



# State Water Resources Control Board



**Linda S. Adams**  
Secretary for  
Environmental Protection

**Division of Water Rights**  
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**Arnold Schwarzenegger**  
Governor

## NOTICE OF PETITION FOR CHANGE IN POINTS OF DIVERSION, POINTS OF REDIVERSION, PURPOSE OF USE AND PLACE OF USE

**APPLICATION: 30558**  
**PETITION FILED: September 25, 2006**  
**COUNTY: Sonoma**

**DATE ACCEPTED: August 21, 1996**  
**STREAM SYSTEM: Tolay Creek**

Notice is hereby given that County of Sonoma Regional Parks Department (Petitioner), has filed a petition for change in the points of diversion, points of rediversion, purposes of use and place of use for water right Application 30558. The State Water Resources Control Board (State Water Board) will determine what conditions are needed in the permit 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 petition for change. This notice 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 Petitioner should be mailed to:

County of Sonoma Regional Parks Department  
c/o Michelle Julene  
2300 Country Center Drive, #120A  
Santa Rosa, CA 95403

### Description of Project

The Division accepted water right Application 30558 on August 21, 1996 for the right to collect 1,100 acre-feet of water in three proposed off-stream reservoirs and two existing on-stream reservoirs. The existing on-stream reservoirs each have a capacity of 25 acre-feet. The three off-stream reservoirs have proposed capacities of 500, 300, and 250 acre-feet. A total of five points of diversion (PODs) are proposed, three of which included diversion structures proposed to be built in Tolay Creek for diversion to off-stream storage in the three proposed reservoirs. The purpose for the water under Application 30558 is irrigation and frost protection of 1,500 acres of vineyard, including ten acres of existing vineyard and 1,490 acres of proposed vineyard. Other purposes include recreation, domestic use, and stockwatering. The Division noticed Application 30558 on December 12, 1997 and five protests remain outstanding.

### Summary of Application 30558

County: Sonoma  
Source: (1) Unnamed Stream tributary to Tolay Creek and (2) Tolay Creek tributary to San Pablo Bay

*California Environmental Protection Agency*

## Points of

Diversion: POD 1 (Onstream Reservoir): Located within the SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 11, T4N, R6W, MDB&M  
POD/PORD 2 (Onstream Reservoir): Located within the SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 10, T4N, R6W, MDB&M  
POD/PORD 3: Located within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 15, T4N, R6W, MDB&M  
POD/PORD 4: Located within the NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of projected Section 10, T4N, R6W, MDB&M  
POD/PORD 5: Located within the NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of projected Section 14, T4N, R6W, MDB&M

Amount: Not to exceed 1100 acre-feet per year to storage  
Season: From October 1 of each year to May 15 of the following year  
Purpose: Irrigation, Frost Protection, Recreation, Domestic, and Stockwatering  
Place of Use: A total of 1500 acres located within projected Sections 2, 3, 4, 9, 10, 11, 14, 15, 16, and 22, T4N, R6W, MDB&M (10 of which are currently developed)

### **Description of Petition for Change for Application 30558**

The Petitioner filed a petition for change in the PODs, points of rediversion (PORD), place of use, and purpose of use for water right Application 30558 to allow for the development of a regional park instead of vineyard. The project as discussed in the petition for change would collect 50 acre-feet of water in the two existing on-stream reservoirs (PODs 1 and 2), located on an Unnamed Stream tributary to Tolay Creek, and 1,050 acre-feet of water in Tolay Lake (proposed on-stream reservoir). The amount of water and diversion season requested under the original filing has not changed.

#### Petition for Change in the Purpose of Use and the Place of Use

The Petitioner requests to add wildlife enhancement, restoration, fire protection, and dust control as purposes of use. In addition to irrigation and frost protection of the ten acres of existing vineyard, the petition for change would accommodate operation of an ongoing rangeland management program. The program will use water to irrigate landscaping, various restoration projects, and demonstration crops and gardens, as well as provide for stockwatering, fire control, recreational use, and ecological restoration.

The petition for change requests to increase the place of use by 237 acres, for a total of 1,737 acres. The restoration projects referenced in the petition for change are limited to a net 150 acres within a gross of 1,737 acres.

#### Petition to Amend Points of Diversion/Rediversion

The petition for change requests to amend the location of PODs 1 and 2 as described in the application to more accurately describe the POD locations. The petition for change will maintain the existing inter-connecting pipeline between the reservoirs at PODs 1 and 2 and therefore both points will be points of rediversion and points of diversion. However, the petition for change does not propose any inter-connecting pipeline between the two existing reservoirs and the proposed restored Tolay Lake. The Petitioner has requested that PODs 3 and 4 be

relocated and POD 5 be removed. These changes are graphically described on the Map to Accompany Petition for Change, submitted on January 15, 2007 and on file with the Division.

