
North Coast Regional Water Quality Control Board

August 27, 2012

In the Matter of
Water Quality Certification
for

**Mazzera Grape Creek Flow Restoration and
Off-Stream Water Storage Project
WDID No. 1B12133WNSO**

APPLICANT: Mr. John Mazzera
RECEIVING WATER: Grape Creek
HYDROLOGIC UNIT: Warm Springs Hydrologic Subarea No. 114.24,
Russian River Hydrologic Area 114.00
COUNTY: Sonoma
FILE NAME: Mazzera Upper Grape Creek Flow Restoration and Off-
Stream Water Storage Project

BY THE EXECUTIVE OFFICER:

1. On July 16, 2012, Mr. John Mazzera (Applicant) filed an application for water quality certification (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 related to the Mazzera Grape Creek Flow Restoration and Off-Stream Water Storage Project (Project). The Project involves construction of an off-stream water storage reservoir, and restoration of an area of stream previously used as a seasonally ponded area. Information describing the project was noticed for public comment on the Regional Water Board's website on August 28, 2012. The 401 Water Quality Certification will be issued during the 21-day public comment period. Public comments will still be accepted and reviewed during the entire 21-day comment period. Project is located on Grape Creek, tributary to Dry Creek, 6460 Wine Creek Road,

Healdsburg, latitude 38.656567°N, and longitude 122.960019°W, in Sonoma County. The proposed project will cause permanent impacts to 0.07 acres of seasonal wetlands, and temporary impacts to 0.009 acres of wetlands, Warm Springs Hydrologic Subarea No. 114.24, Russian River Hydrologic Area 114.00.

2. The project is designed to increase the amount of instream flow during critical dry periods, while providing a reliable water source to meet existing vineyard water needs through the construction of an off-stream water storage pond, approximately 1.3 acre feet in size. This pond will replace the use of a flashboard dam that the landowner has been using the past 50 years with direct stream diversion for frost protection during the spring and for irrigation during the summer. The flash boards were used from early March until late September. With the implementation of this project, the flash board dam will not be used again. When the reservoir was drawn down, no bypass flow occurred until the reservoir refilled to the top flashboard. The project will aid in restoring salmonid habitat by reducing the amount of water withdrawn from Grape Creek during the frost season and critical low-flow periods, while providing adequate water for uses such as irrigation and frost protection. Downstream areas of Grape Creek contain high-quality spawning and rearing habitat for Coho salmon and Steelhead trout, much of which has been enhanced through cooperative fisheries restoration efforts. Sharp declines in flow during frost protection events and more sustained low-flows during the dry season can have deleterious impacts on salmonids using this otherwise high-quality habitat. This project will alleviate flow declines due to frost protection, and would partially alleviate low-flow conditions during the dry season. The off-stream water storage pond, that will be used as a non-potable water supply for vineyard irrigation and frost protection, does not represent any new or increased use of water on the property, but rather an alternative source of water to replace the flashboard dam and direct diversion that are currently being used. The pond will be filled with water from rainfall and from a well far from the stream. The pond will be constructed using soil from on-site, and will be lined using a polyethylene liner. The pond embankments will be stabilized using engineered geotechnical methods, as well as native plants that will enhance the riparian corridor.
3. Compensatory mitigation includes erosion control and vegetation enhancement measures, including revegetation of areas disturbed by replanting with native vegetation where appropriate or seeded with native grasses. Approximately, 0.19 acres of new riparian plants will be installed and maintained and monitored for at least five years or until survival of 85% of vegetation is established. The project is designed to improve habitat within the stream and remove the on-stream impoundment.

4. The Applicant has received a Lake and Streambed Alteration Agreement from the California Department of Fish and Game. The Applicant has received a Clean Water Act Section 404 Nationwide Permit 40-Agricultural Activities from US Army Corps of Engineers (File Number 2011-00301N) on August 27, 2012.
5. The Sotoyome Resource Conservation District, as lead California Environmental Quality Act (CEQA) agency, had determined that the project qualifies for a Mitigated Negative Declaration (SCH#2012062079), and has recorded it with the County of Sonoma on August 23, 2012, pursuant to CEQA guidelines.
6. 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.
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Receiving Water: Warm Springs Hydrologic Subarea No. 114.24,
Russian River Hydrologic Area 114.00.

