



State Water Resources Control Board

MITIGATED NEGATIVE DECLARATION

Pursuant to Section 21080(c)

Public Resources Code

<p>To: Office of Planning & Research State Clearinghouse P.O. Box 3044 Sacramento, CA 95812-3044</p>	<p>From: State Water Resources Control Board Division of Water Rights P.O. Box 2000 Sacramento, CA 95812-2000</p>
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PROJECT TITLE: Water Right Application 31771 – BH Farming, LLC

APPLICANT: BH Farming, LLC
c/o Ms. Wendy Johnston
VESTRA
5300 Aviation Drive
Redding, CA 96002

PROJECT LOCATION:

Eight miles southwest of the city of Corning, CA, in Tehama County

PROJECT DESCRIPTION:

On May 18, 2009, BH Farming, LLC (applicant) filed water right Application 31771 to appropriate water from the Burch Creek watershed in Tehama County. The applicant owns a 1,420-acre walnut and almond farm and proposes to irrigate with water collected to storage in a reservoir on an unnamed ephemeral stream (No-Name Creek) tributary to Burch Creek. The applicant also proposes to divert water from Burch Creek to off-stream storage in the reservoir. The reservoir site consists of 128 acres and will store a combined total maximum of 2,000 acre-feet (af) of water from No-Name Creek and Burch Creek. Water will be diverted from November 1 of each year through April 30 of the succeeding year and will mainly be used for irrigation as well as frost protection, recreation, stockwatering and wildlife enhancement.

PUBLIC COMMENTS ON DRAFT INITIAL STUDY

The draft Initial Study and proposed Mitigated Negative Declaration (IS/MND) were circulated for public review/comment on February 21, 2012. Comments were received from Tehama County Air Pollution Control District; Department of Water Resources, Division of Dam Safety; and Frank and Loretta Endres. The comments were considered informational and based on the comments, text was added to or amended in the IS/MND that merely clarified or made insignificant modifications to the IS/MND, and recirculation of the IS/MND was not necessary pursuant to Section 15073.5(c) of the Public Resources Code. The Division of Water Rights

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(Division) responded to the comments and the Division's response and those amendments to the IS are attached to this MND for reference.

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 permits, licenses, or orders issued by the State Water Board.

To ensure that water is diverted in accordance with the project description and to minimize the project's potential to cause impacts to hydrology and water quality, the following shall be included as mitigation in any permit or license issued pursuant to the project:

1. The maximum rate of diversion to offstream storage from POD 2 shall not exceed 40 cubic feet per second (cfs).
2. The capacity of the reservoir covered under this permit shall not exceed 2,000 acre-feet (af).
3. The water appropriated from No-Name Creek and Burch Creek shall be limited to the quantity which can be beneficially used and shall not exceed a combined total of 2,000 af to be collected from November 1 of each year to April 30 of the succeeding year.
4. Before storing water in the reservoir, permittee shall install and properly maintain a staff gage in the reservoir, satisfactory to the State Water Board, for the purpose of determining water levels in the reservoir. Permittee shall record the staff gage readings monthly from November 1 until April 30 of every year. Such readings shall be supplied to the State Water Board with each progress report submitted to the Board by permittee.
5. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipe to the Deputy Director for Water Rights for approval. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.
6. For the protection of fish and wildlife, permittee shall bypass a minimum of 1 cfs at the point of diversion on Burch Creek. The total streamflow shall be bypassed whenever it is less than 1 cfs. Prior to diversion, the permittee shall submit a compliance plan, satisfactory to the Deputy Director for Water Rights, which describes how the bypass flows required by the conditions of this permit will be measured and maintained.

