
North Coast Regional Water Quality Control Board

March 19, 2012

In the Matter of

**Notice of Coverage, Waiver of Waste Discharge Requirements for
Minor Dredging and Fill Activities**

for the

**Valdez Eastside Road Vineyards Culvert Project
WDID No. 1B11194WNSO**

APPLICANT: Ulises Valdez, and Bill and Debra Ernst
RECEIVING WATER: Santa Rosa Creek
HYDROLOGIC AREA: Mark West Hydrologic Sub Area No. 114.23,
Russian River Hydrologic Unit No. 114.00
COUNTY: Sonoma County
FILE NAME: Valdez Eastside Road Vineyard 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 2007-0098. On December 15, 2011, Mr. Kurt Kelder, on behalf of Mr. Ulises Valdez and Mr. and Mrs., Bill and Debra Ernst (Applicant), filed an application for water quality certification under section 401 of the Clean Water Act (33 U.S.C. § 1341) and/or Waste Discharge Requirements for dredge/fill activities, with the Regional Water Board for activities associated with the Valdez Eastside Road Vineyards Project (Project), in Sonoma County. The total fee in the amount of \$1,624 was received on December 21, 2011.

2. The latitude and longitude of the Project are 38.53952° N and 122.83818° W respectively. The project includes the Assessor's Parcel Number (APN) 066-290-041. The Project will cause permanent impacts to approximately 36 linear feet, (0.09 acres) of streambed and bank associated with Woody Creek in the Mark West Hydrologic Sub Area No. 114.23, Russian River Hydrologic Unit No. 114.00.
3. The purpose of the project is to install a 48" diameter culvert in the creek to facilitate vineyard traffic within the vineyard.
4. As described in the application, the Applicant will install a 48 inch diameter by 20 foot long CPP smoothbore culvert. Total permanent impact length will be 36 feet, which includes rip rap at both ends of the culvert. This culvert replaces another culvert that was previously installed and removed. BMPs for erosion control, and to winterize the work area will be implemented. Impacted areas will be seeded and strawed, fiber rolls will be installed where necessary, native riparian plants and at least one tree will be planted at top of bank near the culvert installation.
5. Compensatory mitigation is required for the project and shall be implemented as described in the *Valdez Vineyards – 9020 Eastside Road, Healdsburg, CA Culvert Installation Mitigation and Monitoring Plan*, prepared by Wiemeyer Ecological Sciences, and received on January 27, 2012. The mitigation site consists of an on-site restoration of an area of riparian zone that is downstream from the culvert approximately 250 linear feet. The mitigation area totals approximately 4,578 square feet, and is approximately 90 feet in length. The area has previously been disturbed and graded with the majority of riparian vegetation being removed. The area will be replanted with riparian trees and shrubs to restore the area back to riparian habitat. Additionally, there is a portable trailer that will be removed from the area, and approximately 25 pieces of concrete rubble will be removed and properly disposed. A total of 12 trees and 55 shrubs will be planted, and will be comprised of native species. Plantings will be irrigated for at least two years or until adequately established, whichever is longer. Function of the mitigation will be monitored quarterly, and annual reports shall be submitted by December 31 of each year, for at least five years, and shall include photographs from fixed photo points, inventory of planting survival, analysis of data, and descriptive text documenting important features of the riparian mitigation activities. The reports will include any recommended additional maintenance or corrective activities at the site, and summaries of such actions taken in the previous year. Plantings shall have a minimum of 85% success of thriving growth at the end of five years with a minimum of two consecutive growing seasons/years of monitoring after removal of irrigation. Additionally, a completion report will be submitted immediately after the mitigation project is constructed and planted. The mitigation area will be surrounded by a wildlife friendly fence that will exclude any farm vehicles. The mitigation site shall be completed before installation of the culvert, and before

October 31, 2012. The Applicant is responsible for replacement planting, additional watering, weeding, invasive exotic plant eradication, or any other practice to achieve these goals. Replacement plants shall be monitored with the same survival success for an additional five years from the year of installation. The mitigation are shall be protected in perpetuity by a deed restriction, as detailed in the "DECLARATION OF RESTRICTIONS", Sonoma County Record number 2012024278,(attached) recorded with the Sonoma County Records office on March 13, 2012.

