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**San Francisco Bay Regional Water Quality Control Board**

Notice Date: July 7, 2014

**NOTICE OF PREPARATION OF A DRAFT  
ENVIRONMENTAL IMPACT REPORT  
AND  
CALIFORNIA ENVIRONMENTAL QUALITY ACT  
SCOPING MEETING**

**GENERAL WASTE DISCHARGE REQUIREMENTS  
FOR VINEYARD DISCHARGES IN  
THE NAPA RIVER AND SONOMA CREEK WATERSHEDS**

**NOTICE IS HEREBY GIVEN** that the San Francisco Bay Regional Water Quality Control Board (Water Board), as the Lead Agency, is planning to prepare an Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act of 1970 (CEQA), State CEQA Guidelines (California Code of Regulations CCR, Title 14, Div. 6, Chap. 3), and the State Water Resource Control Board's CEQA regulations (CCR, Title 23, Sections 3720-3782).

**Project Title:** General Waste Discharge Requirements for Vineyard Discharges in the Napa River and Sonoma Creek Watersheds

**Project Location:** The proposed project will apply to existing and future vineyard properties in the Napa River and Sonoma Creek watersheds as depicted on Figure 1, which meet certain criteria relative to size and slope (see Table 1 in the Initial Study).

**Project Summary:** The proposed project consists of the Water Board establishing General Waste Discharge Requirements (General WDRs) that regulate discharges of sediment and storm water runoff originating from vineyard properties located within the boundaries shown in Figure 1. The proposed General WDRs will require dischargers to assess, plan, and implement a suite of site-specific actions and best management practices targeted towards reducing erosion from:

- Vineyards and related facilities and road networks
- Gullies and shallow landslides, and
- Points of concentrated stormwater runoff.

The project is described in more detail under the Project Description section on page 6.

**Purpose of the Notice of Preparation:** This Notice of Preparation (NOP) serves to:

- 1) Solicit information on the scope of the environmental analysis for the proposed project, and
- 2) Notify the public and regulatory agencies that the Water Board will prepare a draft EIR to assess potential adverse environmental impacts that may result from implementing the proposed project.

**SUBMISSION OF WRITTEN COMMENTS**

The Water Board is requesting comments from the public and public agencies on the scope and content of the environmental information to be included in the EIR. For public agencies, the Board is interested in your views as to the scope and content of the environmental information which is germane to your agency’s statutory responsibilities, if any, in connection with the proposed project.

Due to the time limits mandated by State law, your response must be sent at the earliest possible date, but no later than 30 days after receipt of this notice. Please send your response to the Water Board, as directed below, along with the name of a contact person, if you are a public agency.

In order to be fully considered, written comments focusing on the issues related to the environmental analysis for the proposed project must be received by **5:00 pm on Wednesday, August 6, 2014**. Written comments should be sent to the address below or by fax to (510) 622-2426.

San Francisco Bay Regional Water Quality Control Board  
 1515 Clay Street, Suite 1400  
 Oakland, California, 94612-1482  
 ATTN: Anya Starovoytov

**SCOPING MEETING**

In order for the public and regulatory agencies to have an opportunity to submit comments on the scope of the EIR, a meeting will be held during the 30-day NOP scoping period. The date, time, and meeting location are as follows:

| <b>Scoping Meeting<br/>Date and Time</b>      | <b>Scoping Meeting<br/>Location</b>   |
|---|---|
| Wednesday, July 23, 2014<br>3:00 PM – 5:00 PM | Napa County Agricultural Commissioner’s Office<br>Ag/UC Conference Room<br>Soscol Professional Plaza<br>1710 Soscol Avenue, Suite 3<br>Napa, California 94559 |

If you would like to request a reasonable accommodation for a disability, please contact Ms. Anya Starovoytov, of the Water Board, at [astarovoytov@waterboards.ca.gov](mailto:astarovoytov@waterboards.ca.gov) or (510) 622-2506.

## **PROJECT BACKGROUND AND HISTORY**

The Napa River and Sonoma Creek watersheds contain an estimated 131,500 acres of vineyard properties, with greater than 59,000 acres planted in grapes. The Napa River and Sonoma Creek watershed and its tributaries are listed on the Clean Water Act Section 303(d) list as impaired by excess sediment, pathogens, and nutrients, meaning that these waters do not meet water quality standards.

