



**California Regional Water Quality Control Board
North Coast Region
Geoffrey M. Hales, Chairman**



Linda S. Adams
Secretary for
Environmental Protection

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**Arnold
Schwarzenegger**
Governor

May 6, 2010

In the Matter of
Notice of Coverage, Waiver of Waste Discharge Requirements
for
Minor Dredging and Fill Activities
for the
J Wine Company
Sediment Removal Project
WDID No. 1B09069WNSO

APPLICANT: J Wine Company
RECEIVING WATER: Unnamed Stream
HYDROLOGIC AREA: Guerneville Hydrologic Subarea No. 114.11,
Russian River Hydrologic Unit No. 114.00
COUNTY: Sonoma County
FILE NAME: J Wine Company – Sediment Removal Project

BY THE EXECUTIVE OFFICER:

1. This Notice of Coverage provides notice that certain activities are covered by the Waiver of Waste Discharge Requirements for Minor Dredging and Fill Activities (Waiver), which was adopted pursuant to California Water Code Section 13269 by the California Regional Water Quality Control Board, North Coast Region, (Regional Water Board) in Resolution R1-2007-0098. On June 3, 2009, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mr. Tom Atterbury of Atterbury and Associates on behalf of Mr. Dana Diluvio (Applicant), requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the J Wine Company Sediment Removal Project (Project) in Healdsburg, Sonoma County. The total fee in the amount of \$4,480.00 was paid on May 3, 2010. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on September 2, 2009, and posted information describing the Project on the Regional Water Board's website. No comments were received.
2. The Project involves sediment dredging and removal of non-native and/or invasive species, located north of Eastside Road and west of Old Redwood Highway at

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11447 Old Redwood Highway, Healdsburg, CA. The latitude and longitude is 38.573337° N and 122.842863° W. The project causes permanent impacts to approximately 0.23 acres of stream bed and bank associated with an unnamed stream, within the Guerneville Hydrologic Sub Area No. 114.11, Russian River Hydrologic Unit No. 114.00.

3. The purpose of the Project is to remove sediment and cattail growth in and around an abrupt bend in the stream. The hydraulic and flood conveyance capacity of the channel has been decreased due to sediment accumulation and the growth of in-channel vegetation. The area of work is within the developed area of the winery property. The Project will increase channel capacity and eliminate a potential cause of flooding.
4. The Applicant will temporarily dewater approximately 300 linear feet of the creek and a small pond at the work site, which is currently filled with pumped groundwater. The removed water will be distributed in the upland vineyards, in such a way as to prevent runoff to any streams, wetlands, or other waters of the State. Approximately 300 cubic yards of sediment will be removed from the stream bed to improve flows during storm events and prevent potential flooding of the winery facilities. The sediment will then be spread in the upland vineyards on site. Cattails will be removed from the creek and pond, and the area will be replanted with water lilies and native aquatic vegetation. A 100 foot setback from the creek will be maintained and no sediment will be distributed within this area.
5. Compensatory mitigation will consist of removal of invasive species, such as cattails, and planting of native vegetation in and around the repair area, including American dogwood, western spicebrush, elderberry, snowberry, hazelnut plants and aquatic plants. All plantings shall be irrigated and managed for a minimum of 5 consecutive years immediately following planting. Planted vegetation shall have at least an 85% survival rate of thriving planted species at the end of five years. Annual reports shall be submitted to the Regional Water Board for five years, and shall include photos of the revegetated areas, and include survival rates and a narrative summary of the status of the revegetation effort.
6. 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.

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 US Army Corps of Engineers has declared the project does not require a Clean Water Act Section 404 permit from their agency.
9. The Russian River watershed 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. Activities that impact the riparian zone and riparian vegetation are identified as sources contributing to increased stream temperatures in the watershed. At present, there are no 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 Notice of Coverage, the Regional Water Board may revise the provisions of this Notice of Coverage to address actions identified in such action plans.
10. Because the Project involves construction that may adversely affect waters of the State, the Regional Water Board has regulatory jurisdiction under Water Code Section 13260.
11. This Notice of Coverage is contingent on compliance with all applicable requirements of the North Coast Region Water Quality Control Plan (Basin Plan), except as may be modified by the specific conditions of the Water Quality Notice of Coverage.
12. Applicant shall construct the project in accordance with the conditions described in the application and the findings herein, and shall comply with all applicable water quality standards.
13. Applicant shall provide Regional Water Board staff access to the project site to document compliance with this Notice of Coverage.
14. Applicant shall provide a copy of this Notice of Coverage 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.
15. In the event of any violation or threatened violation of the conditions of this Notice of Coverage, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable State or federal law.

