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## State Water Resources Control Board

### MITIGATION MONITORING AND REPORTING PLAN Water Right Application 31373 Flowers Vineyard and Winery

This Mitigation Monitoring and Reporting Plan (MMRP) has been prepared in conformance with the California Environmental Quality Act (Public Resources Code § 21081.6). The MMRP has been developed based on the information and mitigation measures contained in the Initial Study/Mitigated Negative Declaration (IS/MND) for Water Right Application 31373. The MMRP lists mitigation measures recommended in the IS/MND for the proposed projects and specifies implementation and monitoring responsibilities. Pursuant to Public Resources Code section 21081.6(b), each of the mitigation measures identified in the MMRP will be included as enforceable permit and license terms in any permit or license authorizing construction, diversion, or use of water pursuant to Water Right Application 31373.

Generally, the State Water Resources Control Board, Division of Water Rights (Division) Permitting and Licensing Section staff will monitor mitigation measures requiring pre-construction actions or submittals. Construction and post-construction mitigation measures will be monitored by the Division Permitting and Licensing Section, Enforcement Section, and/or Special Projects Section staff as specified in the attached matrix. Implementation of mitigation measures is the sole responsibility of the Permittee. Interim compliance with mitigation measures will be assessed through the Division's routine compliance monitoring activities. Long-term compliance of the permits will be assessed when the permit is subject to Licensing, at which time the Permittee will be required to demonstrate compliance with permit terms. Non-compliance with mitigation measures may be addressed through the Division's ongoing enforcement program on an as needed basis.

All documents and other information that constitute the public record for this project shall be maintained by the Division and shall be available for public review at the following address:

State Water Resources Control Board  
Division of Water Rights, 2<sup>nd</sup> Floor  
1001 I Street  
Sacramento, CA 95814

#### PROJECT DESCRIPTION:

Water Right Application 31373 requests diversion of 13 acre-feet per annum of water to storage, at a rate not to exceed 2.0 cubic feet per second, from December 15 of each year to March 31 of the succeeding year. Water would be diverted via an off-set well from the South Fork Gualala River tributary to the Gualala River thence the Pacific Ocean into two offstream reservoirs. Stored water would be used for irrigation and frost protection of approximately 35 acres of

existing vineyard, domestic uses, including landscape irrigation and dust control, at on-site residences and the winery buildings, and incidental fire protection at the winery buildings. The project involves review of potential impacts resulting from changing an existing 8 acre-foot regulatory reservoir into a storage reservoir, construction and operation of an existing unauthorized 5 acre-foot storage capacity reservoir, and installation and operation of approximately 2,300 linear feet of four inch diameter pipeline to connect the 5 acre-foot reservoir with the pipeline between the point of diversion and the 8 acre-foot reservoir. At this time, all components of the project exist.

**Mitigation Monitoring and Reporting Matrix  
Application 31373**

| Mitigation Measure   | Implementation | Timing  | Monitoring/<br>Enforcement                                    |
|--|----------------|---------|---|
| <b>Hydrology and Water Quality</b>   |                |         |   |
| The maximum rate of diversion to offstream storage shall not exceed 2.0 cubic feet per second.   | Permittee      | Ongoing | Division of Water Rights, Compliance                          |
| The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 13 acre-feet per annum to be collected from December 15 of each year to March 31 of the succeeding year as follows: 8 acre-feet per annum in Reservoir 1 and 5 acre-feet per annum in Reservoir 2.  | Permittee      | Ongoing | Division of Water Rights, Compliance and Permitting/Licensing |
| Permittee shall install and properly maintain staff gages in the reservoirs, satisfactory to the Deputy Director for Water Rights, for the purpose of determining water levels in the reservoirs. Permittee shall record the staff gage readings on or about the last day of each month. Such readings shall be supplied to the State Water Board with the next progress report submitted to the State Water Board by Permittee. The State Water Resources Control Board may require release of water that cannot be verified as having been collected under a valid basis of right.                     | Permittee      | Ongoing | Division of Water Rights, Compliance and Permitting/Licensing |
| Permittee shall install an in-line flow meter, satisfactory to the Deputy Director for Water Rights, that measures the instantaneous rate and the cumulative amount of water diverted from the South Fork Gualala River. This in-line flow meter must be maintained in operating condition as long as water is being diverted or used under this permit. Permittee shall record end-of-the-month meter readings and of the days and amounts of actual diversion. Such readings shall be supplied to the State Water Board with the next progress report submitted to the State Water Board by Permittee. | Permittee      | Ongoing | Division of Water Rights, Compliance and Permitting/Licensing |
| Permittee 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.   | Permittee      | Ongoing | Division of Water Rights, Compliance and Permitting/Licensing |
| <p>For the protection of fish and wildlife, and other instream and public trust uses, Permittee shall bypass the total streamflow, at all points of diversion when the flow in the South Fork Gualala River is equal to or less than 461 cubic feet per second, as measured at the United States Geological Survey Stream Gage No. 11467510 – South Fork Gualala River near The Sea Ranch, California.</p> <p>No diversion shall take place under this permit if the streamflow in South Fork Gualala River is, or would be reduced by the diversion, below the designated rate.</p>                     | Permittee      | Ongoing | Division of Water Rights, Compliance and Permitting/Licensing |