Sediment total maximum daily loads (TMDLs), completed for each watershed, identified vineyards as one of several land uses that, if improperly managed, can discharge sediment and concentrated storm runoff that can adversely affect water quality and contribute to the sediment impairment. The sediment TMDLs are described in detail below.

Staff intends to recommend that the Water Board adopt General WDRs for vineyard properties located within these watersheds to control discharges of sediment and concentrated storm runoff. The proposed WDRs will implement the sediment TMDLs while also considering appropriate water quality objectives to protect the beneficial uses of these receiving waters. The designated beneficial uses of water for Napa River and Sonoma Creek include recreation (fishing, swimming, boating, etc.), fish migration and spawning, cold and warm freshwater habitats, wildlife habitat, and preservation of rare and endangered species. Beneficial uses for Napa River also include water supply (agricultural, municipal, and domestic) and navigation. Of these, the beneficial uses adversely affected by excess sediment consist of recreation (i.e. fishing), cold freshwater habitat, fish spawning, and preservation of rare and endangered species.

### *Napa River and Sonoma Creek TMDLs*

In the 2000s, based on evidence of widespread erosion and concern regarding adverse impacts to fish habitat, the Water Board listed Napa River and Sonoma Creek as impaired by sedimentation. At roughly the same time period, both watersheds were also designated as impaired by excess pathogen and nutrient inputs. To address these impairments and to restore beneficial uses, the Water Board prepared pathogen and sediment TMDLs for both watersheds in the mid to late 2000s. In 2014, the Water Board approved the de-listing for the nutrient impairment (pending approval by the State Water Board and the U.S. Environmental Protection Agency).

The sediment TMDLs for these watersheds address water quality objectives for sediment, settleable materials, and population and community ecology that are impaired due to elevated concentrations of fine sediment in the bed of the Napa River, Sonoma Creek, and their tributaries. The TMDLs specify that greater than half of all sediment delivered to these

watersheds comes from anthropogenic (i.e., human-caused) activities associated with roads and road drainage systems, stream bed and bank erosion, vineyard surface runoff and erosion, and historical grazing. Across both watersheds, the TMDLs require an approximate 50 percent reduction in anthropogenic sediment inputs.

To achieve these sediment reductions, the TMDLs contain implementation plans that provide a framework for actions needed to meet water quality objectives and to restore beneficial uses. The proposed project, issuance of General WDRs, will regulate discharges associated with the vineyard source category, as identified in the TMDLs. The proposed General WDRs will also address potential nutrients and pesticides discharges from vineyards.

#### 2012 Draft Conditional Waiver Initial Study and Proposed Mitigated Negative Declaration

In 2012, in an effort to regulate the vineyard source category identified in the sediment TMDLs, the Water Board staff circulated a draft Conditional Waiver of WDRs (Conditional Waiver) and a draft Initial Study/Mitigated Negative Declaration for public comment. However, based on the comments received and other regulatory considerations, the Water Board terminated the Conditional Waiver project in early 2013.

The proposed General WDRs are needed to regulate vineyard discharges and implement the above-referenced TMDLs. It is a new project for which the proposed EIR will be prepared.

### **EXISTING REGULATORY FRAMEWORK**

Discharges from planted vineyards in the Napa River and Sonoma Creek watersheds have not yet been regulated by the Water Board either via WDRs, waivers of WDRs, or prohibitions. Certain aspects of vineyard erosion have, however, been regulated through County-level permit programs, which are discussed below. Many actions have already been taken to implement these local programs and have led to on the ground, physical changes to the environment.

#### Summary of Napa County Regulatory Program for Vineyards

The Napa County Planning Division regulates new vineyard facility development and vineyard replants. Its process is guided by 1) the Napa County Conservation Regulations, 2) the Napa County General Plan, and since 2000, 3) compliance with CEQA for any new vineyard development. These regulations establish the requirements and guidelines for preparing, reviewing, and approving Erosion Control Plans (ECPs) for grading and vegetation removal associated with new or replanted vineyards on slopes greater than five percent. New vineyards and replants on slopes of less than five percent are exempt from the ECP requirements.

