

STATE OF CALIFORNIA  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION  
CLEANUP AND ABATEMENT ORDER No. 97-081

FREDERIC T. CLINE, individually and as trustee for the Frederic and Nancy Cline Family Trust, and Cline Cellars, Inc., a California corporation

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter the Board) finds that:

1. Frederic T. Cline, individually and as trustee for the Frederic and Nancy Cline Family Trust, and Cline Cellars, Inc. (hereinafter collectively referred to as the "Clines"), owns, operates or controls property located on and along a tidally influenced portion of Sonoma Creek, which drains to San Pablo Bay.
2. The property is located at 24737 Arnold Drive (also known as State Highway 121) in Sonoma County, California (Attachment A).
3. The UNITED STATES OF AMERICA, on behalf of the United States Army Corps of Engineers (Corps), filed a Complaint for Injunctive Relief and Civil Penalties, alleging that the Clines violated Section 301(a) of the Clean Water Act (CWA), (33 U.S.C. Section 1311(a)), and Section 10 of the Rivers and Harbors Act of 1899, (33 U.S. C., Section 403).
4. The Corps alleged that the Clines own, operate, or control more than one hundred acres of historically tidal marsh and wetland regulated under the CWA and Section 10 of the Rivers and Harbor Act of 1899.
5. The Corps alleged that the Clines violated and continue to violate Section 301(a) of the CWA by conducting unlawful dredging and filling and/or controlling and directing unlawful dredging and filling at the Cline property and in and along Sonoma Creek and that they have violated Section 10 by undertaking unlawful work and the building of structures at the Property and in and along Sonoma Creek.
6. Frederic Cline and Cline Cellars filed an Answer and Counterclaim denying liability as alleged in the Complaint and alleging, among other things, that the United States and the Corps have unlawfully failed to enforce the terms of a Corps permit and have wrongfully prosecuted the Clines.
7. The parties agreed to a settlement of the case on October 22, 1996 (Consent Decree No. C 96-0760 EFL).

the USDA, and, if undrained, will provide adequate substrate for wetland vegetation.

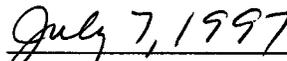
16. Vegetation expected to colonize the site include pickleweed (*Salicornia virginica*), saltbush (*Atriplex patula*), alkali heath (*Frankenia salina*), alkali bulrush (*Scripus robustus*) and brass buttons (*Cotula coronopifolia*). Wetland hydrology, colonization of wetland vegetation, and hydric soils will be dependent on an appropriate topography and hydrology.
17. The consent decree includes a designated "Limit of Work" area that is to remain free from disturbance for one year following a submission of notice by the applicant to the Corps that the work to grade the property and remove the culvert and tidegates is completed.
18. The consent decree does not affect or relieve the applicants from their responsibility to comply with state laws and regulations.
19. Regional Board staff reviewed the application, and concluded that the restoration plan, as set forth in the Consent Decree, was insufficient to assure adequate protection of water quality as mandated by California State laws and policy in that the restoration plan does not include verification of successful wetland habitat restoration.
20. The Regional Board has incorporated the Corps' wetland delineation procedures into its Basin Plan as the method for identifying jurisdictional wetlands.
21. The discharge of silt, sand, clay or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity or discoloration in surface waters or to unreasonably affect or threaten to affect beneficial uses is prohibited by the Water Quality Control Plan. Actions by the Clines have resulted in a threat to beneficial uses as prohibited by the Water Quality Control Plan. Therefore they have discharged waste into Waters of the State in violation of the above cited prohibition.
22. Based on the above findings, the Board finds that the dischargers have impacted Waters of the State, namely the property's seasonal wetlands, and caused silt, sand, or clay to be discharged or deposited where it has impacted and will continue to threaten beneficial uses and create a condition of pollution.
23. This Order is an action to enforce the Water Quality Control Plan and as such is exempt from the California Environmental Quality Act pursuant to Section 15321(a)(2), Title Fourteen of the California Code of Regulations.

methods described in the Corps 1987 manual, or additional requirements listed below must be implemented.

