



**California Regional Water Quality Control Board
North Coast Region
John W. Corbett, Chairman**



Linda S. Adams
Secretary for
Environmental Protection

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**Arnold
Schwarzenegger**
Governor

October 10, 2007

In the Matter of
Water Quality Certification

for the

**FETZER VINEYARDS,
FETZER RUSSIAN RIVER HABITAT ENHANCEMENT/BANK STABILIZATION
PROJECT
WDID NO. 1B07111WNME**

APPLICANT: Fetzer Vineyards
RECEIVING WATER: Russian River, within the Ukiah Sub Area No. 114.31.
HYDROLOGIC AREA: Russian River Hydrologic Area No. 114.00
COUNTY: Mendocino County
FILE NAME: Fetzer Russian River Habitat Enhancement/Streambank
Stabilization Project

BY THE EXECUTIVE OFFICER:

1. On July 16, 2007, Evan Engber of Bioengineering Associates Inc., on behalf of Fetzer Vineyards (Applicant), filed an application for water quality certification under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with the Fetzer Russian River Habitat Enhancement/Streambank Stabilization Project. A fee in the amount of \$500.00 was received on July 13, 2007. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on September 18, 2007, and posted information describing the Project on the Regional Water Board's website. No comments were received.
2. The proposed project is located approximately one mile North of Old Hopland at 12901 Old River Road, Mendocino County, (APN no. 048-060-01). The latitude and longitude is 38. 9857° N, -123.1004° W. The purpose of the project is to reduce the quantity of sediments that are entering the Russian River water column while enhancing the aquatic and riparian habitat. The project sites are actively eroding. Vineyard property and two irrigation pump stations are in danger of collapsing into the Russian River water course if stabilization efforts are not implemented.

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3. The project involves two bioengineered stream bank stabilization sites located approximately 1,500 feet apart from one another on a reach of the Russian River near Hopland. The stabilization sites are on the downstream left bank of the Russian River. The first site is a boulder and 'live willow' log deflector which will enhance resting areas and pool development, for anadromous fish species, while deflecting the rivers hydrologic force away from the eroding stream bank. Immediately downstream of this deflector is an eroding sandy bench with little vegetation. Seventy live willow clusters will be planted to slow flow along the bank and enhance the deposition of fine materials. Continuing downstream and about 140 feet upstream of the first pump station, seven live willow siltation baffles (20 ft. in length, 20 ft. on center.) will be keyed into the toe of the vertical bank perpendicular to the shoreline. At this location, the top of bank will be sloped back eight feet and down four feet along 140 feet of shoreline, in order to stabilize the incised river bank. At the downstream end of the live willow siltation baffles, a boulder and log deflector will be constructed to deflect flow away from the eroding pump station, stabilize riparian habitat and enhance fish habitat.

The second pump station site is located approximately 1,500 feet downstream from the first project site. Three feet high, one ton boulder longitudinal stone toe protection (rip-rap) will be installed along approximately 60 feet of eroding bank to stabilize the second pump station. Rip-rap will be shaded by willows placed vertically against the bank and staked and sprigged in the interstices at a maximum spacing of three feet on center.

4. This project is designed to be self mitigating as the bank stabilization and planting will reduce sediment delivery to the creek, provides creek shading, and reduces threats to life and property. A native stock of willows (Arroyo willows will not be used) will be obtained from onsite cuttings, and will provide soil stability in addition to riparian cover for the channel. Native trees and shrubs will be planted and managed. A five year monitoring plan will be implemented with an 85 percent survival rate required of all proposed plant species. Additionally, a native seed mix will be spread on all exposed soil surfaces. Erosion control fabric will be installed on all surfaces with a slope 3:1 or greater. Yearly monitoring and reporting will be required for at least five years.
5. The California Department of Fish and Game has determined that this project is statutorily exempt from California Environmental Quality Act (CEQA) review (Section 15333 – Small Habitat Restoration). Based on a review of the project information submitted to date, Regional Water Board staff determined that this project is categorically exempt from CEQA review (Class 33, Section 15333 – Small Habitat Restoration) and anticipate filing a Notice of Exemption for this project.
6. At a minimum, the following construction Best Management Practices (BMPs) will be incorporated into the final project plans in order to reduce and control soil erosion: work in and around waterways will be conducted during the dry season; installation

of construction barrier fencing to preclude equipment entry into sensitive areas; installation of silt fencing or fiber rolls to prevent sediment loss from immediate work area; topsoil salvage and reapplication; and seeding and mulching.

