



# State Water Resources Control Board



**Linda S. Adams**

*Secretary for  
Environmental Protection*

## Division of Water Rights

1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300  
P.O. Box 2000 ♦ Sacramento, California 95812-2000  
Fax: 916.341.5400 ♦ [www.waterrights.ca.gov](http://www.waterrights.ca.gov)

**Arnold Schwarzenegger**  
*Governor*

In Reply Refer  
to:kdm:30451

Elk County Water District  
c/o Charlie Acker  
P.O. Box 54  
Elk, CA 95432

Dear Mr. Acker:

PERMIT 21206 (APPLICATION 30451), GREENWOOD CREEK UNDERFLOW UNDERFLOW  
TRIBUTARY TO PACIFIC OCEAN, IN MENDOCINO COUNTY

Your WATER RIGHT PERMIT is enclosed. Please note that, with respect to other water rights attaching to this source, the priority of your right is identified by the filing date of your application. Therefore, in times of water shortage, those diverters with water rights senior to yours can take their water first. Additional limitations on your diversion and use of water are specified by the terms of this permit. Please read the terms and conditions of your permit carefully so that you are familiar with your responsibilities as an appropriator of water.

The State Water Resources Control Board (State Water Board) requires that you submit annual reports showing the progress you have made in the construction of your project and the use of water made under this permit that will qualify for licensing purposes. We will mail the forms to you when the reports are due.

Annual permit fees are required. The California Board of Equalization will mail you a Notice of Determination (billing) on behalf of the State Water Board when the fee is due. Please pay the fee promptly. Nonpayment of the fee may result in revocation of your permit.

You must comply with all of the conditions in your permit. The State Water Board will not issue a license for any water diverted and used for any purpose or at any place not authorized in the permit. Nor will the State Water Board credit you for any development or use that occurs after the date specified in the permit unless you request and receive an extension of time to use the water. An extension of time to continue development of a project requires public noticing and reevaluation of then-current environmental considerations, and is becoming considerably more difficult to obtain.

After the project has been completed, an inspection will be made to determine the amount of water that has been placed to beneficial use within the terms of the permit. A license will then be issued confirming a right to that amount of water. Please keep sufficient records of your diversion and use of water to facilitate this process.

Please inform us of any changes in address or ownership. The State Water Board will mail all notices, including fee notices, to the most recent address supplied. The regulations require a water right holder to immediately file a statement informing the State Water Board of any change

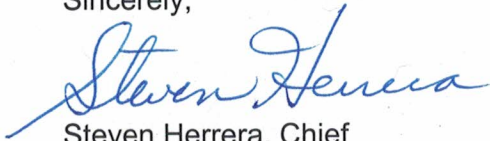
***California Environmental Protection Agency***

Name

- 2 -

in ownership of the application, permit, or license. The statement shall refer to the number of the water right, and identify the name and address of the new owner. This is important because failure to supply this information could result in your liability to pay water right fees, including penalty and interest for late payment, even after you have sold the property served by the water right. Change in name/address or ownership forms are available at the Division's website, [www.waterrights.ca.gov](http://www.waterrights.ca.gov).

Sincerely,

A handwritten signature in blue ink that reads "Steven Herrera". The signature is fluid and cursive, with the first name "Steven" and last name "Herrera" clearly legible.

Steven Herrera, Chief  
Water Rights Permitting Section

Enclosure

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

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In the Matter of Application 30451  
**Elk County Water District**

**ORDER APPROVING ISSUANCE OF PERMIT**

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SOURCE: Greenwood Creek  
COUNTY: Mendocino County

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**WHEREAS:**

1. Application 30451 was filed with the State Water Resources Control Board (State Water Board) on June 8, 1995.
2. All protests to approval of the application have been resolved. Protest resolution resulted in inclusion of terms to (a) monitor streamflow in Greenwood Creek, (b) develop and implement a water conservation plan, and (b) continue jurisdiction to modify the terms of the permit to protect public trust resources (standard condition 12).
3. The State Water Board has determined that there is unappropriated water available to serve Application 30451. On February 8, 2000, the Division of Water Rights (Division) issued a letter to protestant California Sportfishing Protection Alliance that included a water availability analysis.
4. The water will be diverted and used without injury to any lawful user of water. The Division's February 8, 2000 letter states that there are very few water development projects and no major reservoirs within the 25 square mile Greenwood Creek watershed. There were no protests on the basis of potential injury to an existing right and there are no downstream water users on file with the State Water Board.
5. The water will be diverted and used without unreasonable effect upon fish, wildlife, or other instream beneficial uses. The Department of Fish and Game (DFG) protest was not accepted because it was not timely filed. Nonetheless, the issues raised in the DFG protest were considered in the Mitigated Negative Declaration (ND) prepared by the Applicant. The ND identified the following mitigation measures:
  - (a) Permittee shall install a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the bypass flows required by the conditions of this permit. Said measuring device shall be properly maintained.
  - (b) Permittee shall monitor streamflow in Greenwood Creek downstream of the permittee's point of diversion on a daily basis once streamflow is 1 cfs or less. Permittee shall reduce diversions to the maximum extent possible but no lower than 0.06 cfs for the purpose of maintaining streamflow as