7. No water shall be diverted under this permit until the permittee has installed a structure in Burch Creek, satisfactory to the State Water Board, which is capable of bypassing the flow required by the conditions of this permit. Permittee shall submit plans and specifications of the bypass structure to the Deputy Director for Water Rights within one year of the date the permit is issued or further extension as approved by the Deputy Director. The plans for the bypass structure shall be reviewed and must be satisfactory to the Deputy Director for Water Rights before any construction is undertaken. If the bypass structure is rendered inoperative for any reason, all diversions shall cease until such time as it is restored to service. Said bypass structure shall be properly calibrated, operated, and maintained by the permittee (or successors-in-interest) as long as any water is being diverted under any permit or license issued pursuant to Application 31771.
8. Permittee shall install and maintain a device satisfactory to the State Water Board to measure the rate and quantity of water diverted into the reservoir from Burch Creek. Prior to diversion, permittee shall also develop a method for measuring the diversions from the No-Name Creek. The measuring methodology shall be subject to review and approval of the Deputy Director for Water Rights. All in-line flow meters or other measuring devices must be maintained in operating condition as long as water is being diverted or used under this permit.
9. If the storage dam will be of such size as to be within the jurisdiction of the Department of Water Resources as to safety, construction under this permit shall not be commenced until the Department has approved the plans and specifications for the dam.
10. Prior to the start of construction or diversion or use of water under this permit, the 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:
 - 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.
 - b) A description of the gages and monitoring devices that will be installed or have been installed to measure stream flow and/or reservoir storage capacity, including any necessary calibration.
 - c) A time schedule for the installation and rating of these facilities.
 - d) A description of the frequency of data collection and the methods for recording bypass flows and storage levels.
 - e) An operation and maintenance plan that will be used to maintain all facilities in good condition.
 - f) A description of the events that will trigger recalibration of the monitoring devices and the process that will be used to recalibrate.

Permittee shall maintain all measurements and other monitoring required by this condition. Permittee shall provide measuring and monitoring records to the Deputy Director for Water Rights within 15 days upon request by the State Water Board.

11. 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.
12. Permittee shall implement the following BMPs during construction of the project: The project will be implemented under permits and review of the Department of Water Resources, Division of Dam Safety; Tehama County Grading permit; Department of Fish and Game 1600 permit; USACE 404 permit; and State Water Board General Construction Permit. The General Construction Permit will require preparation of a Storm Water Pollution Prevention Plan (SWPPP), which will include all BMPs to be implemented during project construction. The construction will likely be a Level 2 construction project. The BMPs that may be included at the discretion of the Qualified SWPPP Developer/Practitioner include the following, taken from the most recent California Stormwater BMP Construction Handbook:

Erosion Control

- EC-1 Scheduling
- EC-2 Preservation of Existing Vegetation
- EC-3 Hydraulic Mulch
- EC-4 Hydroseeding
- EC-5 Soil Binders
- EC-6 Straw Mulch
- EC-7 Geotextiles and Mats
- EC-8 Wood Mulching
- EC-9 Earth Dikes and Drainage Swales
- EC-10 Velocity Dissipation Devices
- EC-11 Slope Drains
- EC-12 Streambank Stabilization
- EC-13 Reserved
- EC-14 Compost Blankets
- EC-15 Soil Preparation/Roughening
- EC-16 Non-Vegetative Stabilization

Sediment Control

- SE-1 Silt Fence
- SE-2 Sediment Basin
- SE-3 Sediment Trap
- SE-4 Check Dam
- SE-5 Fiber Rolls
- SE-6 Gravel Bag Berm
- SE-7 Street Sweeping and Vacuuming
- SE-8 Sandbag Barrier
- SE-9 Straw Bale Barrier
- SE-10 Storm Drain Inlet Protection
- SE-11 Active Treatment Systems
- SE-12 Temporary Silt Dike
- SE-13 Compost Socks and Berms
- SE-14 Biofilter Bags

Wind Erosion Control

- WE-1 Wind Erosion Control

Tracking Control

- TC-1 Stabilized Construction Entrance/Exit

TC-2 Stabilized Construction Roadway
TC-3 Entrance/Outlet Tire Wash

13. Permittee shall abide by the following general terms:

Permit Term 80

The State Water Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the State Water Board concerning availability of water and the protection of beneficial uses of water in the Sacramento River. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing.

Permit Term 90

This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento River are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated by order of the State Water Board, made after notice to interested parties and opportunity for hearing.

Permit Term 91

No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental project water by the Central Valley Project or the State Water Project.

a. Inbasin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the State Water Resources Control Board for maintenance of water quality and fish and wildlife. Export diversions and project carriage water are specifically excluded from the definition of inbasin entitlements.

b. Supplemental project water is defined as that water imported to the basin by the project plus water released from project storage which is in excess of export diversions, project carriage water, and project inbasin deliveries. The State Water Board shall notify permittee of curtailment of diversion under this term after it finds that supplemental project water has been released or will be released. The Board will advise permittee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental project water provided by the project operators.

Contact Person: Katherine Mrowka	Telephone: (916) 341-5363 Email: kmrowka@waterboards.ca.gov
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APPROVED:

ORIGINAL SIGNED BY:
JAMES W. KASSEL FOR
Barbara Evoy, Deputy Director
Division of Water Rights

Date: OCT 29 2012