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| Mitigation Measure  | Implementation   | Timing         | Monitoring/<br>Enforcement   |
|---|------------------|----------------|--|
| <p>In the event that said gage is no longer available for streamflow measurements, Permittee (or successors-in-interest) is responsible for installing and maintaining an equivalent gage in accordance with a plan, including timelines, satisfactory to the Deputy Director for Water Rights, as near as practicable to the present location of the United States Geological Survey Stream Gage No. 11467510 – South Fork Gualala River near The Sea Ranch, California. A plan must be submitted within 15 days of the existing gage becoming non-operable. In the absence of timely installation of such an equivalent gage, all diversions must cease. These requirements shall remain in force as long as water is being diverted by Permittee (or successors-in-interest) under any permit or license issued pursuant to Application 31373.</p>   |                  |                |  |
| <p>Within six months of the issuance of this permit, Permittee shall submit a Compliance Plan for approval by the Deputy Director for Water Rights that will demonstrate compliance with the flow bypass terms specified in this permit. The Compliance Plan shall include the following:</p> <ul style="list-style-type: none"> <li>a) A description of the physical facilities (i.e., outlet pipes, siphons, pipelines, bypass ditches, splitter boxes, etc.) that will be constructed or have been constructed at the project site and will be used to bypass flow;</li> <li>b) A description of the gages and monitoring devices that will be installed or have been installed to measure streamflow and/or reservoir storage capacity, including any necessary calibration;</li> <li>c) A time schedule for the installation and rating of these facilities;</li> <li>d) A description of the frequency of data collection and the methods for recording bypass flows and storage levels;</li> <li>e) An operation and maintenance plan that will be used to maintain all facilities in good condition; and,</li> <li>f) A description of the events that will trigger recalibration of the monitoring devices, and the process that will be used to recalibrate.</li> </ul> <p>Permittee shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all flow bypass and monitoring facilities described in the Compliance Plan. The monitoring data shall be maintained by the Permittee for ten years from the date of collection and made available to the Deputy Director for Water Rights, upon request. Diversion or use of water prior to approval of the Compliance Plan and the installation</p> | <p>Permittee</p> | <p>Ongoing</p> | <p>Division of Water Rights, Compliance and Permitting/Licensing</p> |

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| Mitigation Measure  | Implementation   | Timing  | Monitoring/<br>Enforcement                                    |
|---|--|---------|---|
| of facilities specified in the Compliance Plan is not authorized.   |  |         |   |
| <p>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's files, approximately 8 acre-feet per year of riparian water has 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 Deputy Director for 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 Deputy Director for 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 Deputy Director for 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.</p> | Permittee  | Ongoing | Division of Water Rights, Compliance and Permitting/Licensing |
| Permittee shall report any non-compliance with the terms of the permit to the Deputy Director for Water Rights within three days of identification of the violation.  | Permittee  | Ongoing | Division of Water Rights, Compliance                          |
| <b>Biological Resources</b>   |  |         |   |
| <p>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 and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 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.</p>   | Permittee, United States Fish and Wildlife Service, California Department of Fish and Game | Ongoing | Division of Water Rights Compliance and Permitting/Licensing  |

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| Mitigation Measure   | Implementation   | Timing         | Monitoring/<br>Enforcement   |
|--|------------------|----------------|--|
| <p>Permittee shall compensate for the loss of 8 Douglas fir, 5 California bay, and 3 black oak trees through planting of trees at a replacement ratio of 3:1. Total number of trees to be replanted are 24 Douglas fir (3x8), 15 California bay (3x5), and 9 black oaks (3x3).</p> <p>The tree replacement plantings shall be located west of the 5 acre foot reservoir and within or adjacent to the existing mixed oak forest and annual grassland habitats as identified in Figure 4 of the Initial Study on file for Application 31373. Trees planted should be contiguous to existing stands to facilitate colonization by the Sonoma Tree Vole (<i>Arborimus pomus</i>). Proposed replacement trees shall be planted with 35 feet of separation between trunks. Permittee shall provide a map showing the location of each replacement planting within one year of the date of permit issuance and provide updates to the map with subsequent monitoring reports if changes occur.</p> <p>Replacement tree plantings for the mitigation area shall be obtained from a combination of nursery stock grown on site, direct planting in proposed mitigation area from acorns and seeds collected on site, and/or trees obtained from a local native plant nursery or supplier. Plantings will consist of propagules derived from locally collected stock (native of Sonoma County) having a similar genetic origin to indigenous species on site. Permittee shall provide a written statement within one year of permit issuance disclosing the origin of each of the replacement plantings and updates to the written statement with subsequent monitoring reports if failed plantings are replaced or relocated.</p> <p>Permittee shall provide photographic evidence to document the tree replacement plantings within one year of the date of permit issuance and update photographs with subsequent reports if failed plantings are replaced or relocated.</p> <p>Any diversion of water pursuant to this permit is unauthorized if survival of any of the replacement tree species falls below 75% (18 Douglas fir, 12 California bay, and 7 black oaks, respectively). Permittee shall maintain replacement plantings such that survival rate of each species is not less than the identified thresholds. Survival rate shall be documented and submitted by Permittee annually.</p> <p>Annual monitoring reports shall be prepared by a biologist or certified arborist whose qualifications are acceptable to the Deputy Director for Water Rights. The initial monitoring report shall be submitted to the Deputy Director for Water Rights within one year of the date of permit issuance.</p> | <p>Permittee</p> | <p>Ongoing</p> | <p>Division of Water Rights, Compliance and Permitting/Licensing</p> |

