



**Dan Skopec**  
*Acting Secretary*

# State Water Resources Control Board

## Division of Water Rights

1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300  
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000  
FAX: 916.341.5400 ♦ [www.waterrights.ca.gov](http://www.waterrights.ca.gov)



**Arnold Schwarzenegger**  
*Governor*

## RE-NOTICE OF APPLICATION TO APPROPRIATE WATER BY PERMIT

**This is a re-notice of the notice dated March 21, 1997. On September 11, 2003, the State Water Resources Control Board (State Water Board) received a petition from the applicant to expand the Place of Use. Protests submitted pursuant to the original notice need not be resubmitted unless amendments to the existing protests are desired.**

**APPLICATIONS: 30368 & 30369**  
**APPLICATION: 30405**  
**COUNTY: Sonoma**

**DATE FILED: June 7, 1994**  
**DATE FILED: September 30, 1994**  
**STREAM SYSTEM: Sonoma Creek**

Notice is hereby given that Arthur Kunde & Sons, Inc. and Wildwood Vineyards have filed three applications for water right permits. The State Water Board will determine whether water right permits should be issued for the applications and, if so, whether conditions are needed in the permits to protect the environment, the public interest, and downstream water users. This notice provides a description of the proposed project and also describes the procedure and time frame for submittal of protests against the applications. This notice and a copy of the petitions as filed may be viewed at the Division of Water Rights' (Division) website at [www.waterrights.ca.gov](http://www.waterrights.ca.gov). Any correspondence directed to the applicant should be mailed to:

Arthur Kunde & Sons and Wildwood Vineyards  
c/o Drew Aspegren  
Napa Valley Vineyard Engineering, Inc.  
176 Main Street, Suite B  
St. Helena, CA 94574

### Description of Project

Applications 30368, 30369, and 30405 were filed to request appropriative rights to divert 366.5 acre-feet per annum (afa) of water for storage in and/or refill of eight reservoirs on the Kunde property. The requested water rights would formalize current water use not covered by existing permits or licensees and would allow for the diversion of additional water. The petitioners filed Applications 30368 and 30369 on June 7, 1994 and Application 30405 on September 30, 1994. The total amount of storage under these three applications as requested in 1994, was 726.8 afa. In October 2000, the water right applications were reduced to 397.7 afa to more accurately reflect ongoing operations. Since that time, two of the reservoirs have been professionally surveyed and determined to be smaller than previously believed. Based on these recent surveys, Applications 30368 and 30369 have been modified further, reducing the total diversion requested under Applications 30368, 30369, and 30405 to 366.5 afa for storage in and/or refill of eight reservoirs on the Kunde property. Details regarding the amount of water to be placed in the storage facilities are summarized in Table 1 as follows:

<b>Table 1</b>					
<b>Summary of Applications 30368, 30369, and 30405</b>					
Application/ Reservoir	Existing or Proposed Capacity	Existing Permitted or Licensed Rights	Application Amount (storage)	Application Amount (refill)	Application Combined Total
<b>Application 30368, Sonoma Creek Watershed</b>					
Pepperwood	47	0	47	30	77
Bill's Lake	48	49 (being licensed for 48)	0	25	25
Total			47	55	102
<b>Application 30369, Calabazas Creek Watershed</b>					
Ski Lake	128	59 (49 storage plus 10.0 direct diversion)	79	49	128
Island Lake	49.9	22.5 (18.4 withdrawal)	31.5	30	61.5
Reservoir 8	12	0	12	0	12
Fred's Lake	10	0	10	10	20
Trout Lake	7.7	8	0	7.7	7.7
Total			132.5	96.7	229.2
<b>Application 30405, Calabazas Creek Watershed</b>					
Proposed Reservoir	49.0	13.7	35.3	0	35.3
<b>Totals for Project Site</b>	351.6	<b>152.2</b>	214.8	151.7	366.5
Note: All quantities are in afa Source: Napa Valley Vineyard Engineering, Inc. 2002, 2004					

The stored water is used for drip irrigation and frost protection of the existing vineyard, recreation, stockwatering, and wildlife enhancement. The original applications requested a season of diversion from October 1 to May 15. The applicant has agreed not to begin diverting until December 15, but needs the ability to supplement refill with surface flows after March 31 to provide enough water for summertime irrigation. A public notice of Applications 30368, 30369, and 30405 was published by the State Water Board on March 21, 1997, and three protests were received.

