **June 6, 1995**.

Right holder is hereby granted a right to divert and use water as follows:

1. Source of water: **(1) Unnamed Stream and (2) Navarro River**
 tributary to: **(1) the Navarro River thence (2) the Pacific Ocean**
 within the County of **Mendocino**.

2. Location of points of diversion

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<u>Reservoir</u>					
(1) North 2,163,675 feet and East 6,139,825 feet	NE ¼ of NW ¼	11	14N	15W	MD
(2) North 2,163,100 feet and East 6,138,500 feet	NW ¼ of NW ¼				

Location of point of rediversion

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<u>Reservoir</u>					
(1) North 2,163,675 feet and East 6,139,825 feet	NE ¼ of NW ¼	11	14N	15W	MD

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
Frost Protection	SE ¼ of SW ¼	2	14N	15W	MD	13
	SW ¼ of SW ¼					26
	NW ¼ of NW ¼	11				13
	NE ¼ of NW ¼					18
	NW ¼ of NE ¼					1
Total						71

The place of use is shown on 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 **3 cubic feet per second** by direct diversion to be diverted from March 1 to March 31 of each year. The maximum amount diverted under this right shall not exceed **15 acre-feet per year**. (000005A)
6. The total quantity of water diverted under this water right and the water rights pursuant to Applications 18052A and 30448 shall not exceed **115 acre-feet per year**. (000005Q)
7. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2028. (0000009)
8. The State Water Board reserves jurisdiction to impose conditions to conform this water right to State Water Board policy on use of water for frost protection. Action by the State Water Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)
9. Based on the information in the Division’s files, water has not been used under a claimed existing right on the place of use. If right holder exercises a claimed existing right on the place of use authorized by this right without prior approval from the State Water Board, right holder shall forfeit this water right. (0000021C)
10. The State Water Board intends to develop and implement a basin-wide program for real-time electronic monitoring and reporting of diversions, withdrawals, releases and streamflow in a standardized format if and when resources become available. Such real-time reporting will be required upon a showing by the State Water Board that the program and the infrastructure are in place to accept real-time electronic reports. Implementation of the reporting requirements shall not necessitate amendment to this right. (0090031)

11. No water shall be used under this right until right holder has filed a report of waste discharge with the California Regional Water Quality Control Board, Region 1, pursuant to Water Code Section 13260, and the Regional Board or State Water Resources Control Board has prescribed waste discharge requirements or has indicated that waste discharge requirements are not required. Thereafter, water may be diverted only during such times as all requirements prescribed by the Regional Board or State Board are being met.

(0290101)
12. No water shall be diverted under this water right unless the flow in the Navarro River is at or above 538 cubic feet per second, as measured at the United States Geological Survey Stream Gage No. 11468000 – Navarro River near Navarro, California. In the event that said monitoring device is no longer available for streamflow measurements, right holder shall within 15 days submit a plan, satisfactory to the Deputy Director for Water Rights, to install an equivalent monitoring device as near as practicable to the location of the current monitoring device.

(0000204)
13. For the protection of riparian habitat, right holder shall establish a setback as shown on the Setback Map dated April 8, 2013 on file with the Division of Water Rights. No ground disturbing activities shall occur within the setback area, including, but not limited to, grading, herbicide spraying, roads, fencing, and use or construction of storage areas, with the exception of occasional equipment access reasonably necessary for continued operation of the vineyard. Equipment access through the setback shall be limited to previously disturbed areas of the setback when possible and is only allowed when other means of access are not available. Equipment access through the setback area shall incorporate best management practices to minimize disturbance to water, soils, and vegetation. Planting and irrigation of native riparian vegetation within the setback area is allowed. Right holder shall restrict cattle or other domestic stock access to the riparian area. These requirements shall remain in effect as long as water is being diverted under any water right issued pursuant to Application 30449.

(0000206)
14. Within six months of the issuance of this right, right holder shall submit an erosion control plan and implementation schedule, prepared by a licensed civil engineer, for approval by the Deputy Director for Water Rights. Right holder shall furnish evidence which substantiates that the erosion control plan has been implemented. Evidence includes photographs showing the project area vegetation and slopes.