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| Mitigation Measure  | Implementation   | Timing  | Monitoring/<br>Enforcement   |
|---|--|---|--|
| <p>The initial monitoring report shall include documentation of:</p> <ul style="list-style-type: none"> <li>• planting locations (map)</li> <li>• species of each planting</li> <li>• size of each tree at planting (height and diameter at breast height if applicable)</li> <li>• statement identifying the origin of each replacement tree</li> <li>• photographic evidence documenting planted replacement trees</li> </ul> <p>Subsequent annual reports shall be submitted annually to the Deputy Director for Water Rights and shall include documentation of:</p> <ul style="list-style-type: none"> <li>• size of each tree (height and diameter at breast height if applicable)</li> <li>• age of each tree</li> <li>• health status of each tree</li> <li>• photographic evidence documenting progress of replacement trees</li> <li>• locations (updated map), initial size measurement (height and diameter and breast height), photographic evidence and statement of origin for new plantings, if necessary to replace failed plantings.</li> </ul> <p>These reports shall be filed annually for a minimum of five years until at least 75% of each species has survived five years. At this time a final report shall be filed that provides written and photographic documentation of the following:</p> <ul style="list-style-type: none"> <li>• location of each tree</li> <li>• size of each tree (height and diameter at breast height)</li> <li>• age of each tree</li> </ul> <p>Permittee shall refrain from any activities which may impact the replacement plantings including but not limited to development and timber harvesting in the replanting area.</p> |  |   |  |
| <p>No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a Lake and Streambed 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 Lake and Streambed Alteration 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.</p>   | <p style="text-align: center;">Permittee, California<br/>Department of Fish and Game</p> | <p style="text-align: center;">Pre-Construction</p> | <p style="text-align: center;">Division of Water<br/>Rights, Compliance<br/>and<br/>Permitting/Licensing</p> |

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| Mitigation Measure   | Implementation | Timing  | Monitoring/<br>Enforcement                        |
|--|----------------|---------|---|
| <b>Cultural Resources</b>  |                |         |   |
| <p>The prehistoric resources identified as CA-SON-1792/H and CA-SON-1973 by Analytical Environmental Services in the report titled Cultural Resources Study, Flowers Vineyards Water Right Project (Application 31373) dated August, 2008 and the January 5, 2009 Supplemental Letter Report, Flowers Water Right Project shall be avoided by all ground-disturbing activities that are beyond the historic layer of disturbance (i.e., the plow or disc zone). Routine vineyard maintenance shall be limited to the existing disc zone (~25cm below surface), and not include deep ground disturbance such as ripping, as recommended by the previous site investigator (Jablonowski, 1995). If vines are to be removed for replanting or changing to another crop, then techniques for removal of vines in areas of the sites shall be restricted to using mechanical non-invasive techniques (i.e., pulling the vines with a chain attached to a backhoe, rather than excavation of vines. Vines shall be pulled when the soils are not muddy, but while the soil is moist down to six inches, and vines shall be replanted in the same location as the vines which were removed to avoid excessive disturbance that can be caused using heavy equipment. Any future project-related activities or developments at the locations of either of the above listed sites may be allowed only if an archaeologist that has been approved by the California Historical Information System to work in the area, and that is acceptable to the Deputy Director for Water Rights is retained to determine the significance of the sites. If mitigation is determined to be necessary, then the archeologist shall design an appropriate mitigation plan and submit the plan for approval by the Deputy Director for Water Rights. After the plan has been approved, the mitigation must be completed to the satisfaction of the Deputy Director for Water Rights prior to activities in the area of the site. Permittee shall be responsible for all costs associated with the cultural resource related work.</p> | Permittee      | Ongoing | Division of Water Rights,<br>Permitting/Licensing |
| <p>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; 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 Permittee/Licensee 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.</p>   | Permittee      | Ongoing | Division of Water Rights,<br>Permitting/Licensing |

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| Mitigation Measure   | Implementation                               | Timing                                     | Monitoring/<br>Enforcement  |
|--|--|--|---|
| <p>If human remains are encountered, then the Permittee/Licensee shall comply with Section 15064.5(e)(1) of the California Environmental Quality Act Guidelines 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 Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Deputy Director for Water Rights.</p> | <p style="text-align: center;">Permittee</p> | <p style="text-align: center;">Ongoing</p> | <p style="text-align: center;">Division of Water Rights,<br/>Permitting/Licensing</p> |