- a. Within 90 days of receipt of a letter from Regional Board staff requesting additional information, the Clines shall submit a report to the Executive Officer. The report should identify any problems with the restorations and propose solutions to these problems. The report should include a discussion of mitigating factors contributing to failure to meet the 90% criteria and suggested remedies with a schedule for implementing each remedy. At the Board's discretion, consideration may be given for climatic and meteorological factors outside the applicant's control. Additional action, if any, may be required by the Executive officer.

Pursuant to California Water Code Sections 13304, 13350 and 13385 if the Dischargers fail to comply with the provisions of this order, the Board may schedule a hearing to consider assessing civil monetary penalties and to consider requesting the Attorney General to take appropriate enforcement action against the Dischargers, including injunctive and civil monetary remedies.

  
Loretta Barsamian  
Executive Officer

  
Date

Attachment A – Map Showing Location Of Cline Property And Property Description  
Attachment B – Cline Cellars Wetland Restoration Plan, Final Plan

Attachment A  
Map Showing Location Of Cline Property And Property  
Description

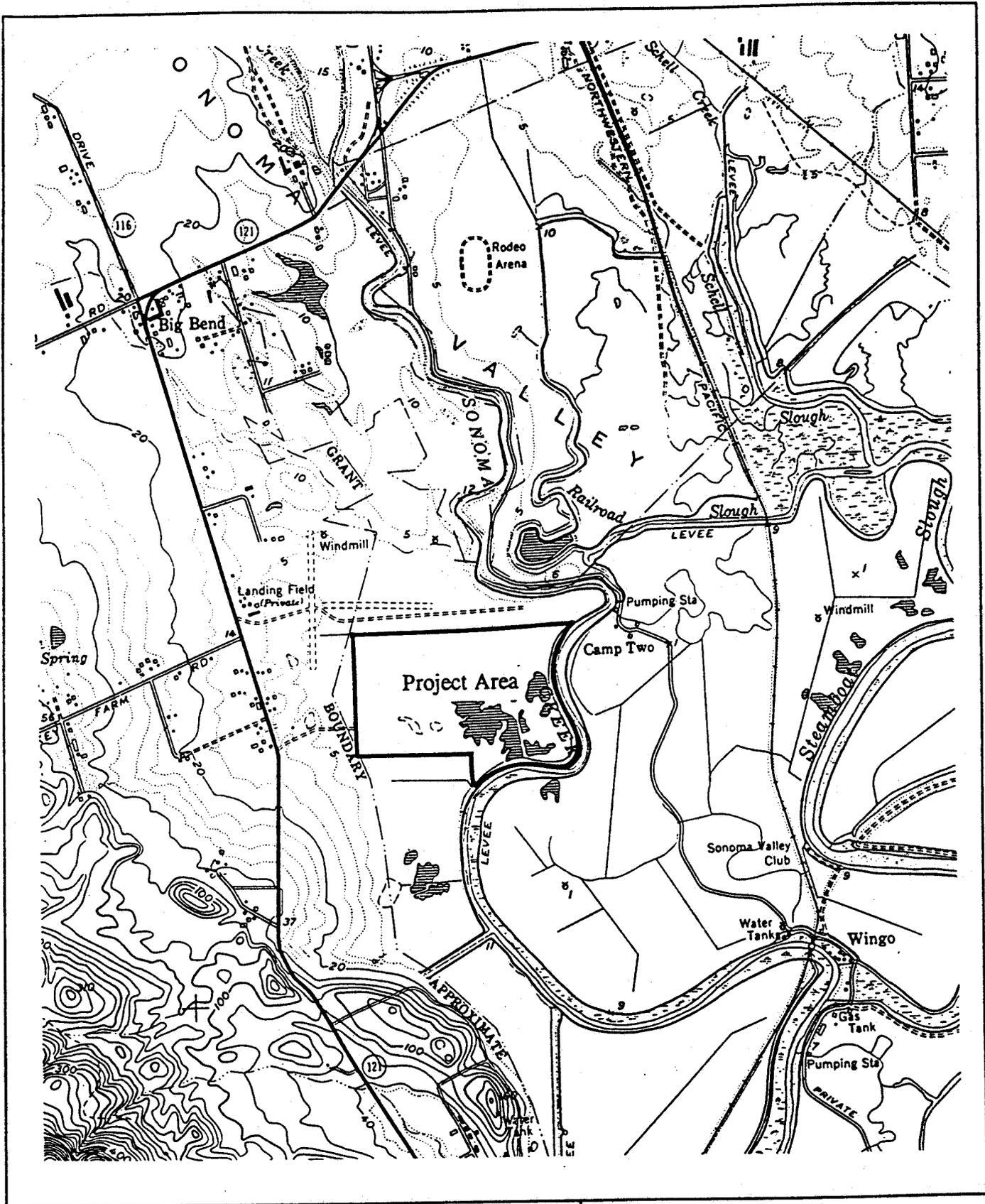


Figure 1. Location of Cline Cellers wetland restoration project.