Filled or Excavated Area: Area Temporarily Impacted: 0.009 acres of seasonal
wetlands
Area Permanently Impacted: 0.07 acres of seasonal
wetlands.

Latitude/Longitude: 38.656567°N, 122.960019°W

Expiration: August 30, 2017

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Mazzera Grape Creek Flow Restoration and Off-Stream Water Storage Project (WDID No. 1B12133WNSO) 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:

All conditions of this order apply to the Applicant (and all their employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the project as related to this Water Quality Certification.

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. The validity this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by the Applicant.
4. The Regional Water Board shall be notified annually and in writing at least five 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.
5. The Russian River is identified as impaired for sediment and temperature under Clean Water Act Section 303(d). At present, 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 the requested Certification, the Regional Water Board may revise the provisions of that Certification to address actions identified in such action plans. Bank erosion is identified as a source contributing to the sediment impairment. Removal of riparian vegetation is identified as a source contributing to temperature impairment. Activities that will be authorized by this Order are designed to reduce removal of riparian vegetation and reduce sediment discharges from bank erosion. Accordingly, this pending Order is consistent with, and implements, BMPs that would attenuate sediment and temperature adverse impacts.
6. If groundwater is encountered during construction, it will be discharged to an upland location where it cannot flow into Waters of the State. BMPs that may be used include: storage tanks, sediment desilting basins, and water filters. Additionally, BMPs such as the use of washed gravel, sand bags, straw, and/or silt fences will be used as necessary to control velocity of the land discharge and erosion. Groundwater shall not be discharged to waters of the State.
7. Pursuant to Regional Water Board Resolution R1-2004-0087, Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving

Waters within the North Coast Region (Sediment TMDL Implementation Policy), the Executive Officer is directed to “rely on the use of all available authorities, including existing regulatory standards, and permitting and enforcement tools to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste.”

8. The federal antidegradation policy requires that state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California’s antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board’s Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. This Order is consistent with applicable federal and State antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased volumes of treated wastewater.
9. If necessary, Applicant shall prioritize use of wildlife-friendly 100% biodegradable erosion control products/BMPs. For purposes of this Order, 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. Applicant shall remove any remaining synthetic netting or materials remaining at the end of two years, or sooner.
10. 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.
11. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
12. 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.

13. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
14. If, at any time, an unauthorized discharge to surface water (including wetlands, lakes, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented including stopping work. 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.
15. 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. 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 action(s).
16. 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.
17. The Applicant shall provide a copy of this Order and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ to any contractor(s), subcontractor(s), and utility company(ies) conducting work on the project, and shall require that copies remain in their possession at the work site. The Applicant shall be responsible for ensuring that all work conducted by its contractor(s), subcontractor(s), and utility companies is performed in accordance with the information provided by the Applicant to the Regional Water Board.
18. The Applicant shall implement the project in accordance with the project described in the application and the findings above, and shall comply with all applicable water quality standards as detailed in the Basin Plan.
19. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the project.
20. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or threatened discharge to any waters of the State including dry portions of the shoreline. At no time shall the Applicant or its contractors allow use of any vehicle or equipment, which leaks any substance that may impact water quality.

21. 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.
22. In the event of any violation or threatened violation of the conditions of this Order, 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 for the violation or threatened violation 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 certification, the State 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 State 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.
23. 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.

24. 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).

25. The authorization of this certification for any dredge and fill activities expires on August 30, 2017. 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.

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

Original Signed By

Matthias St. John
Executive Officer

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Weblink: 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 can be found at: http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Original to: Mr. John Mazzera, 6460 Wine Creek Road, Healdsburg, CA 95448

Copy to: Ms. Valerie Minton, Sotoyome RCD, PO Box 11526, Santa Rosa, CA 95406