The ECP process can follow one of two paths:

- Track I – Applies to new vineyards and those developed since 2000, and requires discretionary approval by the County (subject to CEQA review).
- Track II – Applies to vineyard replants and is a ministerial action, provided the replant falls within the existing vineyard footprint and there are no substantial changes to site drainage or layout. Most replanted vineyards proceed through the Track II process.

Track I requires hydrologic and erosion analyses to demonstrate that no net increases in soil loss and peak runoff will occur over pre-project conditions. Furthermore, the Conservation Regulations require stream setbacks for new vineyards that range from 35 to 150 feet, depending on stream designation and the slope of the adjacent land, as it exists at the time of the agricultural activity. Stream setbacks apply to all watercourses designated by a solid or dashed line on United States Geological Survey (USGS) maps, as well as any watercourse that has a) well-defined channel with a depth greater than four feet, b) banks steeper than 3:1, and c) contains hydrophilic or riparian vegetation. Replants, if completed within the original vineyard footprint, are not required to meet these setback criteria.

There are no requirements for retroactive erosion controls for existing vineyards. Existing vineyards are only required to submit ECPs at the time of replanting. New vineyard projects proposed on slopes exceeding 30 percent require the issuance of a County use permit, and new vineyards proposed on slopes exceeding 50 percent require a variance.

#### *Summary of Sonoma County Regulatory Program for Vineyards*

New vineyard development and replants in Sonoma County are guided by the Grading, Drainage, and Vineyard and Orchard Site Development Ordinance (VESCO). The Sonoma County Agricultural Commissioner's Office implements and enforces VESCO. Currently, the VESCO permit process does not require CEQA project analysis.

VESCO requires a permit for any grading, drainage improvement, or site development associated with new or replanted vineyards. VESCO permits are issued at two levels that take into account soil type, soil erosivity, and slope as follows:

- Level I – Applies to new vineyards or replants developed on slopes less than or equal to 10 to 15 percent and does not require ECP documentation or verification of project completion.
- Level II – Applies to new vineyards or replants on slopes greater than 10 or 15 percent and requires the project proponent to submit an ECP that is reviewed by the VESCO staff. VESCO staff conducts post-construction review to confirm that ECP design plans were followed and implemented appropriately.

Both Level I and Level II projects are required to adhere to the best management practices and standards described in the *Best Management Practices for Agricultural Erosion and Sediment Control* manual (Sonoma County Agricultural Commissioner's Office, 2010).

For Level II projects, the engineers preparing the vineyard plans are required to document pre-construction peak runoff calculations and demonstrate that post-construction conditions will not increase runoff from pre-construction conditions and will not modify pre-existing drainage patterns.

VESCO and the County General Plan establish stream setback requirements that range from 25 feet to 50 feet, depending on slope of the adjacent land, soil type, and stream designation.

New vineyards on slopes greater than 50% are prohibited and there are no retroactive erosion control requirements for vineyards constructed prior to VESCO. Existing vineyards are required to comply with VESCO at the time of replanting with more oversight occurring on properties containing highly-erodible soils.

The proposed General WDRs recognize the existence of county regulations, but is a separate program to implement the performance standards for vineyard properties in the Napa River and Sonoma Creek sediment TMDLs. The proposed General WDRs are described below.

## **PROJECT DESCRIPTION**

### *Project Objectives*

The fundamental objective of the proposed project is:

- To implement the Napa River and Sonoma Creek sediment TMDLs to achieve their vineyard discharge performance standards for sediment and storm runoff and to ultimately meet the TMDLs' sediment allocations and targets and restore properly functioning substrate conditions in channel reaches that provide habitat for anadromous salmonids.

Other objectives include the following:

- 1) To control discharges of sediment and/or storm runoff from vineyards into channel reaches that provide habitat for other native fishes;
- 2) To promote stream-riparian habitat protection and restoration;
- 3) To promote actions to restore fish passage at road crossings and streamflow diversions;
- 4) To promote management decisions and actions to maintain adequate in-stream temperature; and

- 5) To encourage voluntary conservation programs to assist vineyard owners/operators in meeting the requirements and objective of the proposed General WDRs.

### Proposed General WDRs

The proposed General WDRs would regulate discharges from the following types of vineyard properties within the project area shown on Figure 1:

- All existing vineyard properties (including replants) where 5 acres-or-more are planted in vineyard, except for “low sediment delivery” properties that meet the exemption criteria (described below).
- All proposed vineyards of 5 acres or more and developed on slopes  $\leq$  30 percent, except for “low sediment delivery” properties or “high potential sediment delivery” properties (described below) ;
- Any facility, regardless of planted acreage, that is deemed by Water Board staff to discharge waste that could affect water quality and could be adequately regulated through the proposed General WDRs.