On September 11, 2003, the State Water Board received a petition from the applicant to expand the place of use for Applications 30368, 30369, and 30405 to 545 acres. Irrigation and frost control systems have been extended into existing vineyard areas that were not being

irrigated with appropriated surface water at the time of filing. Additionally, 25 acres of

pastureland will be converted to vineyard. The present POU is located within projected Section 4, T6N, R6W, MDB&M, and projected Sections 28, 29, 32, and 33, T7N, R6W, MDB&M as shown on the map on file with the State Water Board and included with the original petition for change.

### Application Information (Prior to Re-Notice)

#### Application 30368

County: Sonoma.  
 Source: Two Unnamed Streams tributary to Sonoma Creek thence San Pablo Bay.  
 Points of  
 Diversion: Point Of Diversion 1 (POD) and Point Of Rediversion 1 (PORD):  
 Pepperwood Lake within the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of projected section 28, T7N, R6W, MDB&M;  
 POD 2 and PORD 2: Bill's Lake within NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected section 33, T7N, R6W, MDB&M.  
 Amount: 65 afa (irrigation, recreational, stockwatering)  
 113 afa (frost protection).  
 Season: October 1 to May 15 (irrigation recreational, and stockwatering);  
 October 1 through March 15 (frost protection).  
 Purpose: Irrigation, frost protection, recreation, and stockwatering.  
 Place of Use: 505 acres described as follows:  
 4 acres within the NW $\frac{1}{4}$  of SE $\frac{1}{4}$ , projected Section 28, T7N, R6W, MDB&M;  
 33 acres within the SW $\frac{1}{4}$  of SE $\frac{1}{4}$ , projected Section 28, T7N, R6W, MDB&M;  
 5 acres within the SE $\frac{1}{4}$  of SE $\frac{1}{4}$ , projected Section 28, T7N, R6W, MDB&M;  
 4 acres within the SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , projected Section 28, T7N, R6W, MDB&M;  
 6 acres within the SW $\frac{1}{4}$  of SW $\frac{1}{4}$ , projected Section 28, T7N, R6W, MDB&M;  
 15 acre within the SE $\frac{1}{4}$  of SE $\frac{1}{4}$ , projected Section 29, T7N, R6W, MDB&M;  
 24 acres within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 32, T7N, R6W, MDB&M;  
 9 acres within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 32, T7N, R6W, MDB&M;  
 3 acres within the SW $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 32, T7N, R6W, MDB&M;  
 11 acres within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 32, T7N, R6W, MDB&M;  
 16 acres within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
 9 acres within the SW $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
 19 acres within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
 12 acres within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
 42 acres within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
 34 acres within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
 33 acres within the NE $\frac{1}{4}$  of SW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
 38 acres within the NW $\frac{1}{4}$  of SW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
 28 acres within the SW $\frac{1}{4}$  of SW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
 16 acres within the SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
 22 acres within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
 11 acres within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
 4 acres within the SW $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
 2 acres within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
 20 acres within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
 8 acres within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
 26 acres within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;

14 acres within the NE $\frac{1}{4}$  of SW $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
 9 acres within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
 28 acres within the NW $\frac{1}{4}$  of SE $\frac{1}{4}$  projected Section 4, T6N, R6W, MDB&M.