Wetlands Research Associates, Inc.

Exhibit 1  
Property Description

The subject property of the Consent Decree  
includes Parcels II and III described below

PARCEL I

Being a tract of land in the Rancho Petaluma and also in Township 4 North, Range 5 West, Mount Diablo Base and Meridian and being more particularly described as follows:

Beginning at a 1 inch bar in the northwest corner of the lands as described in Book 322 of Deeds at Page 133, Sonoma County Records.

Thence from said point of beginning and along the westerly line of the former lands of Regula Yenni South 27 Degrees 33 Minutes 30 Seconds East 2156.68 feet from which point a 1/2 inch iron pipe bears North 68 Degrees 10 Minutes 40 Seconds East 24.27 feet; thence North 68 Degrees 10 Minutes 40 Seconds East 1288.82 feet to an iron pipe monument; thence North 1 Degree 41 Minutes East 1131.18 feet to an iron pipe monument; thence South 88 Degrees 19 Minutes East 1836.20 feet to an iron pipe monument in the westerly edge of the State Highway designated as point "A"; thence along said westerly edge North 1 Degree 41 Minutes East 1811.68 feet to a 6 inch by 6 inch concrete monument; thence curving to the left with a radius of 720.00 feet through an angle of 17 Degrees 36 Minutes 30 Seconds for a distance of 221.27 feet to a 1/2 inch iron pipe monument found in the northerly line of the said lands of Regula Yenni; thence along said northerly line South 67 Degrees 44 Minutes 30 Seconds West 4418.00 feet to the point of beginning of the above described parcel of land.

PARCEL II

Commencing at point "A" as above described and designated in Parcel I; thence from said point "A": South 88 Degrees 19 Minutes East 60.00 feet to a point in the easterly line of said State Highway as above mentioned; thence along said easterly line North 1 Degree 41 Minutes East 111.68 feet to the point of beginning of the parcel of land to be herein described.

Thence from said point of beginning and continuing along the easterly line of said State Highway North 1 Degree 41 Minutes East 1700.00 feet to a 6 inch by 6 inch concrete monument; thence curving to the left with a radius of 780.00 feet through an angle of 17 Degrees 51 Minutes for a distance of 224.31 feet; thence North 16 Degrees 10 Minutes West 3.32 feet to an iron pipe monument in the northerly line of the former lands of Regula Yenni; thence along the northerly boundary of said lands of Yenni North 67 Degrees 31 Minutes 30 Seconds East 603.50 feet to a 4 inch by 4 inch stake found; thence North 89 Degrees 36 Minutes East 546.44 feet to a 4 inch by 4 inch stake; thence North 0 Degrees 15 Minutes 40 Seconds West 1329.53 feet to a 4 inch by 4 inch stake found; thence North 89 Degrees 36 Minutes East 3319.80 feet to a point on the westerly bank of Sonoma Creek; thence along the westerly bank of Sonoma Creek the following courses and distances: South 45 Degrees West 210.72 feet; South 29 Degrees 50 Minutes 50 Seconds West 241.77 feet; South 20 Degrees 39 Minutes 10 Seconds West 93.37 feet; South 3 Degrees 57 Minutes 50 Seconds West 247.79 feet; South 6 Degrees 45 Minutes 40 Seconds East 158.80 feet; South 18 Degrees 37 Minutes 20 Seconds East 288.95 feet; South 25 Degrees 21 Minutes 40 Seconds East 554.98 feet; South 6 Degrees 00 Minutes 30 Seconds West 274.36 feet; South 63 Degrees 35 Minutes 50 Seconds West 358.14 feet; North 92 Degrees 15 Minutes 30 Seconds West 229.25 feet; thence leaving said