The proposed General WDRs would require controls for discharges from the vineyard facility and the roads located throughout the vineyard property. A vineyard facility includes all permanent, semi-permanent, or temporary physical features of a vineyard such as land, crops, drainage systems, roads, reservoirs, diversion structures/equipment, etc., that are established or maintained for the purpose of growing grapes. Discharges from on-site winery production facilities are not included in this permit.

The following “high potential sediment delivery” vineyard properties would not qualify for coverage under the proposed General WDRs, given their higher potential impact on the existing habitat and increased potential for soil erosion. These properties would instead be required to submit applications for individual WDRs:

- Any proposed vineyards that require a Timber Conversion Plan or Permit;
- Vineyards proposed on ridgetop<sup>1</sup> areas; or
- New vineyards on slopes of 30 percent or more.

“Low sediment delivery” vineyard properties are those that are not expected to contribute a significant amount of sediment. These properties would be exempt from the requirement to be permitted under proposed General WDRs by filing a notice of non-applicability, if they meet all of the following criteria:

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<sup>1</sup> Ridgetop is defined as a relatively flat topographic divide above divergent and descending slopes where one or more of the descending slopes has a natural slope steeper than 50 percent for more than 50 feet in slope length.

- The vineyard is developed on a slope  $\leq 5$  percent;
- A stream setback in the form of a vegetated buffer is in-place (i.e., established) that is at least 35 feet wide, measured from top-of-bank, along the entire length of the Class I, II, III, or Class IV watercourse (as defined by California Forest Practice Rules) located on or adjacent to the vineyard property, and the vegetated buffer is effective with regard to removal of sediment and other pollutants from surface runoff; and
- There are no visible signs of erosion at any points of direct discharge (i.e., pipe outlets, ditch outlets, etc.) into waterways located on or adjacent to the vineyard property.

The distribution of existing vineyard properties across both watersheds, by slope categories, is shown in Figure 2. Existing vineyards in the 0 to 5 percent slope range may meet the “low sediment delivery” criteria described above. Existing vineyards on slopes greater than 30 percent are highlighted to identify areas that are expected to have a higher tendency for erosion, given the steep topography. Based on the proposed exemption criteria for “low sediment delivery” vineyard properties, it is anticipated that approximately 38,000 acres of existing vineyards could be eligible for enrollment in the General WDRs within the Napa River watershed. Approximately 24,000 acres of existing vineyards could be eligible for enrollment within Sonoma Creek watershed.

Proposed performance standards for the General WDRs are summarized below.

#### *Vineyard Performance Standard*

Vineyard owners/operators would be required to complete a Farm Water Quality Plan (Farm Plan) that describes existing conditions and best management practices on their vineyard property. The Farm Plan would include an evaluation and assessment of road networks on a property-wide scale (beyond the planted vineyard). The Farm Plan must include documentation of nutrient and pest management practices as well as a summary of all existing or potential erosional features that may be contributing sediment into adjacent waterways.

#### *Surface Erosion Performance Standard*

Based on the above assessment, the vineyard owner/operator would be required to implement a suite of appropriate best management practices to protect soil from erosion, prevent excessive rates of sediment delivery from surface erosion of vineyards and associated road networks, and effectively attenuate storm runoff (described below). Rates of sediment delivery are excessive when the predicted soil loss rate exceeds the tolerable soil loss rate (T), as defined in the Universal Soil Loss Equation or Revised Universal Soil Loss Equation (USDA-ARS, <http://www.ars.usda.gov/Research/docs.htm?docid=6010>). The effectiveness of these actions would be required to be evaluated by field inspection, visual observation and, in some cases,

calculating soil loss rates. Calculations completed as part of the Napa or Sonoma County vineyard erosion permit processes may be acceptable to meet some of these requirements.

Vineyard owners/operators would be required to maintain photo documentation to confirm that selected best management practices are working as designed, are being maintained, and to document any new water quality-related issues that arise. Annual reporting to the Water Board would be required.

