

Notice of Determination

Appendix D

To:

☒ Office of Planning and Research

U.S. Mail:

P.O. Box 3044

Sacramento, CA 95812-3044

Street Address:

1400 Tenth St., Rm 113

Sacramento, CA 95814

☐ County Clerk

County of: _____

Address: _____

From:

Public Agency: SWRCB-Division of Water Rights

Address: P.O. Box 2000

Sacramento, CA 95812

Contact: Michael Meza

Phone: 916-341-5427

Lead Agency (if different from above): _____

Address: _____

Contact: _____

Phone: _____

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.State Clearinghouse Number (if submitted to State Clearinghouse): 2004112058Project Title: Petition for Extension of Time on Water Right Permit 21173 (A028220) for Laroya, LLC.Project Applicant: Laroya, LLC.Project Location (include county): Shaw Gulch in San Mateo County

Project Description:

Permit 21173 (Application 28220) allows for the diversion of 18 afa by storage between December 1 of each year to April 15 of the succeeding year from Shaw Gulch for the purposes of irrigation of 78.3 acres, fire protection and recreation. A Petition for Extension of Time (Petition) was filed on September 8, 2015 in order construct the storage reservoir and place water to beneficial use.

This is to advise that the SWRCB - Division of Water Rights has approved the above
(☒ Lead Agency or ☐ Responsible Agency)

described project on 11/12/2005 and has made the following determinations regarding the above
(date)
described project.

1. The project [☐ will ☒ will not] have a significant effect on the environment.
2. ☐ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
☒ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [☒ were ☐ were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [☒ was ☐ was not] adopted for this project.
5. A statement of Overriding Considerations [☐ was ☒ was not] adopted for this project.
6. Findings [☒ were ☐ were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/ceqa/index.shtml

Signature (Public Agency): Julie RizzardoTitle: Assistant Deputy DirectorDate: APR 22 2019

Date Received for filing at OPR: _____

Authority cited: Sections 21083, Public Resources Code.
Reference Section 21000-21174, Public Resources Code.

Revised 2011

STATE CLEARINGHOUSE

Please indicate County where
your project is located here:

San Mateo

MAIL FORM AND ATTACHMENTS TO:
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Tel: (916) 341-5300 Fax: (916) 341-5400
<http://www.waterboards.ca.gov/waterrights>

MJM/JH
A028220
STATE WATER RESOURCES CONTROL BOARD
2015 SEP -8 AM 10:41
DIV OF WATER RIGHTS
SACRAMENTO

PETITION FOR EXTENSION OF TIME

Cal. Code Regs., tit. 23, § 842

Application **A028220** Permit **21173**

Separate petitions are required for each water right. Incomplete forms may not be accepted. Complete this form if the time previously allowed in your permit within which to complete construction work and/or use of water has either expired or will expire and you require additional time. Provide attachments if necessary.

Water Code section 1396 requires an applicant to exercise due diligence in developing a water supply for beneficial use. The State Water Resources Control Board (State Water Board) will review the facts presented to determine whether: (a) due diligence has been exercised, (b) failure to comply with previous time requirements has been occasioned by obstacles which could not reasonably be avoided, and (c) that satisfactory progress will be made if an extension of time is granted. (Cal. Code Regs., tit. 23, § 844.) If an extension of time is not granted, the State Water Board may initiate formal action to either: (a) issue a license for the amount of water heretofore placed to beneficial use under the terms of the permit, or (b) revoke the permit.

If this is your first extension of time, answer the questions below for the permitted construction and water use development period. If previous extensions have been approved, answer these questions for the most recently approved extension period (for example, if a ten-year extension was previously granted, list the activities completed during the ten-year period).

I (we) request a **5** year extension of time to complete construction work and/or beneficial use of water.

Construction

Estimate the date construction work will begin, list the actions taken toward commencing or completing construction, and list the reasons why construction of the project was not completed.

See Attachment 1.

Insert the attachment number here, if applicable:

1

Complete Use of Water

List reasons why use of water was not completed within time previously allowed.