(0000207)
15. 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)
16. No water shall be diverted under this right unless right holder is operating the water diversion facility for Point of Diversion 2 with a fish screen satisfactory to the Deputy Director for Water Rights. The fish screen shall be designed and maintained in accordance with the screening criteria of the National Marine Fisheries Service. Right holder shall provide evidence that demonstrates that the fish screen is in good condition with the annual report and whenever requested by the Division of Water Rights.

(0000213)
17. No water shall be directly diverted under this right unless right holder is monitoring and reporting said diversion of water. This monitoring shall be conducted using a device and methods satisfactory to the Deputy Director for Water Rights. The device shall be capable of continuous monitoring of the rate and quantity of water diverted and shall be properly maintained.

Right holder shall provide the Division of Water Rights with evidence that the device has been installed with the first annual report submitted after device installation. Right holder shall provide the Division of Water Rights with evidence that substantiates that the device is functioning properly every five years after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.

Right holder shall maintain a record of all diversions under this right that includes the date, time, rate of diversion at time intervals of one hour or less, and the amount of water diverted. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights.

(000000R)

THIS RIGHT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. Right holder is on notice that: (1) failure to timely commence or complete construction work or beneficial use of water with due diligence, (2) cessation or partial cessation of beneficial use of water, or (3) failure to observe any of the terms or conditions of this right, may be cause for the State Water Board to consider revocation (including partial revocation) of this right. (Cal. Code Regs., tit. 23, § 850.) (0000016)
- B. Right holder is on notice that when the State Water Board determines that any person is violating, or threatening to violate, any term or condition of a right, the State Water Board may issue an order to that person to cease and desist from that violation. (Wat. Code, § 1831.) (0000017)
- C. Right holder is not authorized to make any modifications to the location of diversion facilities, place of use or purposes of use, or make other changes to the project that do not conform with the terms and conditions of this right, prior to submitting a change petition and obtaining approval of the State Water Board. (0000018)
- D. Once the time to develop beneficial use of water ends under this permit, right holder is not authorized to increase diversions beyond the maximum annual amount diverted or used during the authorized development schedule prior to submitting a time extension petition and obtaining approval of the State Water Board. (0000019)
- E. Only the amount of water applied to beneficial use during the authorized diversion season, as determined by the State Water Board, shall be considered when issuing a license. (Wat. Code, § 1610.) (0000006)
- F. Right holder shall maintain records of the amount of water diverted and used under this right to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605. (0000015)
- G. Right holder shall promptly submit any reports, data, or other information that may reasonably be required by the State Water Board, including but not limited to documentation of water diversion and use under this right and documentation of compliance with the terms and conditions of this right. (0000010)
- H. No water shall be diverted under this right unless right holder is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how right holder will comply with the terms and conditions of this right. Right holder shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan. (0000070)
- I. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:
 - 1. Entry upon property where water is being diverted, stored or used under a right issued by the State Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;

2. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by State Water Board;
3. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,
4. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by State Water Board, or as otherwise authorized by the Water Code.

(0000011)

J. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.

(0000022)

K. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue.

(0000025)

L. This right does not authorize diversion of water dedicated by other right holders under a senior right for purposes of preserving or enhancing wetlands, habitat, fish and wildlife resources, or recreation in, or on, the water. (Wat. Code, § 1707.) The Division of Water Rights maintains information about these dedications. It is right holders' responsibility to be aware of any dedications that may preclude diversion under this right.

(0000212)

M. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies. If an amended right is issued, no new facilities shall be utilized, nor shall the amount of water diverted or used increase beyond the maximum amount diverted or used during the previously authorized development schedule, unless right holder has obtained and is in compliance with all necessary requirements, including but not limited to the permits and approvals listed in this term.