Attachment B  
Cline Cellars Wetland Restoration Plan, Final Plan

**CLINE CELLARS WETLAND  
RESTORATION PLAN  
Final Plan**

Prepared for

Frederic Cline  
Cline Cellars, Inc.  
24737 Arnold Drive  
Sonoma, CA 95476

Prepared by

Wetlands Research Associates, Inc.  
2169-G East Francisco Blvd.  
San Rafael, CA 94901

August 19, 1996

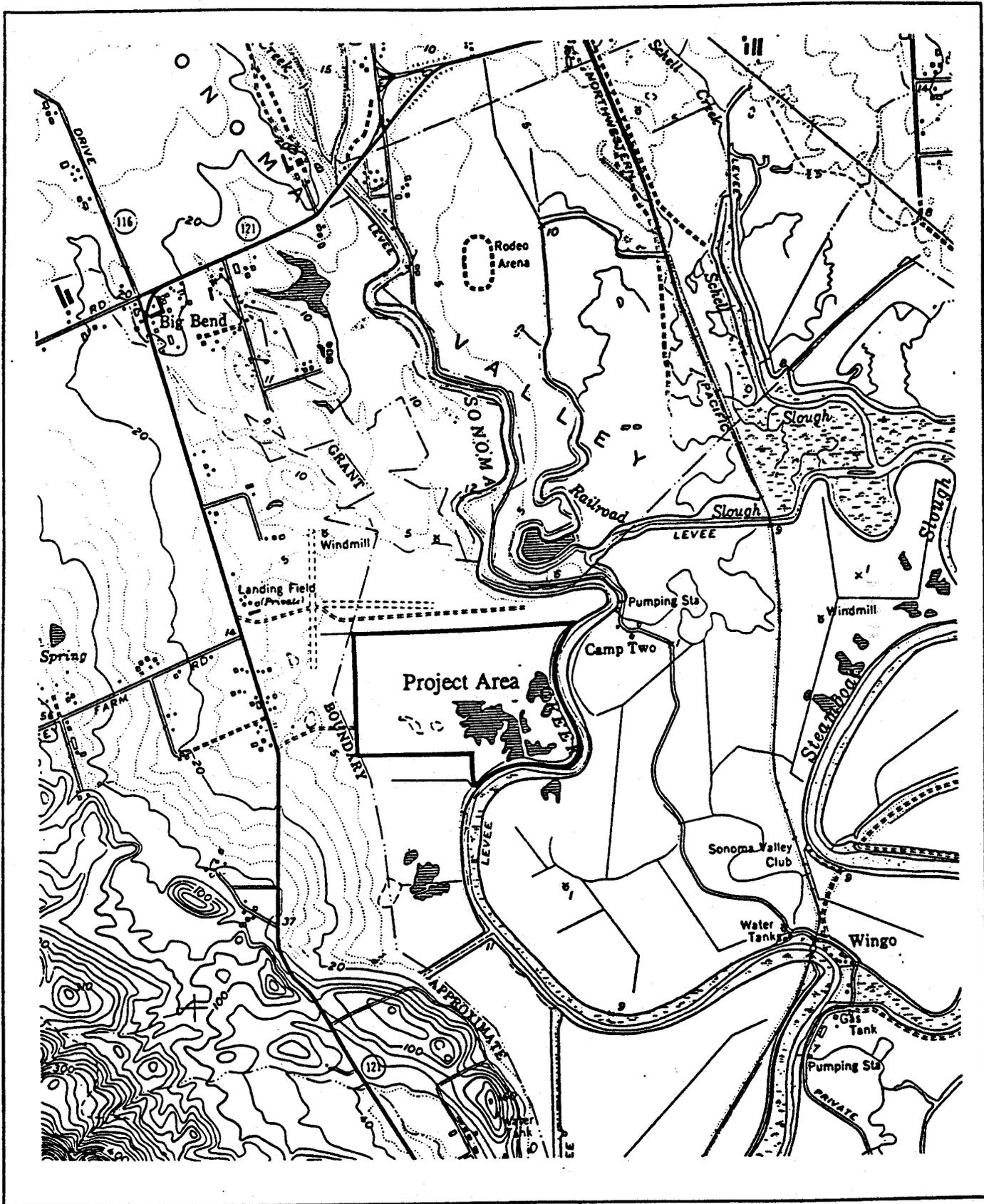
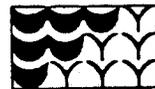


Figure 1. Location of Cline Cellers wetland restoration project.