6. The Applicant has received California Department of Fish and Game Lake and Streambed Alteration Agreement and Major Amendment (File No. 1600-2011-0285-R3).
7. U.S. Army Corps of Engineers have determined that the project does not require Department of the Army authorization, and stated in their email dated December 9, 2011.
8. If, at any time, an unauthorized discharge to surface waters occurs, or any situation arises that compromises water quality and its beneficial uses, the Applicant shall immediately cease work on the project and notify the Regional Water Board.
9. 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.
10. The Regional Water Board, as the lead California Environmental Quality Act (CEQA) agency, has adopted Categorical Waivers for Resolution 2007-0098, on December 6, 2007, pursuant to CEQA.

Receiving Water: Woody Creek
Mark West Hydrologic Sub Area No. 114.23,
Russian River Hydrologic Unit No. 114.00

Filled or Excavated Area: Permanent impact to 0.09 acres of streambed and bank

Expiration: March 19, 2017

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE VALDEZ EASTSIDE ROAD VINEYARDS PROJECT (FACILITY NO. 1B11194WNSO), AS DESCRIBED IN THE

APPLICATION, IS HEREBY COVERED UNDER THE WAIVER, PROVIDED THAT PROJECT COMPLIES WITH THE FOLLOWING TERMS AND CONDITIONS:

1. Applicant shall perform monitoring and maintenance and submit required reports for riparian restoration areas and mitigation area as described in Finding 5 (above).
2. Some or all of the Russian River watershed is identified on the State of California Clean Water Act Section 303(d) list as impaired for sediment, temperature, mercury, low dissolved oxygen, pathogens, pH, nitrogen, phosphorus, and specific conductance. Total Maximum Daily Load (TMDL) analyses have not been completed for the Russian River watershed sediment and temperature listings. Activities that impact the riparian zone and riparian vegetation are identified as sources contributing to increased stream temperatures and sediment. If a TMDL implementation plan is adopted 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.
3. Since the Project involves construction that may adversely affect waters of the State, the Regional Water Board has regulatory jurisdiction under Water Code Section 13269.
4. 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.
5. The 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. Applicant shall provide Regional Water Board staff access to the project site to document compliance with this Notice of Coverage.
7. The 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. The Applicant shall be responsible for work conducted by its contractor or subcontractors.
8. 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.

9. 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.
10. 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.
11. Applicant shall prioritize use of wildlife-friendly 100% biodegradable erosion control products/BMPs wherever feasible. For purposes of this Notice of Coverage, photodegradable synthetic products are not considered biodegradable. Applicant shall not use or allow the use of erosion control products, that contain synthetic (e.g., plastic or nylon) netting or materials for permanent erosion control (i.e., erosion control materials to be left in place for two years or after the completion date of the project). If the Applicant finds that erosion control netting or products have entrapped or harmed wildlife, the Applicant shall remove the netting or product and replace it with wildlife-friendly biodegradable products. The Applicant shall not use or allow the use of soil stabilization products that contain synthetic materials within waters of the United States or waters of the State at any time. Applicant shall remove any remaining synthetic netting or materials remaining at the end of two years, or sooner.
12. 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 Officer 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
13. 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.

14. The authorization of this Notice of Coverage for any dredge and fill activities expire on March 19, 2017. 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.
15. 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.
16. 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.
17. The following is a partial listing highlighting selected standard provisions from Resolution R1-2007-0098:
 - 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 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 R1-2007-0098."
 - 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."
18. The following from Resolution R1-2007-0098 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."

19. 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 of coverage under the Waiver and the initiation of formal enforcement proceedings as authorized by provisions of the California Water Code.
20. Enclosed is a copy of the Waiver Policy for Minor Dredging and Fill Activities, Resolution No. R1-2007-0098.

Please contact Stephen Bargsten of our staff at (707) 576-2653 if you have any questions.

Catherine Kuhlman
Executive Officer

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Enclosure: Waiver Policy (Res. R1-2007-0098)

Originals sent to: Mr. Ulises Valdez, 595 Santana Drive, Suite A,
Cloverdale, CA 95425

Mr. and Mrs. Bill and Debra Ernst, 9020 Eastside Road,
Healdsburg, CA 95448