The Permittee has not received timely agency approvals required to construct the project or begin diversion of water under Permit 21173 (see Attachment 1).

Insert the attachment number here, if applicable:

1

REC'D 9-8-2015
CHECK # 79817 - \$850.00
CHECK # 79818 - \$1,000.00

GC

Quantities Diverted

For direct diversion projects, list the cubic feet per second (cfs) or gallons per day (gpd) diverted during the maximum month of use, and the acre-feet per annum (afa) and identify the year this occurred. For storage projects, identify the maximum amount collected to storage and withdrawn for beneficial use in afa and identify the year this occurred.

	Year	Maximum Diversion Rate (cfs or gpd)	Maximum Annual Amount (afa)
Direct Diversion	NA	0	NA
Storage	NA		0
Beneficial Use			0

Insert the attachment number here, if applicable: NA

Information on Beneficial Uses

Number of Acres Irrigated	0
Number of Houses or People Served	0
Per Capita Residential Water Use During the Maximum 30-day Period (gpd)	0
Extent of Past Use of Water for Any Other Purpose (identify gpd, cfs or afa)	0

Insert the attachment number here, if applicable: NA

Approximate Amount Spent on Project \$ About \$65,000

Water Conservation – If water conservation is required by your permit, provide the information below.

Water Conservation Measures In Effect

List the water conservation measures that are in effect within the place of use.

Beneficial uses have not commenced under this Permit. Permittee also holds License 13593 (Application 27020). The licensed place of use (POU) overlaps, in part, the POU allowed under Permit 21173. Permittee/Licensee grows perennial herbs which are low-water use plants. No overhead (sprinkler) irrigation is used. The majority of water use on the farm is distributed through drip irrigation systems.

Insert the attachment number here, if applicable:

Water Conservation Measures Planned

List the water conservation measures that are feasible within the place of use and the date the measures will be implemented. Identify the quantities estimated to be conserved when the measures are implemented.

The Permittee will continue to use drip irrigation as it has done for irrigation allowed under License 13593.

Insert the attachment number here, if applicable:

All Right Holders Must Sign This Form: I (we) declare under penalty of perjury that the above is true and correct to the best of my (our) knowledge and belief. Dated Aug 30, 2015 at Rescadero, Ca.

HENRY L. SMITH

Hy 2 Smith
Right Holder or Authorized Agent Signature

Right Holder or Authorized Agent Signature

NOTE: All petitions must be accompanied by:

- (1) the form Environmental Information for Petitions, available at:
http://www.waterboards.ca.gov/waterrights/publications_forms/forms/docs/pet_info.pdf
- (2) Division of Water Rights fee, per the Water Rights Fee Schedule, available at:
http://www.waterboards.ca.gov/waterrights/water_issues/programs/fees/
- (3) Department of Fish and Wildlife fee of \$850 (Pub. Resources Code, § 10005)

Attachment 1 to Petition for Extension of Time
Michael and Grace Jacobs Family Trust
Permit 21173 (Application 28220)

Construction

The State Water Board issued Permit 21173 on January 12, 2006. Construction has not commenced, but Permittee has prepared engineered plans for reservoir construction and on March 14, 2014 submitted the plans to San Mateo County for grading permit approval. In addition, the Permittee has submitted a Notification to the California Department of Fish & Wildlife (CDFW) for a Lake or Streambed Alteration Agreement, an application to the Regional Water Quality Control Board (RWQCB) for Section 401 Water Quality Certification, and an application to the United States Army Corps of Engineers (ACOE) for a Section 404 Permit. Construction has not commenced because the Permittee is awaiting approval from all of these agencies.

CDFW has advised Permittee that it is awaiting approval from the ACOE before they will comment. Since March 2014, the Permittee has made monthly contact with the ACOE, however, the ACOE has been unwilling to state when they will have time to review the application. The ACOE has designated the application as "low priority" and will not estimate when the Permittee should expect an answer. The contact person at the ACOE is Alisha Kershbaum, (415) 503-6988. Her supervisor is Jane Hicks, District Chief, (415) 503-6771.