Application 30369

County: Sonoma.  
 Source: Unnamed Stream tributary to Calabazas Creek thence Sonoma Creek thence San Pablo Bay.  
 Points of  
 Diversion: POD 1: Ski Lake within the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of projected Section 4, T6N, R6W, MDB&M;  
 POD 2: Island Lake within SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 4, T6N, R6W, MDB&M;  
 POD 3: Reservoir 8 within NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 4, T6N, R6W, MDB&M;  
 POD 4: Fred's Lake within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 4, T6N, R6W, MDB&M;  
 POD 5: Trout Lake within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 33, T7N, R6W, MDB&M.  
 Amount: 145.7 afa (irrigation, recreational, wildlife enhancement, and stockwatering)  
 234.5 afa (frost protection).  
 Season: October 1 to May 15 (irrigation recreational, wildlife enhancement and stockwatering);  
 October 1 through March 15 (frost protection).  
 Purpose: Irrigation, frost protection, recreation, wildlife enhancement, and stockwatering.  
 Place of Use: 505 acres: same as described above.

Application 30405

County: Sonoma.  
 Source: Unnamed Stream tributary to Calabazas Creek thence Sonoma Creek thence San Pablo Bay.  
 Points of  
 Diversion: POD 1: Proposed Reservoir within the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of projected Section 4, T6N, R6W, MDB&M.  
 Amount: 35.3 afa (irrigation);  
 35.3 afa (frost protection).  
 Season: October 1 to May 15 (irrigation);  
 October 1 through March 15 (frost protection).  
 Purpose: Irrigation and frost protection.  
 Place of Use: 505 acres: same as described above.

**Petition to Amend Application**

Application 30368

County: Sonoma.  
 Source: Two Unnamed Streams tributary to Sonoma Creek thence San Pablo Bay.  
 Points of  
 Diversion: POD 1 and PORD 1: Pepperwood Lake (77 af: 47 storage, 30 refill) within the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of projected Section 28, T7N, R6W, MDB&M;

POD 2 and PORD 2: Bill's Lake (25 af: refill) within NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 33, T7N, R6W, MDB&M.

Amount: 102 af per year of storage and refill.

Season: December 15 to May 15 (irrigation, recreation, stockwatering);  
December 15 to March 15 (frost protection).

Purpose: Irrigation, frost protection, recreation, and stockwatering.

Place of Use: 545 acres described as follows:

4 acres within the SW $\frac{1}{4}$  of SW $\frac{1}{4}$ , projected Section 28, T7N, R6W, MDB&M;  
12 acres within the SE $\frac{1}{4}$  of SE $\frac{1}{4}$ , projected Section 29, T7N, R6W, MDB&M;  
10 acres within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 32, T7N, R6W, MDB&M;  
35 acres within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 32, T7N, R6W, MDB&M;  
7 acres within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 32, T7N, R6W, MDB&M;  
1 acre within the SW $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 32, T7N, R6W, MDB&M;  
17 acres within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
17 acres within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
36 acres within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
36 acres within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
12 acres within the SW $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
14 acres within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
34 acres within the NW $\frac{1}{4}$  of SE $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
20 acres within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
7 acres within the SE $\frac{1}{4}$  of SE $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
35 acres within the SW $\frac{1}{4}$  of SE $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
27 acres within the NW $\frac{1}{4}$  of SW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
36 acres within the NE $\frac{1}{4}$  of SW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
13 acres within the SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
1 acres within the SW $\frac{1}{4}$  of SW $\frac{1}{4}$ , projected Section 33, T7N, R6W, MDB&M;  
15 acres within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
32 acres within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
4 acres within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
30 acres within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
3 acres within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
5 acres within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
5 acres within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
20 acres within the SW $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
2 acres within the SW $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
34 acres within the NW $\frac{1}{4}$  of SE $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
9 acres within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
1 acres within the SW $\frac{1}{4}$  of SE $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M;  
11 acres within the NE $\frac{1}{4}$  of SW $\frac{1}{4}$ , projected Section 4, T6N, R6W, MDB&M.