Within 90 days of the issuance of this right or any subsequent amendment, right holder shall prepare and submit to the Division of Water Rights a list of, or provide information that shows proof of attempts to solicit information regarding the need for, permits or approvals that may be required for the project. At a minimum, right holder shall provide a list or other information pertaining to whether any of the following permits or approvals are required: (1) lake or streambed alteration agreement with the Department of Fish and Wildlife (Fish & G. Code, § 1600 et seq.); (2) Department of Water Resources, Division of Safety of Dams approval (Wat. Code, § 6002); (3) Regional Water Quality Control Board Waste Discharge Requirements (Wat. Code, § 13260 et seq.); (4) U.S. Army Corps of Engineers Clean Water Act section 404 permit (33 U.S.C. § 1344); and (5) local grading permits.

Right holder shall, within 30 days of issuance of any permits, approvals or waivers, transmit copies to the Division of Water Rights.

(0000203)

- N. Urban water suppliers must comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.). An “urban water supplier” means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually.

Agricultural water users and suppliers must comply with the Agricultural Water Management Planning Act (Act) (Water Code, § 10800 et seq.). Agricultural water users applying for a permit from the State Water Board are required to develop and implement water conservation plans in accordance with the Act. An “agricultural water supplier” means a supplier, either publicly or privately owned, supplying more than 50,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

(0000029D)

- O. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this right, 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.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this right with a view to eliminating waste of water and to meeting the reasonable water requirements of right holder without unreasonable draft on the source. Right holder 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 right 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 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 Board also may be exercised by imposing further limitations on the diversion and use of water by right holder in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water 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)

- P. The quantity of water diverted under this right is subject to modification by the State Water Board if, after notice to right holder and an opportunity for hearing, the State Water 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 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)

- Q. This right does not authorize any act which results in the taking of a candidate, 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 & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a "take" will result from any act authorized under this right, right holder shall obtain any required authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this right.

(0000014)

This right is issued and right holder 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.

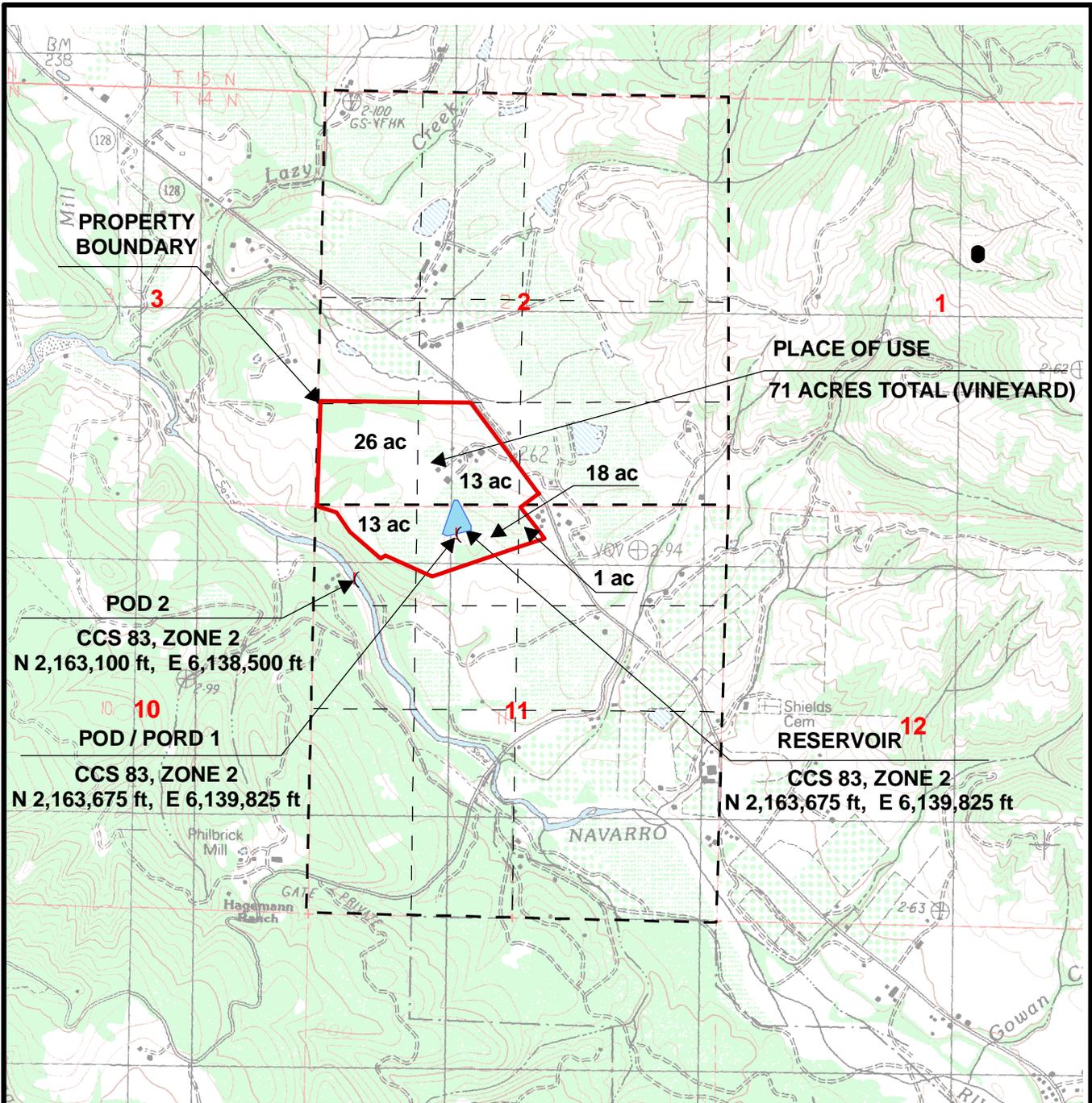
Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water 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

