

**DIVISION OF WATER RIGHTS  
REPORT OF COMPLIANCE INSPECTION**

**APPLICATION:** A030926 (Cancelled)**PERMIT:** NA**LICENSE:** NA**Date of Inspection:** September 15, 2010**Inspected by:** Aaron Miller, Jeff Wetzel**Accompanied by:** Stephen J. Peters**Telephone:** (707) 895-2300; (707) 326-3036**Report Completed by:** Jeff Wetzel**OWNERSHIP:**

No Change

Nancy K Donovan & Stephen J Peters  
21451 Highway 128  
Yorkville, CA 95494-9207

**SOURCE(S):**

No Change

**As Stated in Application:**

Unnamed stream tributary to Maple Creek thence Rancheria  
Creek thence Navarro River in Mendocino County.

**As Inspected:**

Unnamed stream and two unnamed springs tributary to Maple  
Creek.

**AMOUNT:**

No Change

**As Stated in Application:**

Storage of 30 acre-feet per annum to the following two  
reservoirs; reservoir #1(lower) – 18 acre-feet, reservoir #2  
(upper) – 12 acre-feet.

**As Inspected:**

Reservoir #1 = 16.4 acre-feet  
Reservoir #2 = 15 acre-feet

Reservoir estimates based on data gathered during inspection  
and are within acceptable limits.

**SEASON(S) OF  
DIVERSION:**

No Change

About November 1 of each year to about May 31 of the  
succeeding year.

**USE(S) OF WATER:**

Change

**As Stated in Application:**

Reservoir #1 & #2 Uses: Irrigation, Fire Protection, stock  
watering, Frost Protection.

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DIVERSION:**

Change

**As Inspected:**

Reservoir #1 Uses: Recreation, Fire Protection

Reservoir #2 Uses: Irrigation, Fire Protection

**As Stated in Application:**Reservoir #1: NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 3, T12N, R13W,  
MDB&M.Reservoir #2: NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 3, T12N, R13W,  
MDB&M.**As Inspected:**Reservoir #1: CCS 83 Zone 2, N 2,101,741 ft & E 6,193,368 ft  
(by GPS) within SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 3, T12N, R13W,  
MDB&M.Reservoir #2: CCS 83 Zone 2, N 2,101,519 ft & E 6,194,364 ft  
(by GPS) within SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 3, T12N, R13W,  
MDB&M.**County:** Mendocino**PLACE OF USE:**

Change

**As Stated in Application:**20 acres within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 3, T12N, R13W,  
MDB&M.20 acres within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 3, T12N, R13W,  
MDB&M.**As Inspected:**5 acres within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 3, T12N, R13W,  
MDB&M.3 acres within the SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 3, T12N, R13W,  
MDB&M.

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Currently, approximately 8 acres of vineyard is being irrigated with water from reservoir #2. Applicant stated during inspection the he no longer intends to plant the additional acreage applied for the on the application.

**METHOD(S) OF  
DIVERSION:**

Change

**As Stated in Application:**

Reservoir #1:

A 295 foot long, 24 foot – 11 inch high compacted earthen dam

Reservoir #2:

A 180 foot long, 24 foot-11 inch high compacted earthen dam

**As Inspected:**

Reservoir #1:

A 295 foot long, 16.6 feet high compacted earthen dam stores water stores water in reservoir #1. At the time of the inspection the drawdown was inaccessible; however the spillway measured 3.9 feet below the top of the dam. Mr. Peters indicated, during the inspection, that he had decreased the dam height of reservoir #1 by approximately 5 to 8 feet since the initial construction.

Reservoir #2:

A 180 foot long, 30.5 feet high compacted earthen dam stores water from the Unnamed Stream in reservoir #2. At the time of the inspection the drawdown was approximately 5.8 feet.

**COMPLIANCE TO  
TERMS AND  
CONDITIONS:**

On August 5, 2010 the board issued an Order canceling Application A030926 due to failure of Ms. Donovan and Mr. Peters to submit information requested. No petition was submitted within 30 days of the date of the Order.

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**PERMIT:** NA

**LICENSE:** NA

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**FINDING AND  
RECOMMENDATION:**

During the inspection Mr. Peters discussed that the reservoirs do store and spill water during the wet season. Mr. Peters also discussed the upper reservoir is the sole source of irrigation for his vineyards. During the time of inspection the drawdown in the upper reservoir was measured at 4.3 feet. Mr. Peters disclosed constructing the reservoirs in the late 1980s. It is logical to assume that the diversions and uses occur yearly.

Based on this field inspection, both reservoirs are storing water subject to the permitting authority of the State Water Resource Control Board (SWRCB). The diversion to storage for these reservoirs constitutes an unauthorized diversion of water. This inspection finds that Ms. Donovan and Mr. Peters are knowingly making unauthorized diversions without diligently perusing their water rights application.

The Division should consider the imposition of an Administrative Civil Liability (ACL) of up to \$500 per day in accordance with Water Code section 1052. Staff recommends formal enforcement action against the applicants.

It is noted that Ms. Donovan and Mr. Peters did not receive notification of the Order canceling their Application A030926 due to complications with the local Post Office and subsequently wasn't given the opportunity to petition the board for reconsideration. Mr. Peters indicated during the visit he would not want his application canceled.