



**California Regional Water Quality Control Board
North Coast Region
Bob Anderson, Chairman**



Linda S. Adams
Secretary for
Environmental Protection

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**Arnold
Schwarzenegger**
Governor

September 16, 2009

In the Matter of
Water Quality Certification
for
Martorana Family Vineyards
Grape Creek Fish Habitat Improvement, Phase II
WDID No. 1B09091WNSO

APPLICANT: Martorana Family Vineyards/Sonoma County Water Agency
RECEIVING WATER: Grape Creek
HYDROLOGIC AREA: Warm Springs Hydrologic Subarea No. 114.24, Russian River Hydrologic Unit No. 114.00
COUNTY: Sonoma County
FILE NAME: Sotoyome RCD – Martorana, Grape Creek Fish Habitat Improvement, Phase II

BY THE EXECUTIVE OFFICER:

1. On August 5, 2009, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application Ms. Valerie Sherron of Sotoyome Resource Conservation District, on behalf of Martorana Family Vineyards/Sonoma County Water Agency (Applicant), requesting Federal Clean Water Act, section 401, Water Quality Certification (certification) for activities associated with a fish habitat improvement project on Grape Creek. A fee in the amount of \$640.00 was received on the same day (August 5, 2009). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on August 12, 2009, and posted information describing the Project on the Regional Water Board's website. No comments were received.
2. The purpose of the project is to satisfy a mitigation requirement of the Federal Endangered Species Act Section 7 Consultation Biological Opinion for Water Supply, Flood Control Operations, and Channel Maintenance conducted U.S. Army Corps of Engineers, the Sonoma County Water Agency (SCWA), and Mendocino County Russian River Flood Control and Water Conservation Improvement District in the Russian River watershed (RRBO). The project is one of five projects that the SCWA must implement as required in the Reasonable and Prudent Alternative (RPA) in the RRBO. The RPA requires that SCWA enhance 730 square meters of in-stream spawning and rearing habitat in two reaches of Grape Creek. The project

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covered by this application represents Phase II of the RPA requirement for Grape Creek for the lower 1,000 foot reach. The project will increase instream habitat and slow creek velocities for migrating salmonids, and increase the currently narrow riparian corridor of Grape Creek, located at 5201 West Dry Creek Road, near the City of Healdsburg, beginning at latitude 38.656360°N, longitude 122.938390°W and ending at latitude 38.655180°N, longitude 122.939750°W, Sonoma County. The project begins at the West Dry Creek Road bridge crossing and continues approximately 700 feet upstream. The proposed project will cause permanent impacts to approximately 175 linear feet of waters of the State associated with Grape Creek in the Warm Springs Hydrologic Subarea No. 114.24, Russian River Hydrologic Area 114.00. Grape Creek is a tributary to Dry Creek and thence the Russian River.

3. The Applicant will re-grade 110 feet of the right bank to a 2:1 slope and create a new floodplain adjacent to the channel. Laying back of the currently over-steepened banks and re-connecting the channel to an inset floodplain will reduce flow velocities for migrating salmonids, reduce bank erosion, restore natural fluvial functions, and increase the quality of riparian cover and instream habitat throughout the Project reach. It will also reduce flood potential on downstream adjacent properties. The bank setback will require moving the current road, and taking out some rows of vineyard. Complex log and boulder structures will be installed at nine locations within a 700 foot reach of Grape Creek. The objective of the log and boulder structures is to improve instream pool cover and shelter values for Steelhead and Coho salmon migration and establish habitat for the rearing of juveniles and adults. The structures will be placed by an excavator operated from the top of bank, and anchored down in the stream by hand crews. The Project involves the placement of approximately 40 redwood logs, which will be anchored in approximately ¾ ton boulders throughout the Project reach, using 1 inch bolts or rebar. These logs will be placed in the stream according to guidelines set forth in the California Department of Fish and Game's California Salmonid Stream Habitat Restoration Manual. The entire re-graded area will be re-vegetated with native riparian vegetation and all plantings shall be irrigated and managed, as necessary, for two to three years immediately following planting. Applicant will submit a report detailing the project after it is installed. Yearly reports will be submitted for a period of five years, or until the project is deemed successful by the permitting agencies, detailing how the restoration is progressing. Continued maintenance of these facilities shall be the responsibility of the property owner.
4. Compensatory mitigation is not required as the project itself consists of habitat restoration, and is in itself mitigation.
5. Non-compensatory mitigation measures include the use of Best Management Practices (BMPs) to be employed during construction to minimize sediment production and prevent the movement of loose soil off-site. All erosion control

measures will be installed and in place by October 15 and maintained thereafter by the contractor. All disturbed soil will be revegetated with native species or seeded with native grasses. If vegetation cannot be reestablished before expected rainfall, mulching, erosion control fabric, or other sediment control measures will be implemented. All equipment will be maintained in good working order and spill kits will be on hand during construction. Additionally, all required BMPs shall be on-site and ready for timely deployment before the start of construction activities.