7. The applicant has applied for authorization from the United States Army Corps of Engineers to perform the project under a Nationwide Permit No. 27, pursuant to Clean Water Act, section 404.
8. Applicant has applied for a California Department of Fish and Game 1602 Streambed Alteration Agreement, September 21, 2007,

Receiving Water: Russian River, within the Ukiah Sub Area No. 114.31,
Russian River Hydrologic Area No. 114.00

Filled or Excavated Area: permanent impacts, 282 linear feet

Latitude/Longitude: 38.9857° north, -123.1004° west

Expiration: October 15, 2009.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE FETZER RUSSIAN RIVER HABITAT RESTORATION/STREAMBANK STABILIZATION PROJECT (FACILITY NO. 1B07111WNME), as described in the application will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that Applicant complies with the following terms and conditions:

1. This certification action is subject to modification or revocation upon administrative or judicial review; including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This certification is conditioned upon total payment of any fee required under chapter 28, title 23, California Code of Regulations, and owed by the applicant.
4. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which

requires compliance with all conditions of this Water Quality Certification (Enclosed).

5. The Russian River is identified on the State of California Clean Water Act Section 303(d) list. The Russian River is listed as impaired for sediment and temperature. At present, a total maximum daily load (TMDL) has not been established to address these impairments. If a TMDL and an implementation plan are adopted for the Russian River prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order to address actions identified in an action plan.
6. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Applicant's project description, and b) compliance with all applicable requirements of the Basin Plan.
7. Applicant shall construct the project in accordance with the conditions described in the application and the findings above, and shall comply with all applicable water quality standards.
8. Any change to the operation of the project that would have a significant or material effect on the findings, conclusions, or conditions of this Order shall be submitted to the Executive Officer of the Regional Water Board for prior review and written approval.
9. Applicant shall provide Regional Water Board staff access to the project site to document compliance with this Order.
10. Applicant shall provide a copy of this Order and attachments to the contractor and all subcontractors conducting the work, and require that copies remain in their possession at the work site. Applicant shall be responsible for work conducted by its contractor or subcontractors.
11. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
12. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this Order, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State.

13. If construction dewatering is found to be necessary, the Applicant shall use a method of water disposal other than disposal to surface waters (such as land disposal) or the Applicant shall apply for coverage under the General Construction Dewatering Permit and receive notification of coverage prior to discharge to surface waters.
14. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States and the State. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to any waters of the State or the United States. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality.
15. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities, construction activities, or any other project activities that could result in erosion or sediment discharges to surface water.
16. All conditions required by this Order shall be included in the Plans and Specifications prepared by the Applicant for the Contractor. In addition, the Applicant shall require compliance with all conditions included in this Order in the bid contract for this project.
17. All mitigation activities shall be completed as proposed in the application.
18. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order. In response to a suspected violation of any condition of this Order, the Regional Water Board may require the holder of any federal permit or license subject to this Order to furnish, under penalty of perjury, any technical or monitoring reports the Regional Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.
19. The Regional Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.

20. This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board. The successor-in-interest must send to the Regional Water Board Executive Office a written request for transfer of this Order to discharge dredged or fill material under this Order. The request must contain the following:
- a. requesting entity's full legal name
 - b. the state of incorporation, if a corporation
 - c. address and phone number of contact person
 - d. description of any changes to the project or confirmation that the successor-in-interest intends to implement the project as described in this Order.
21. The authorization of this Order for any dredge and fill activities expires on October 15, 2009. Conditions and monitoring requirements outlined in this Order are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please contact Stephen Bargsten of our staff at (707) 576-2653 if you have any questions or need to report any violation of this Order.

Robert R. Klamt
Interim Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ

Original sent to: Fetzer Vineyards, 12901 Old River Road, Hopland, CA 95449

Copies sent to: Bioengineering Associates Inc., PO Box 1554, Laytonville, CA 95454

Mr. Bill Orme, SWRCB, Acting 401 Program Manager, Clean Water Act Section 401 Certification and Wetlands Unit Program

Ms. Kim Niemeyer, SWRCB, Office of the Chief Counsel

Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 1455 Market Street, San Francisco, CA 94103-1398

Mr. Bill Cox, California Department of Fish and Game, P.O. Box 47, Yountville, CA 94599

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