POD/ PORD	Original Coordinates	Amended Coordinates	Point is within	Change	Associated With
1	North 195,700 feet and East: 1,857,500 feet	North 195,685 feet and East: 1,857,590	SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 11, T4N, R6W, MDB&M	Minor Adjustment	Reservoir 1
2	North 195,200 feet and East: 1,856,300 feet	North 195,150 feet and East: 1,856,435	SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 10, T4N, R6W, MDB&M	Minor Adjustment	Reservoir 2
3	North 194,550 feet and East: 1,853,500 feet	North 193,880 feet and East: 1,854,090 feet	NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 15, T4N, R6W, MDB&M	Relocated. Formerly associated with new off-stream reservoir.	Tolay Lake dam
4	North 197,100 feet and East: 1,851,550 feet	North 200,380 feet and East: 1,850,750 feet	SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 4, T4N, R6W, MDB&M	Relocated. Formerly associated with new off-stream reservoir.	Tolay Lake back-dam
5	North 192,150 feet and East: 1,857,100 feet	N/A		Removed. Formerly associated with new off-stream reservoir.	

### Change in Project Description

The original application proposed construction of three off-stream reservoirs with a combined storage capacity of 1,050 acre-feet, associated diversion structures from Tolay Creek, and connecting pipelines. The petition for change proposes restoration of the historic Tolay Lake, primarily for wildlife purposes. The maximum amount diverted to storage shall not exceed 1,100 acre-feet per year. Tolay Lake restoration will require construction of an earthen dam (POD 3) with an automated overshot gate at the approximate location of the historical dam. The spillway will be approximately 5.5 to 6 feet above the upstream toe of the slope of the dam. A back-dam (POD 4) will also be constructed near the upstream limit of the property.

The new back-dam will function as a control structure to (1) prevent increased inundation of the upstream neighbor's property from the Tolay Lake restoration (POD #4); (2) manage water levels in the reservoir; and (3) bypass water through the reservoir.

The petition for change will maintain the existing irrigation and frost control systems for the existing 10-acre vineyard and the existing pipelines from POD 2 to some landscape areas. New pipelines will be installed to service future restoration, demonstration crops, and garden areas. Temporary, above-ground pipelines will be installed from POD 2 and Tolay Lake (POD 3 and 4) to irrigation areas as needed.

Tolay Lake restoration will require grading in the Tolay Creek basin and its tributaries.

### **Environmental Information**

The County of Sonoma Regional Parks Department is the lead agency under the California Environmental Quality Act (CEQA). The County of Sonoma will complete CEQA documentation in compliance with CEQA, the State CEQA Guidelines, and Sonoma County Code Chapter 23A. If you wish to submit comments regarding potential environmental effects of the proposed petition for change and amended application, please direct them to:

Steven Herrera  
State Water Board, Division of Water Rights  
PO Box 2000  
Sacramento, CA 95812-2000

### **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 petition for change, and the factual basis for those objections. For example, if the objection is based on injury to existing water rights, the protest must describe the specific injury that would result from approval of the changes proposed by the petition for change. In addition, the party claiming injury to prior water rights must provide specific information that describes the basis of the existing 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. Protests based on environmental impacts, public interest, legality, or jurisdictional issues must be accompanied by a statement of facts supporting the basis 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 be rejected. A request for information or a request that studies be conducted does not constitute a protest. **The Division will reject protests that are directed against the underlying water right, rather than the changes proposed by the petition.**

#### **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 Petitioner.**

### **Protest Submittal Deadline**

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the **30<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 contact listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 2<sup>nd</sup> 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 individual listed below as "Contact Person" to request the extension prior to the end of the protest period.

### **Resolution of Protests**

Once the Division notifies the Petitioner that a protest has been received, they will have 30 days to respond to the protestant. The protestant and the Petitioner 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 Joseph Bandel by phone at (916) 552-9286 or by electronic mail at [jbandel@waterboards.ca.gov](mailto:jbandel@waterboards.ca.gov). Information and protest forms are also available at the Division's website at [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/). A copy of the notice, petition for change, and additional information regarding this project are available at the Division's website at <http://www.waterrights.ca.gov/application/PetNot.htm>.

Date of Notice: **September 14<sup>th</sup>, 2007**

Application 30558

- 6 -

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