It is also noted that the Permittee experienced delays in obtaining State Water Board review of the Flow Bypass Compliance Plan (Compliance Plan) required by Term 15 of the Permit. The Permittee submitted a proposed Compliance Plan to the State Water Board on March 7, 2007. After not receiving a response, the Permittee sent an inquiry to the State Water Board as to the status of the Compliance Plan in 2008. The State Water Board did not respond to the 2008 inquiry. The Permittee contacted the State Water Board again in 2013 regarding the status of the Compliance Plan approval. State Water Board staff responded with comments in October 2013. Because other regulatory approvals may have an influence on final design of the project and the facilities required for compliance with the water right permit, the Permittee has not resubmitted an updated Compliance Plan to the State Water Board, but will do so following receipt of other regulatory approvals and prior to construction of the reservoir.

MJM/JH
A028220

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Tel: (916) 341-5300 Fax: (916) 341-5400
<http://www.waterboards.ca.gov/waterrights>

ENVIRONMENTAL INFORMATION FOR PETITIONS

This form is required for all petitions.

Before the State Water Resources Control Board (State Water Board) can approve a petition, the State Water Board must consider the information contained in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA). This form is not a CEQA document. If a CEQA document has not yet been prepared, a determination must be made of who is responsible for its preparation. As the petitioner, you are responsible for all costs associated with the environmental evaluation and preparation of the required CEQA documents. Please answer the following questions to the best of your ability and submit any studies that have been conducted regarding the environmental evaluation of your project. If you need more space to completely answer the questions, please number and attach additional sheets.

DESCRIPTION OF PROPOSED CHANGES OR WORK REMAINING TO BE COMPLETED

For a petition for change, provide a description of the proposed changes to your project including, but not limited to, type of construction activity, structures existing or to be built, area to be graded or excavated, increase in water diversion and use (up to the amount authorized by the permit), changes in land use, and project operational changes, including changes in how the water will be used. For a petition for extension of time, provide a description of what work has been completed and what remains to be done. Include in your description any of the above elements that will occur during the requested extension period.

No construction or beneficial uses of water have commenced. The Permittee has filed notifications and applications with the California Department of Fish & Wildlife, U.S. Army Corps of Engineers, Regional Water Quality Control Board, and San Mateo County. The Permittee is awaiting approvals from all of these agencies to begin construction of the project and commence diversion and use of water as authorized by the water right Permit.

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
SACRAMENTO
2015 SEP -8 AM 10:41

Insert the attachment number here, if applicable:

Coordination with Regional Water Quality Control Board

For change petitions only, you must request consultation with the Regional Water Quality Control Board regarding the potential effects of your proposed change on water quality and other instream beneficial uses. (Cal. Code Regs., tit. 23, § 794.) In order to determine the appropriate office for consultation, see: http://www.waterboards.ca.gov/waterboards_map.shtml. Provide the date you submitted your request for consultation here, then provide the following information.

Date of Request

Will your project, during construction or operation, (1) generate waste or wastewater containing such things as sewage, industrial chemicals, metals, or agricultural chemicals, or (2) cause erosion, turbidity or sedimentation?

☐ Yes

☒ No

Will a waste discharge permit be required for the project?

☐ Yes

☒ No

If necessary, provide additional information below:

Insert the attachment number here, if applicable:

Local Permits

For temporary transfers only, you must contact the board of supervisors for the county(ies) both for where you currently store or use water and where you propose to transfer the water. (Wat. Code § 1726.) Provide the date you submitted your request for consultation here.

Date of Contact

For change petitions only, you should contact your local planning or public works department and provide the information below.

Person Contacted:

Date of Contact:

Department:

Phone Number:

County Zoning Designation:

Are any county permits required for your project? If yes, indicate type below.

☒ Yes

☐ No

☒ Grading Permit

☐ Use Permit

☐ Watercourse

☐ Obstruction Permit

☐ Change of Zoning

☐ General Plan Change

☐ Other (explain below)

If applicable, have you obtained any of the permits listed above? If yes, provide copies.