ORIGINAL SIGNED BY:
KATHERINE MROWKA, ACTING MANAGER FOR

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: OCT 01 2013



OWNER **JACKSON FAMILY INVESTMENTS**

SOURCE **POD 1 - UNNAMED STREAM TRIBUTARY TO NAVARRO RIVER** **POD 2 - NAVARRO RIVER**

POINT OF DIVERSION
 WITHIN **POD 1 - NE 1/4 OF NW 1/4 OF PROJECTED**
POD 2 - NW 1/4 OF NW 1/4

SECTION **11, T14N, R15W, MDB&M**

COUNTY OF **MENDOCINO**

U.S.G.S. QUAD: **PHILO** DATE: **PE 1991** SCALE: **1:24,000**

STATE OF CALIFORNIA
 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

STATE WATER RESOURCES CONTROL BOARD
 DIVISION OF WATER RIGHTS

APPLICATION NO. **30448 AND 30449**

PERMIT NO. **21335 AND 21336**

DATE: 4-29-2013	DRAWN: MTM	CHECKED: MJM
---------------------------	----------------------	------------------------

Note: This map does not constitute a public land survey as defined by California Business & Professions Code section 8726. It has been prepared for descriptive purposes only.

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

DIVISION OF WATER RIGHTS

In the Matter of Applications 30448 and 30449 and License 7284 (Application 18052)

JACKSON FAMILY INVESTMENTS

**ORDER CANCELING PROTESTS, REVOKING A WATER RIGHT, AND
ISSUING WATER RIGHTS**

SOURCE: Navarro River and Unnamed Stream Tributary to Navarro River

COUNTY: Mendocino

WHEREAS:

