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**State Water Resources Control Board**

**PROPOSED  
MITIGATED NEGATIVE DECLARATION**  
Pursuant to Section 21080(c)  
**Public Resources Code**

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To: Office of Planning & Research State Clearinghouse P.O. Box 3044 Sacramento, CA 95812-3044	From: State Water Resources Control Board Division of Water Rights P.O. Box 2000 Sacramento, CA 95812-2000
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**PROJECT TITLE:** WATER RIGHT APPLICATION 31050 - JACKSON FAMILY INVESTMENTS, LLC

**APPLICANT:** Jackson Family Investments, LLC  
c/o Diane Willson  
Napa Valley Vineyard Engineering, Inc.  
176 Main Street, Suite B  
St. Helena, CA 94574

**PROJECT LOCATION:**

The project associated with Water Right Application 31050 of Jackson Family Investments, LLC is in Alexander Valley and approximately 0.8 mile south of Highway 128 at the intersection of Chalk Hill Road and Thomas Road. The project site is within the Maacama Creek watershed in Projected Sections 16, 17, and 20, Township 9N, Range 8W, MDB&M of the "Mount St. Helena, California," "Jimtown, California," and "Healdsburg, California" U.S. Geological Survey (USGS) 7.5-minute topographic quadrangles.

**PROJECT DESCRIPTION:**

Water Right Application 31050 requests to appropriate a total of 156 acre-feet per annum of water from Maacama Creek thence the Russian River, for storage in a reservoir (having a capacity of 156 acre-feet), and a diversion season of December 15 of each year to March 30 of the succeeding year. The water would be used for irrigation and frost protection of 132 acres of vineyard. All project components currently exist. Application 31050 seeks to add the point of diversion on Maacama Creek (L5674) as a supplemental source of water to fill the reservoir (L5368). The total amount of water diverted under L5368 and Application 31050 will be limited to 156 acre-feet per annum. The total amount of water diverted under L5674, L5368, and Application 31050 will be limited to 208 acre-feet per annum.

**DETERMINATION:**

The State Water Resources Control Board (State Water Board) has determined that the above-described project will have a less than significant effect on the environment for the reasons specified in the Initial Study prepared for this project.

**WATER RIGHT TERMS:**

Mitigation measures have been incorporated into the project to avoid potential significant environmental impacts. Specific terms reflecting the mitigation measures, written substantially as follows, will be included in any permit issued by the State Water Board pursuant to Application 31050.

1. For the protection of riparian habitat along Maacama Creek, right holder shall:  
For riparian areas adjacent to the POD, establish a setback of at least 30 feet along the creek for any disturbance during upgrade of the POD or related equipment. The stream setback shall be measured from the top of the bank on the east side of the stream. In areas where existing agriculture allows and/or the riparian vegetation extends beyond 30 feet from the top of bank, the setback shall be extended to the riparian vegetation dripline. Restricted activities within the 30 foot setback area shall include grading, herbicide spraying, paving, new fencing (other than existing), permanent storage, and crop irrigation, with the exception for occasional equipment access necessary for continued operation of the vineyard or used to access or upgrade the POD. Permitted equipment access shall be limited to equipment necessary to support vineyard operation and maintenance activities and reasonable efforts will be made to minimize disturbance of vegetation and soils. Other than activity related to the upgrade of or access to the POD, the setback area shall be protected from disturbance to promote and encourage the recruitment of native riparian shrub and tree species. Planting native riparian species is also encouraged to provide additional protection to the stream system.
2. No work on upgrades to the POD shall commence under this permit until an erosion control plan and implementation schedule, prepared by a licensed civil engineer, is submitted to and approved by the Deputy Director for Water Rights, prior to starting construction. Before storing water in the reservoir, 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.
3. No water shall be diverted under this right unless the flow in Maacama Creek is at or above 97 cubic feet per second.
4. No water shall be diverted under this water right unless right holder is bypassing the flow required by this water right by use of a passive bypass device.

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 year after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights. Evidence required by this condition shall include current photographs of the system in place and a

statement, signed by the right holder, certifying that the system is still operating as designed.

These requirements shall remain in effect as long as water is being diverted under any permit or license issued pursuant to Application 31050.

5. 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.
6. 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.

7. No water shall be diverted under this right unless right holder is operating the water diversion facility for the POD with a fish screen on the intake to the diversion structure 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.
8. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological 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 split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Deputy Director for Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the right holder to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Deputy Director for 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 Deputy Director for Water Rights.

9. If human remains are encountered, then the right holder shall comply with CEQA Guidelines Section 15064.5(e)(1) and the Health and Safety 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 that 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 in the vicinity of the find shall not resume until the process detailed under CEQA Guidelines Section 15064.5(e) has been completed and evidence of completion has been submitted to the Deputy Director for Water Rights.
10. Right holder shall prevent any debris, soil, silt cement that has not set, oil, or other such foreign substance from entering into or being placed where it may be washed by rainfall runoff into the waters of the State.

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