16. If, at any time, an unauthorized discharge to surface waters occurs, or any situation arises that compromises water quality and its beneficial uses, Applicant shall immediately cease work on the project and notify the Regional Water Board.
17. The Regional Water Board may add to or modify the conditions of this Notice of Coverage, 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.
18. This Notice of Coverage 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 Notice of Coverage 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 Notice of Coverage to discharge dredged or fill material under this Notice of Coverage. The request must contain the following:
 - i. requesting entity's full legal name
 - ii. the state of incorporation, if a corporation
 - iii. address and phone number of contact person
 - iv. description of any changes to the project or confirmation that the successor-in-interest intends to implement the project as described in this Notice of Coverage.
19. 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.
20. The authorization of this Notice of Coverage for any dredge and fill activities expires on May 6, 2015. Conditions and monitoring requirements outlined in this Notice of Coverage are not subject to the expiration date outlined above, and remain in full effect and are enforceable.
21. Any change to the operation of the Project that would have a significant or material effect on the findings, conclusions, or conditions of this Notice of Coverage must be submitted to the Executive Officer of the Regional Water Board for prior review and written approval.
22. The North Coast Regional Water Quality Control Board, as the lead California Environmental Quality Act (CEQA) agency, has adopted Mitigated Negative Declaration for Resolution 2002-0008, on October 24, 2002, and further found on December 6, 2007, that renewing the categorical waivers contained in Resolution No. R1-2002-0080 with no changes, there is no possibility that the project will have a significant effect on the environment, pursuant to CEQA. Additionally, the County of Sonoma Permit and Resource Management Department, as lead

California Environmental Quality Act (CEQA) agency, has determined this project to qualify for a Categorical Exemption under Section 15301 (i), Existing Facilities, pursuant to CEQA guidelines.

Receiving Water: Unnamed stream
Guerneville Hydrologic Sub Area No. 114.11
Russian River Hydrologic Unit No. 114.00

Filled or Excavated Area: 0.23 acres of permanent impacts

Latitude/Longitude: 38.573337° N and 122.842863° W

Expiration: May 6, 2015

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the J Wine Company Sediment Removal Project (WDID No. 1B09069WNSO), as described in the application, is hereby covered under the Waiver, provided that Project complies with the following terms and conditions:

1. This Notice of Coverage is contingent on compliance with all applicable requirements of the North Coast Region Water Quality Control Plan (Basin Plan), except as may be modified by the specific conditions of the Notice of Coverage.
2. The construction activity meets the eligibility criteria for the Waiver and, if constructed as described in the Application and in compliance with the above-listed conditions, the Project will adhere to applicable water quality standards. A monitoring and reporting program is required as described in the application. Therefore, I have determined that the Project is covered by the Waiver.
3. The following is a partial listing highlighting selected standard provisions from Resolution 2007-0098:
 - a. "The Applicant shall comply with all applicable provisions of the Water Quality Control Plan for the North Coast Region."
 - b. "The Applicant shall discharge only in accordance with the submitted Report of Waste Discharge or equivalent (i.e., the Application)."
 - c. "The Project shall not create a pollution, contamination, or a nuisance, as defined by California Water Code Section 13050."
 - d. "There shall be no discharge of any waste not specifically regulated by waivers in Resolution 2007-0098"
 - e. "The Applicant shall allow Regional Water Board staff reasonable access onto the affected property for the purpose of performing an inspection to determine compliance with waiver conditions."

4. The following from Resolution 2007-0098 apply specifically to dredge and fill activities. "The Applicant shall comply with the following additional conditions:
 - a. Discharges shall be non-toxic, short term, discharges to land.
 - b. The Project shall not result in a net loss of wetlands or beneficial uses.
 - c. This Notice of Coverage is valid only if operations are not being covered by General Waste Discharge Requirements."
5. Applicant shall construct the project in accordance with the conditions described in the application and the findings herein, and shall comply with all applicable water quality standards.
6. Please be aware that a failure to implement the Project according to the project description and other information submitted in the Application, or violation of any of the terms contained in the Waiver and this Notice of Coverage, may result in the revocation coverage under the Waiver and the initiation of formal enforcement proceedings as authorized by provisions of the California Water Code.
7. Enclosed is a copy of the Waiver Policy for Minor Dredging and Fill Activities, Resolution 2007-0098.

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

Catherine Kuhlman
Executive Officer

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Enclosure: Waiver Policy (Resolution 2007-0098)

Original to: Mr. Dana Diluvio, J Wine Company, 11447 Old Redwood Highway,
Healdsburg, CA 95448

Copies sent to: Mr. Tom Atterbury, Atterbury & Associates, 16109 Healdsburg Avenue,
Suite D, Healdsburg, CA 95448
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
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