1. License 7284 (Application 18052) was issued to Donald Edmeades, Florence Edmeades and Oliver Winkler on May 5, 1965. License 7284 authorizes the direct diversion of water for irrigation not to exceed 0.46 cubic feet per second from the Navarro River from May 15 to October 15. The current points of diversion for License 7284 are as follows: POD 1 at North 2,161,787 feet and East 6,139,047 feet by California Coordinate System 1983, Zone 1, being within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 11, T14N, R15W, MDB&M; and, POD 2 at North 2,163,100 feet and East 6,138,500 feet by California Coordinate System 1983, Zone 1, being within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 11, T14N, R15W, MDB&M. On September 15, 1994, Robert Corby was added as a non-primary owner of License 7284. On January 4, 2012, the primary owner of License 7284 was changed to Jackson Family Investments, LLC (right holder).
2. Mr. Jess S. Jackson filed water right Applications 30448 and 30449 with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) on May 19, 1995. Application 30448 requests the diversion to storage of water for irrigation, frost protection and heat control not to exceed 70 acre-feet from the Navarro River and an Unnamed Stream tributary to the Navarro River. Application 30449 requests the direct diversion of water not to exceed 3 cubic feet per second for frost protection from the Navarro River and an Unnamed Stream tributary to the Navarro River. On December 14, 2012, the ownership of Applications 30448 and 30449 was changed to right holder.
3. Applications 30448 and 30449 were noticed on April 14, 2000. The protests filed by Mr. Daniel Myers, Mr. Douglas Hendricks, Friends of the Navarro Watershed, National Marine Fisheries Service, and Sierra Club Mendocino Group are unresolved. The protests were based on environmental issues concerning low flow levels in the Navarro River and the potentially adverse effect the project would have on fisheries.
4. The State Water Board has determined that there is unappropriated water available to serve Applications 30448 and 30449. Right holder's consultant prepared and submitted a water availability analysis that was reviewed and approved by Division staff. Based on the water availability analysis, water is available to serve this application without injury to prior rights.

5. Right holder has demonstrated that the intended use for Applications 30448 and 30449 is beneficial. Right holder currently exercises License 7284 for irrigation of portions of the same place of use as requested in Applications 30448 and 30449. In order to approve Applications 30448 and 30449, right holder has agreed to limit the total diversion of water under License 7284 to no more than 60 acre-feet per year.
6. Diversion of water under License 7284 is currently exercised by both right holder and Robert Corby. Each party diverts water from one of the two authorized points of diversion authorized by License 7284. On January 31, 2013, the Division of Water Rights received a Petition for Change from right holder and Robert Corby for Water Right License 7284 to split the license into two separate licenses. Simultaneously, both parties have requested to include new places of use for the two separate licenses to correctly reflect the current place of use exercised under the license. No change to either of the two points of diversion is requested.
7. License 7284 contains a term requiring a minimum bypass flow. Division staff prorated the bypass flow at the points of diversion against the United States Geological Survey Stream Gage No. 11468000 – Navarro River near Navarro, California. The term requiring a minimum bypass flow has been updated to allow for compliance with the bypass flow requirement by referencing the current flow at the gage to determine whether flows are adequate to divert water.
8. The Deputy Director for Water Rights has determined that the petition for change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water. The Deputy Director for Water Rights has also determined that good cause for such change has been shown.
9. Pursuant to Resolution 2012-0029, the State Water Board has delegated the authority to administer the State Water Board's water rights program. The Deputy Director for Water Rights has redelegated this authority pursuant to redelegation order dated July 6, 2012.
10. The project and change are exempt from the California Environmental Quality Act under California Code of Regulations, title 14, section 15061, subdivision (b). The Division of Water Rights (Division) will file a Notice of Exemption in accordance with the California Code of Regulations, title 14, section 15062 after issuance of this Order.
11. In addition to any obligation the State Water Board may have under CEQA, the State Water Board has an independent obligation to consider the effect of the project and change on public trust resources and to protect those resources where feasible. (National Audubon Society v. Superior Court (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346, 658 P.2d 709].) Potential impacts of the proposed project and change were evaluated and conditions were developed to address those impacts in a public trust resources assessment that is located in the water right files and is incorporated in this Order by reference. The conditions will be included in any rights issued pursuant to Application 30448, Application 30449 and License 7248. There is no evidence that approval of Applications 30448 and 30449 and the split of License 7248 will have any adverse impacts on public trust resources.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The protests filed on Applications 30448 and 30449 are canceled.
2. Permits 21335 and 21336 are issued for Applications 30448 and 30449, respectively, subject to the conditions included therein.
3. License 7284 (Application 18052) is revoked.
4. Licenses 7284A and 7284B are issued for Applications 18052A and 18052B, respectively, subject to the conditions included therein.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
JAMES W. KASSEL FOR

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: OCT 01 2013