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Division of Water Rights

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NOTICE OF APPLICATIONS TO APPROPRIATE WATER BY PERMIT AND PETITION FOR CHANGE IN POINT OF DIVERSION

APPLICATIONS: 31464 and 31465
DATE FILED: November 23, 2005

COUNTY: Mendocino
STREAM SYSTEM: Russian River

LICENSE: 4777A (APPLICATION 14997A)
PETITION FILED: October 3, 2002

Notice is hereby given that Flight Rail Corporation has filed two an applications for water right permits and one change petition to move the point of diversion under License 4777A (Application 14997A). The State Water Resources Control Board (State Water Board) will determine whether water right permits and an order approving the change in point of diversion should be issued for the applications and license and, if so, whether conditions are needed in the permits and license to protect the environment, the public interest, and downstream water users. This notice provides a description of the proposed projects and also describes the procedure and time frame for submittal of protests against the applications and petition. This notice may be viewed at the Division of Water Rights' (Division) website at www.waterrights.ca.gov. Any correspondence directed to the applicant should be mailed to:

Flight Rail Corporation
c/o Max Schlienger
250 Henry Station Road
Ukiah, CA 95482

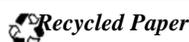
Background

As a result of a Division compliance inspection on July 18, 2001 the following applications and change petition were filed. Application 31464 totals 206 acre-feet annually (afa) as follows: (1) direct diversion at a rate of 1.0 cubic foot per second (cfs) (not to exceed 88 afa) from May 1 through October 31 for irrigation; (2) direct diversion at a rate of 0.1 cfs (not to exceed 40 afa) from January 1 through December 31 for domestic and industrial purposes, and (3) storage of 78 afa from November 1 through June 30 for irrigation and frost protection purposes. The annual limit for direct diversion is 128 acre-feet (af). Application 31465 was filed for direct diversion of 1.0 cfs with an annual limit of 60 af for frost protection purposes from March 15 through May 31. The applicant has filed a change petition to move the point of diversion under License 4777A (Application 14997A) since the original point of diversion was abandoned and the new diversion facility is located downstream of the original location. License 4777A authorizes direct diversion of 0.44 cfs, with an annual limit of 70 af for irrigation purposes from May 1 through November 30. The total quantity diverted under all three rights is 336 afa.

Description of Project – Application 31464

The applicant seeks a right to (1) store water in two existing reservoirs by pumping via an 8-inch pipe from six existing wells for irrigation and frost protection from November 1 through June 30 of the succeeding year, (2) continue to directly divert 1.0 cubic foot per second (cfs) for

California Environmental Protection Agency



irrigation from May 1 through October 31, and (3) directly divert 0.1 cfs for domestic and industrial purposes from January 1 through December 31. Diversions are by pumping via an 8-inch pipe from six existing shallow wells.

Well 1 is located approximately 200-feet from the stream channel and is used for industrial and domestic purposes. Well 2 is located approximately 350-feet from the stream channel and is an agricultural well and used for frost protection and irrigation purposes as a back up for Well 1. Wells 3, 4, 5, and 6 are located approximately 250-feet, 200-feet, 400-feet, and 500-feet respectively from the stream channel and are used for irrigation and frost protection. Based on the equipment, the maximum amount that can be diverted is 2.7 cfs [1200 gallons per minute (gpm)] into the 8-inch diameter pipe; however the applicant has limited the maximum amount of water diverted to 1.0 cfs (450 gallons per minute) pursuant to Application 31464.

Reservoir 1 (constructed in the 1960s) is a 15 acre-foot capacity off-stream reservoir with a surface area of one acre. Water can be diverted from any of the six wells to Reservoir 1 via an 8-inch diameter PVC pipeline approximately 6,400 feet in length. Reservoir 2 (constructed in 2000) is 30 acre-foot capacity off-stream reservoir with a surface area of 1.8 acres. Water is diverted to Reservoir 2 via an 8-inch diameter PVC pipeline approximately 7,000 feet in length. The applicant plans to refill the reservoirs and the maximum amount of water to be stored in Reservoirs 1 and 2 shall not exceed 78 acre-feet annually.

Water from Well 1 is diverted via a 6-inch diameter pipeline to the applicant's residence for domestic use to a 30,000-gallon underground storage tank that flows into an 8-inch pipe that can either be diverted to Pond 2 for industrial use or into a 4-inch diameter pipe to the barn. Well 2 is an agricultural well that backs up Well 1 and water is diverted via a 3-inch line that connects to the 6-inch line from Well 1 that serves the applicants home and 30,000-gallon underground storage tank.

Wells 3, 4, 5, and 6 divert water via a separate 8-inch diameter pipe to Pond 1 where the pipe size increases to a 10-inch diameter that diverts water to Pond 2 for irrigation and frost protection of 150 acres of vineyard. (Note: The applicant also has the capability to bring water back from Pond 2 to Pond 1, if necessary.)

The applicant seeks a right to continue to directly divert 1.0 cfs (not to exceed 88 afa) for irrigation of 22 acres of vineyard from May 1 through October 31 under a claim of pre-1949 water use. The applicant has presented information to the Division substantiating the claim of a pre-1949 water use. The project is located approximately seven miles southeast from Ukiah.

Summary of Application 31464

County: Mendocino.
Source: Russian River Subterranean Stream.
Points of
Diversion: Wells 1 and 6 located within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of section 36, and Wells 3, 4, and 5 located within the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of section 36, and Well 2 located within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of section 25, all within T14N, R12W, MB&M.