Wetlands Research Associates, Inc.

## Creation of In-kind Habitat

### **Type(s) of habitat to be restored**

The wetlands which will result from topography restoration will be similar to what currently exists on the site, seasonal wetlands. These seasonal wetlands will be comprised of shallow depressions and deeper channels. The restoration site comprises approximately 100 acres, and the total area affected by grading will be approximately 23 acres.

### **Functions and values of habitat to be restored**

The restored topography will replace similar functions and values as were present in the decades prior to impacts. The grading process will involve the use of native soils on site, Reyes silty clay. This native soil has slow permeability and runoff is very slow allowing inundation following periods of rainfall. The restored topography will further enhance ponding of rainwater in the winter and spring months.

The length of inundation will be dependant on local rainfall and the efficiency of drainage facilities. In most years, rainfall will probably be adequate to create inundation on the site for several weeks; under normal (and probably below normal) rainfall conditions, the site should meet the hydrologic characteristics described above. During periods following high rainfall and in years when rainfall is above normal, deep water should be removed from the site by drainage facilities over a period of 2 to 3 days; shallow water and saturated soil conditions should be maintained on site for several weeks.

Vegetation that is expected to colonize the site includes pickleweed (*Salicornia virginica*), saltbush (*Atriplex patula*), alkali heath (*Frankenia salina*), alkali bulrush (*Scirpus robustus*) and brass buttons (*Cotula coronopifolia*). Colonization and growth will be dependant on an expected hydrologic regime that allows periods of shallow inundation and soil saturation, but not long-term deep inundation. Deeper channels that are intended to be inundated for longer periods of time or which may accumulate salt concentrations (from naturally occurring salt in the soil) may not become vegetated.

### **Time lapse**

The plants which are expected to colonize the area are capable of rapid colonization. These plants will quickly become established in the wetlands by seed dispersion from mature plants present on the site. By the end of the second rainy season, plants should have colonized and be spreading vegetatively. By year three, plants that colonized the first year should be producing seed and providing additional coverage through vegetative spreading.

Frederic Cline  
Cline Cellars, Inc.  
24737 Arnold Drive  
Sonoma, CA 95476 (707) 935-4310

Wetland restorationists will supervise the implementation of this restoration plan for Cline. The name, address, and telephone number of the wetland restorationists are:

Wetlands Research Associates  
2169-G East Francisco Blvd.  
San Rafael, CA 94901 (415) 454-8868

### **Implementation schedule**

The grading of the site to restore topography will be conducted in the first summer following approval. Grading in summer will take advantage of dry substrate conditions that will allow construction equipment to work within the site. Summer is also the period of time when migratory wildlife are not present at the site and will not be disturbed. The recommended date of construction will be after July 15 when nesting of most birds should be completed and before October 30 when rain becomes more likely.

### **Grading**

The grading plan for this restoration is attached as Appendix A. Under this plan, approximately 23 acres of the site will be graded to form shallow depressions and deeper channels. The area covered by shallow depressions is approximately 4.4 acres, while the area covered by deeper channels is approximately 5.1 acres (includes area below the +1 contour). Soil excavated to form shallow depressions and deeper channels will be spread to create the higher areas ( $\approx +1.2$  elevation) creating and separating shallow depressions and deeper channels according to the grading plan. Excess material will be distributed over nonexcavated areas within the area designated as "Limit of Work" shown in the grading plan to provide positive drainage and to prevent formation of mounds. To prevent soil erosion, allow for similar soil saturation levels throughout the restoration site, and provide a gentle slope within the transitional areas, no graded slope will be greater than 10:1 (H:V).

The deep channels will be graded to connect, as they previously did, with the existing channel at the southern border of the site. Two earth dams in the channels will create two deep water ponding areas. The earth dams are expected to hold water in the channels for several weeks into the spring after the remainder of the site has drained, and to provide water features for wildlife use when surrounding areas are dry. The most southerly section of deep channel that connects to the existing channel at the fence line will be excavated to the same depth as the existing channel.