#### Application 30369

County: Sonoma.

Source: Unnamed Stream tributary to Calabazas Creek thence Sonoma Creek thence San Pablo Bay.

Points of

Diversions: POD 1: Ski Lake (128 af: 79 storage, 49 refill) within the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of projected Section 4, T6N, R6W, MDB&M;  
POD 2: Island Lake (61.5 af: 31.5 storage 30 refill) within SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of

projected Section 4, T6N, R6W, MDB&M;

POD 3: Reservoir 8 (12 af: 12 storage) within NE¼ of NW¼ of projected Section 4, T6N, R6W, MDB&M;

POD 4: Fred's Lake (20 af: 10 storage 10 refill) within NW¼ of SE¼ of projected Section 4, T6N, R6W, MDB&M;

POD 5: Trout Lake (7.7 af: 7.7 refill) within NW ¼ of SE ¼ of projected Section 33, T7N, R6W, MDB&M;

Amount: 229.2 af per year of storage and refill.

Season: December 15 to May 15 (irrigation, stockwatering, recreation, wildlife enhancement);  
December 15 to March 15 (frost protection).

Purpose: Irrigation, frost protection, recreation, wildlife enhancement, and stockwatering.

Place of Use: 545 acres: same as described above.

#### Application 30405

County: Sonoma.

Source: Unnamed Stream tributary to Calabazas Creek thence Sonoma Creek thence San Pablo Bay.

Points of

Diversion: POD 1: Proposed Reservoir (35.3 af: 35.5 storage) within the NE¼ of the NE¼ of projected Section 4, T6N, R6W, MDB&M.

Amount: 35.3 af per year of storage.

Season: December 15 to May 15 (irrigation);  
December 15 to March 15 (frost protection).

Purpose: Irrigation and frost protection.

Place of Use: 545 acres: same as described above.

#### **Environmental Information**

The lead agency will prepare the appropriate environmental documents for the project according to the California Environmental Quality Act (CEQA) and its guidelines, and will determine whether or not the project will cause a significant effect on the environment. If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera; State Water Board, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

#### **PROTEST SUBMITTAL INFORMATION**

##### **Protest Requirements**

A person may file a protest based on any of the following factors:

- Interference with prior water rights
- Adverse environmental impact
- Not in the public interest
- Contrary to law
- Not within the jurisdiction of the State Water Board

All protests must clearly describe the objections to approval of the application and the factual basis for those objections. There must be a clear link between the proposed project and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the application is approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use, and the place of use. Please note that any water right permit issued by the State Water Board is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed appropriation would not be within the State Water Board's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the appropriation will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed project on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed project and how the project will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the applicant a duplicate copy of the protest.

If sufficient information is not submitted, the State Water Board may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

### **Procedure for Submitting Protests**

Protests should be submitted on standard protest forms available from the Division's website at [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/) or upon request, in writing or by telephone, from the Division. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the individual listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the applicant and should include a description of any measures that could be taken to resolve the protest.**

### **Protest Submittal Deadline**

Protests submitted in response to this notice must be **received by the Division by 3:00 p.m. on July 17, 2006**, (60<sup>th</sup> day after the date of this notice), the close of the protest period. Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400

3. E-mailed to the engineer listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 2nd Floor (Fileroom), Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division in order for the protest to be accepted. The State Water Board will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the State Water Board may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

### **Resolution of Protests**

The applicant will have 30 days to respond to a protest once it is accepted by the Division. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

### **CONTACT PERSON**

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Katy Washburn by phone at (916) 341-5386 or by electronic mail at [kwashburn@waterboards.ca.gov](mailto:kwashburn@waterboards.ca.gov). Information and protest forms are also available at the Division's website: [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/).

Date of Notice: **May 17, 2006**

KIWashburn:kiw:/dcledesma:3-6-06:3-29-06  
U:\PERDRV\KWashburn\Kunde ReNotice.DOC