
North Coast Regional Water Quality Control Board

September 6, 2012

In the Matter of

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

for the

Vino Farms 8000 Westside Road Bank Stabilization Project

WDID No. 1B12062WNSO

APPLICANT: Jim Ledbetter, Vino Farms
RECEIVING WATER: Russian River
HYDROLOGIC AREA: Guerneville Hydrologic Sub Area No. 114.11,
Russian River Hydrologic Unit No. 114.00
COUNTY: Sonoma County
FILE NAME: Vino Farms 8000 Westside Road

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 April 16, 2012, Mr. Evan Engber of Bioengineering Associates, on behalf of Mr. Jim Ledbetter of Vino Farms (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 Vino Farms 8000 Westside Road Bank Stabilization Project (Project), in Sonoma County.

2. The latitude and longitude of the Project are 38.517767°N and 122.880192°W, respectively. The project includes the Assessor's Parcel Number 110-230-011. The Project will cause permanent impacts to approximately 240 linear feet (10,229 square feet) of stream bank, associated with the Russian River in the Guerneville Hydrologic Sub Area No. 114.11, Russian River Hydrologic Unit No. 114.00.
3. The purpose of the project is to stabilize and revegetate an eroding portion of the Russian River stream bank by use of bioengineering stabilization techniques. All work on the project is above the ordinary high water level.
4. As described in the application, The Project is being constructed to stabilize the river bank. The proposed project will stabilize a total of 240 feet (10,229 square feet) of riverbank consisting of three separate sites within a 310 linear foot reach of the river. Bioengineering stabilization techniques will be used. Live willow structures will be used that will slow flows and capture fine sediment during high flow events. River gravels and pit run up to 1 foot minus in size, will be used. No larger rock will be used. Excavation will be minimized to that required for the prescribed work, and cars and other trash/junk will be removed and disposed of properly. Work will be carried out from the top of bank road where possible, work will be above ordinary high water level, and no work will occur within the wetted channel. Areas of the project, and adjacent areas at or beyond top of bank, will be planted with native riparian vegetation to reestablish a viable riparian zone, as per the "Planting, Monitoring and Reporting Scheme for Vino Farms Westside Road" produced by BioEngineering Associates, Inc., and submitted on August 20, 2012. The individual sites will use a mix of treatments, such as live willow brush mattresses, live willow siltation brushes, live willow coir wrapped lifts, and live woven willow walls.
5. Compensatory mitigation will consist of establishment of a well-vegetated riparian area. 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 at least five years, and shall include photos of the revegetated areas, and include survival rates and a narrative summary of the status of the revegetation/mitigation effort. Details of the revegetation/mitigation plan are included within the application materials.
6. The Applicant has applied to the California Department of Fish and Game for a Lake and Streambed Alteration Agreement.
7. U.S. Army Corps of Engineers have determined that the project does not require Department of the Army authorization.

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 Sotoyome Resource Conservation District, as lead California Environmental Quality Act (CEQA) agency, has produced a Mitigated Negative Declaration, and filed it with the State Clearinghouse, (SCH No. 2012072032) on July 7, 2012, pursuant to CEQA guidelines.

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

Filled or Excavated Area: Permanent impact to 240 linear feet/ 10,229 square feet of stream bank

Latitude/Longitude: 38.517767°N and 122.880192°W

Expiration: September 6, 2017

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE VINO FARMS 8000 WESTSIDE ROAD PROJECT (FACILITY NO. 1B12062WNSO), AS DESCRIBED IN THE APPLICATION, IS HEREBY COVERED UNDER THE WAIVER, PROVIDED THAT PROJECT COMPLIES WITH THE FOLLOWING TERMS AND CONDITIONS:

1. 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.

2. 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.
3. 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.
4. 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.
5. Applicant shall provide Regional Water Board staff access to the project site to document compliance with this Notice of Coverage.
6. 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.
7. 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.
8. 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.
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. 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.

11. 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
12. 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.
13. The authorization of this Notice of Coverage for any dredge and fill activities expires on September 6, 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.
14. 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.
15. 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.

16. 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."

17. 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."

18. 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.

19. 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.

Original Signed By

Matthias St. John
Executive Officer

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

Original sent to: Mr. Jim Ledbetter, Vino Farms, 1377 E. Lodi Ave., Lodi, CA 95240

Email to: Evan Engber, evan@biengineers.com