☐ Yes

☒ No

If necessary, provide additional information below:

An application for a grading permit for dam and reservoir construction has been filed with San Mateo County and is in process.

Insert the attachment number here, if applicable:

Federal and State Permits

Check any additional agencies that may require permits or other approvals for your project:

- ☒ Regional Water Quality Control Board ☒ Department of Fish and Game
- ☐ Dept of Water Resources, Division of Safety of Dams ☐ California Coastal Commission
- ☐ State Reclamation Board ☒ U.S. Army Corps of Engineers ☐ U.S. Forest Service
- ☐ Bureau of Land Management ☐ Federal Energy Regulatory Commission
- ☐ Natural Resources Conservation Service

Have you obtained any of the permits listed above? If yes, provide copies. ☐ Yes ☒ No

For each agency from which a permit is required, provide the following information:

Agency	Permit Type	Person(s) Contacted	Contact Date	Phone Number
USACE	404 Permit	USACE	March 2014	(415) 503-6988
RWQCB	401 Permit	San Francisco Bay RWQCB	March 2014	(510) 622-2300
CDFW	LSAA	CDFW	March 2014	(707) 944-5500

If necessary, provide additional information below:

Applications and/or notifications were submitted for the above permits/approvals in March 2014. See Attachment 1 of Petition.

Insert the attachment number here, if applicable:

Construction or Grading Activity

Does the project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed, bank or riparian habitat of any stream or lake? ☒ Yes ☐ No

If necessary, provide additional information below:

A Notification of Lake or Streambed Alteration was submitted to the California Department of Fish and Wildlife. See Attachment 1 of Petition.

Insert the attachment number here, if applicable:

Archeology

Has an archeological report been prepared for this project? If yes, provide a copy. ☒ Yes ☐ No

Will another public agency be preparing an archeological report? ☐ Yes ☒ No

Do you know of any archeological or historic sites in the area? If yes, explain below. ☐ Yes ☒ No

If necessary, provide additional information below:

See discussion for Item 15 in State Water Board's Initial Study for Application 28220.

Insert the attachment number here, if applicable:

Photographs

For all petitions other than time extensions, attach complete sets of color photographs, clearly dated and labeled, showing the vegetation that exists at the following three locations:

- ☐ Along the stream channel immediately downstream from each point of diversion
- ☐ Along the stream channel immediately upstream from each point of diversion
- ☐ At the place where water subject to this water right will be used

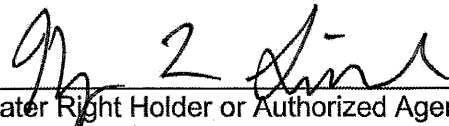
Maps

For all petitions other than time extensions, attach maps labeled in accordance with the regulations showing all applicable features, both present and proposed, including but not limited to: point of diversion, point of redirection, distribution of storage reservoirs, point of discharge of treated wastewater, place of use, and location of instream flow dedication reach. (Cal. Code Regs., tit. 23, §§ 715 et seq., 794.)

Pursuant to California Code of Regulations, title 23, section 794, petitions for change submitted without maps may not be accepted.

All Water Right Holders Must Sign This Form:

I (we) hereby certify that the statements I (we) have furnished above and in the attachments are complete to the best of my (our) ability and that the facts, statements, and information presented are true and correct to the best of my (our) knowledge. Dated Aug 30, 2015 at Pescadero, California.


Water Right Holder or Authorized Agent Signature
HENRY L. SMITH

Water Right Holder or Authorized Agent Signature

NOTE:

- Petitions for Change may not be accepted unless you include proof that a copy of the petition was served on the Department of Fish and Game. (Cal. Code Regs., tit. 23, § 794.)
- Petitions for Temporary Transfer may not be accepted unless you include proof that a copy of the petition was served on the Department of Fish and Game and the board of supervisors for the county(ies) where you currently store or use water and the county(ies) where you propose to transfer the water. (Wat. Code § 1726.)