Amount: a. 1 cfs of direct diversion, not to exceed a total of 88 af per year for irrigation

purposes.

- b. 0.1 cfs of direct diversion not to exceed a total of 40 af per year for domestic and industrial purposes.
 - c. 78 af per year of storage for irrigation and frost protection purposes.
- Season:
- a. May 1 through October 31 for direct diversion for irrigation.
 - b. January 1 through December 31 for direct diversion for domestic and industrial purposes.
 - c. November 1 through June 30 of the succeeding year for storage for irrigation and frost protection.

Purposes: Irrigation, Frost Protection, Domestic, and Industrial.

Place of Use:

Use Within	Section	Township	Range	B & M	If Irrigated	
					Number of Acres	Presently Cultivated (Y/N)
SE¼ of SW¼	25	14N	12W	MD	9	N
SW¼ of SW¼	25	14N	12W	MD	4	N
SW¼ of SE¼	25	14N	12W	MD	12	Y
SE¼ of NE¼	26	14N	12W	MD	0.5	N
NE¼ of NE¼	26	14N	12W	MD	0.5	N
NW¼ of NE¼	26	14N	12W	MD	8	N
SE¼ of NW¼	26	14N	12W	MD	1	Y
SW¼ of NE¼	26	14N	12W	MD	13	Partial
NW¼ of SE¼	26	14N	12W	MD	23	Partial
SW¼ of SE¼	26	14N	12W	MD	8.5	Y
NE¼ of SE¼	26	14N	12W	MD	9.5	Partial
SE¼ of SE¼	26	14N	12W	MD	13.5	Partial
NE¼ of NE¼	35	14N	12W	MD	16	Y
SE¼ of NE¼	35	14N	12W	MD	1	Y
SW¼ of NE¼	36	14N	12W	MD	5	Y
NW¼ of NW¼	36	14N	12W	MD	14	Y
SE¼ of NW¼	36	14N	12W	MD	7	Y
NW¼ of NE¼	36	14N	12W	MD	2	Y
NE¼ of NW¼	36	14N	12W	MD	7.5*	Partial
*Homesite includes 4 acres of irrigated area						
TOTAL					155	

Description of Project – Application 31465

The applicant seeks a right to continue to directly divert 1.0 cfs by pumping from the six wells described under Application 31464 located on the Russian River (Subterranean Stream) via an 8-inch buried PVC pipeline approximately 7,000-feet in length. Water is used for the purpose of frost protecting 151 acres of vineyard.

Summary of Application 31465

County: Mendocino
Source: Russian River (Subterranean Stream)
Points of
Diversion: Well 2 located within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of section 25,
Wells 3, 4, and 5 located within the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of section 36, and
Well 6 located within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of section 36, all within
T14N, R12W, MB&M
Amount: 1 cfs of direct diversion, not to exceed a total of 60 acre-feet per year
Season: March 15 to May 31
Purposes: Frost Protection
Place of Use: Same as shown under Application 31464

PETITION TO CHANGE POINT OF DIVERSION

LICENSE: 4777A (APPLICATION 14997A)

PETITION FILED: October 3, 2002

Description of Project

The licensee has a right to directly divert 0.44 cfs from a well located on the Russian River (subterranean stream) for irrigation of 58.9 acres of vineyard from May 1 to November 30 of each year. The maximum amount to be diverted under License 4777A shall not exceed 70 afa. The point of diversion (POD) is a well located North 2,400 feet and East 1,700 feet from the SE corner of projected section 25, T14N, R12W, MDB&M within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of said section 25 that has been abandoned.

Summary of License 4777A (APPLICATION 14997A)

County: Mendocino.
Source: Russian River Subterranean Stream tributary to the Pacific Ocean.
Point of
Diversion: Well located within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of said section 25, T14N, R12W, MDB&M.
Amount: 0.44 cfs, with a maximum annual diversion amount not to exceed 70 af per year.
Season: May 1 to November 30.
Purpose: Irrigation.
Place of Use: 58.9 acres located within sections 26 and 35, T14N, R12W, MDB&M.

Petition Summary for License 4777A

The original point of diversion (POD) for License 4777A washed out in a flood and is no longer in use. As a result of a Division compliance inspection on July 18, 2001, the petitioner filed a change petition to move the point of diversion (POD) under License 4777A approximately one-half mile downstream. The petitioner seeks authorization to use Wells 1, 3, 4, and 6 as PODs for License 4777A. The location of the wells is as follows:

Well 1 located within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$;
Wells 3 and 4 located within the SW $\frac{1}{4}$ of NE $\frac{1}{4}$, and

Well 6 located within the NW¼ of NE¼, all within section 36, T14N, R12W, MDB&M.

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/ 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.**

Protest Submittal Deadline

Protests submitted in response to this notice must be **received by the Division by 3:00 p.m. of July 26, 2006** (40 days after the date of this notice). 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 (File Room), 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.

This is a "minor" project (the proposed diversion is 3 cfs or less by direct diversion or 200 af or less per year by storage) as defined by section 1348 of the Water Code. Therefore, any protest issues not resolved by the applicant or by provisions of section 1335 of the Water Code will be decided by the Chief, Division of Water Rights, following a field investigation.

CONTACT PERSON

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Patricia Meroney by phone at (916) 341-5354 or by electronic mail at pmeroney@waterboards.ca.gov. Information and protest forms are also available at the Division's website: www.waterrights.ca.gov/forms/.

Date of Notice: **June 16, 2006**

PJMeroney:pjm/dclesdesma:5-31-06

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