6. The Sotoyome Resource Conservation District, as lead California Environmental Quality Act (CEQA) agency, submitted a Mitigated Negative Declaration to the State Clearinghouse (SCH No. 2009032038) on April 10, 2009, pursuant to CEQA guidelines.
7. The Applicant has applied to the California Department of Fish and Game for a Lake and Streambed Alteration Agreement, on February 17, 2009.
8. The Applicant has applied to US Army Corps of Engineers (file No. 2009-00333N) for a Clean Water Act Section 404 Nationwide Permit, Number 27, Aquatic Habitat Restoration, Establishment, and Enhancement Activities, on February 17, 2009.
9. Because the Project involves construction that may adversely affect waters of the State, the Regional Water Board has regulatory jurisdiction under Water Code Section 13269.

Receiving Water: Grape Creek
Warm Springs Hydrologic Sub Area No. 114.24
Russian River Hydrologic Unit No. 114.00

Filled or Excavated Area: 175 linear feet of permanent impacts

Latitude/Longitude: From latitude 38.656360°N, longitude 122.938390°W to
latitude 38.655180°N, longitude 122.939750°W

Expiration: September 16, 2014

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Grape Creek Fish Habitat Improvement, Phase II Project (WDID No. 1B09091WNSO), 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 the 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 title 23, California Code of Regulations, section 2200, 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 Order (Enclosed).
5. The Russian River watershed is listed on the Clean Water Act Section 303(d) list impaired for sediment and temperature. Activities that impact the riparian zone and riparian vegetation are identified as sources contributing to increased stream temperatures in the watershed. At present, watershed specific total maximum daily loads (TMDLs) have not been established for this water body. If TMDLs are established and implementation plans are adopted for this watershed prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order to address actions identified in such action plans.
6. The Regional Water Board shall be notified in writing at least five (5) working days (working days are Monday – Friday) prior to the commencement of ground disturbing activities, with details regarding the construction schedule, in order to allow staff to be present onsite during construction, and to answer any public inquiries that may arise regarding the project.
7. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement 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. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.
8. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities or any other project activities that could result in erosion or sediment discharges to surface water.

9. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
10. A copy of this Order and the application documents submitted by the Applicant for this certification shall be provided to all contractors and subcontractors conducting the work, and shall be in their possession at the work site.
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. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
13. Prior to implementing any change to the project that may have a significant or material effect on the findings, conclusions, or conditions of this Order, the Applicant shall obtain the written approval of the Regional Water Board Executive Officer.
14. All project work shall be conducted as described in this Order and in the application submitted by the Applicant. If the Regional Water Board is not notified of a significant alteration to the project, it will be considered a violation of this Order, and the Applicant may be subject to Regional Water Board enforcement actions.
15. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted and approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.
16. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
17. 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 certification. In response to a suspected violation of any condition of this certification, the Regional Water Board

may require the holder of any federal permit or license subject to this certification 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 certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

18. 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 at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, and the address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the project as described in this Order.

19. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited to and all proposed mitigation being completed in strict compliance with the Applicant's project description, and b) compliance with all applicable requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan).
20. The authorization of this certification for any dredge and fill activities expires on September 16, 2014. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

If you have any questions or comments, please call Stephen Bargsten at (707) 576-2653.

Catherine Kuhlman
Executive Officer

Mr. Gio Martorana
Mr. Dave Manning
401 Cert. for Martorana Family Vineyards

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September 16, 2009

Certified Return Receipt

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

Original to: Mr. Gio Martorana, Martorana Family Vineyards,
5956 West Dry Creek Road, Healdsburg, CA 95448
Mr. Dave Manning, Sonoma County Water Agency, 404 Aviation Blvd.,
Santa Rosa, CA 95403

Copies sent to: Ms. Valerie Sherron, Sotoyome Resource Conservation District,
PO Box 11526, Santa Rosa, CA 95406
Ms. Kim Niemeyer, SWRCB, Office of the Chief Counsel
Mr. Bill Orme, SWRCB, 401 Program Manager, Clean Water Act
Section 401 Certification and Wetlands Unit Program
Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions,
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