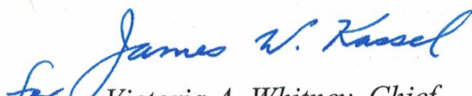
near as practicable to 1 cfs. Within six months of permit issuance, the permittee shall submit a plan of compliance, including a time schedule, for installation of the monitoring device and operation pursuant to this term, subject to review, modification and acceptance by the Chief, Division of Water Rights. Failure to timely comply shall result in a reduction in the authorized diversion rate to 0.06 cfs whenever flow is less than 1 cfs downstream of the point of diversion. The reduced diversion rate of 0.06 cfs may be modified upon approval of a plan of compliance by the Division Chief.

(c) 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 Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of 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 Chief of the Division of Water Rights.

6. The applicant requests a right to directly divert 0.097 cfs throughout the year for municipal purpose to serve the community of Elk. This purpose of use is beneficial.
7. Environmental review began on June 8, 1995. The Applicant prepared a Mitigated ND for the project that includes the mitigation measures listed in item 5 above. The Division reviewed the ND and will issue a Notice of Determination within five days of approval of the permit.

**NOW, THEREFORE, IT IS ORDERED THAT A PERMIT IS ISSUED FOR APPLICATION 30451, subject to the conditions of the attached permit.**

STATE WATER RESOURCES CONTROL BOARD

  
Victoria A. Whitney, Chief  
Division of Water Rights

Dated: **NOV 14 2007**

Attachment

**STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD**

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 21206**

Application 30451 of Elk County Water District, P.O. Box 54, Elk, CA 95432 filed on June 8, 1995, has been approved by the State Water Resources Control Board (State Water Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

**Permittee is hereby authorized to divert and use water as follows:**

1. Source of water

Source:

**Greenwood Creek Underflow**

Tributary to:

**Pacific Ocean**

within the County of **Mendocino**

2. Location of point of diversion

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
1. North 2,176,698 feet and East 6,076,159 feet	NW¼ of NE¼	35	15N	17W	MD
2. North 2,176,598 feet and East 6,076,009 feet	NW¼ of NE¼	35	15N	17W	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Municipal	The Village of Elk	26	15N	17W	MD	
		27	15N	17W	MD	
		35	15N	17W	MD	
		2	14N	17W	MD	

The place of use is shown on map on file with the State Water Board.



5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **0.097 cubic foot per second**, to be diverted from **January 1 to December 31** of each year as follows: **0.042 cubic foot per second** at point of diversion (1), and **0.055 cubic foot per second** at point of diversion (2). The maximum amount diverted under this permit shall not exceed **40.31** acre-feet per year.

(0000005A)

6. Construction work and complete application of the water to the authorized use, shall be prosecuted with reasonable diligence and completed by December 31, 2017.

(0000009)

7. During the season specified in this permit, the total quantity and rate of water diverted and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the quantity and rate of diversion and use specified in this permit. If the permittee's claimed existing right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the quantity and rate of diversion and use allowed under this permit shall be the net of the face value of the permit less the amounts of water available under the existing right.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the State Water Board.

Permittee shall take and use water under the existing right claimed by permittee only in accordance with law.

(0000021B)

8. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion.

(0000022)

9. Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Board for approval within one year from the date of this permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(0000029B)

10. Permittee shall install a device, satisfactory to the State Water Board, which is capable of measuring the bypass flows required by the conditions of this permit. Said measuring device shall be properly maintained.

(0060062B)

11. Permittee shall monitor streamflow in Greenwood Creek downstream of the permittee's point of diversion on a daily basis once streamflow is 1 cubic foot per second (cfs) or less. Permittee shall reduce diversions to the maximum extent possible but no lower than 0.06 cfs for the purpose of maintaining streamflow as near as practicable to 1 cfs. Within six months of permit issuance, the permittee shall submit a plan of compliance, including a time schedule, for installation of the monitoring device and operation pursuant to this term, subject to review, modification and acceptance by the Chief, Division of Water Rights. Failure to comply timeously, shall result in a reduction in the authorized diversion rate to 0.06 cfs whenever flow is less than 1 cfs downstream of the point of diversion. The reduced diversion rate of 0.06 cfs may be modified upon approval of a plan of compliance by the Division Chief.

(0149999)

12. 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 Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of 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 Chief of the Division of Water Rights.

(0000215)

**ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- A. The amount authorized for appropriation may be reduced in the license if investigation so warrants.  
(0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Board until a license is issued.  
(0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit.  
(0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X,



Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. 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 & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 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.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State 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 stream or lake 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 State Department of Fish and Game.

(0000063)

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***This permit is issued and permittee takes it subject to the following provisions of the Water Code:***

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY: JW Kassel

*Victoria A. Whitney, Chief  
Division of Water Rights*

Dated:

NOV 14 2007