#### Road Performance Standard

The TMDLs require control of road-related sediment delivery to receiving waters. The proposed General WDRs would require a road network assessment, at a property-wide scale, to identify points of discharge from roads and to assess road conditions. The survey would identify all locations where roadways have a potential to discharge sediment directly into a waterway (or a ditch that conveys water to a waterway) and any on-site culverts and stream crossings. Following the survey, the vineyard owner/operator would be required to develop and implement a prioritization scheme to reduce or eliminate direct discharges from roads using best management practices so that no more than 25 percent<sup>2</sup> of on-site roads are directly connected to a waterway within a 20-year timeframe. An annual compliance form would be required to document annual actions taken to address road-related sediment delivery. In addition, in the vicinity of culverts, critical dips and trash racks would be required to be installed, where appropriate, in order to avoid potential culvert failure due to debris clogging and/or stream diversion.

#### Unstable Areas and Stormwater Runoff Performance Standard

Vineyard owners/operators would be required to assess their property and on-site or adjacent streams to identify unstable areas such as gullies, mass wasting (e.g., landslides, rock fall, mud flows, etc.), and bank erosion that have resulted from past or current roads or vineyard facility operations. The owners/operators would then be required to implement best management practices to accelerate natural recovery and prevent human-caused increases in sediment delivery from unstable areas.

In addition to controlling surface erosion, vineyard owners/operators would be required to effectively attenuate significant increases in storm runoff, so that the runoff from vineyards shall not cause or contribute to downstream increases in rates of bank or bed erosion. Evidence of active down-cutting or head-cutting, and/or anomalous patterns or intensity of bank erosion (e.g., extensive bank erosion along one or both banks), at or near the point of discharge or in the first

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<sup>2</sup> Road assessments previously performed in the Napa River and Sonoma Creek watersheds indicate that approximately 50 percent of roads are directly connected to waterways. Reducing the length of connected roads by half (to 25 percent) is expected to meet the sediment TMDL reduction goal and numeric performance standard of 500 cubic yards per mile of road over the 20-year implementation period (i.e. by 2028 and 2029 for Sonoma Creek and Napa River, respectively).

downstream response reach will be interpreted to indicate that the upstream vineyard may be contributing to damaging increases in bed and/or bank erosion.

#### Nutrient and Pesticide Stormwater Runoff Performance Standard

The proposed General WDRs would require an assessment of pesticide and nutrient storage, mixing, and application practices and require actions to minimize potential discharges of pesticides and nutrients to receiving waters from vineyards as described in Table 2 of the IS.

#### Stewardship Tier

The Water Board is considering establishing a “Stewardship Tier” for permittees who have completed all BMPs and demonstrate continued compliance with the General WDRs. The Stewardship Tier may include reduction in reporting requirements or a certificate being issued by the Water Board to vineyard owners/operators with an exceptional compliance record.

#### Anticipated Compliance Actions

A suite of best management practices are expected to be implemented on vineyard properties throughout Napa and Sonoma Counties in order to comply with the performance criteria for the General WDRs, as described above. Anticipated compliance actions that implicate possible environmental effects are summarized on Table 2 of the IS. Due to the local regulations described above, many of these best management practices have already been implemented on the ground and are part of the existing setting.

### **PROBABLE ENVIRONMENTAL EFFECTS**

The purpose of the EIR process is to analyze, through a public process, the potentially significant impacts associated with the proposed project, to identify potentially feasible mitigation measures, and to identify and evaluate a range of reasonable alternatives to the proposed project. Considered alternatives should be feasible, attain most of the project objectives, and avoid or substantially lessen any of the significant adverse effects of the project.

The primary impacts of concern for the EIR are anticipated to include but not be limited to:

- Air Quality
- Biological Resources
- Cultural Resources
- Greenhouse Gas Emissions
- Hydrology and Water Quality

The attached Initial Study provides an initial evaluation of potential environmental impacts from the proposed General WDRs. The environmental analysis may determine that the proposed project would not impact or have significant impacts to many of these areas. However, if any significant adverse environmental impacts are identified through this environmental analysis, feasible mitigation measures to avoid and/or minimize the impacts will be identified and will be required as part of General WDRs.

### **PROJECT ALTERNATIVES**

The Water Board has developed three preliminary alternatives to the proposed project for consideration in the EIR. The alternatives that may be considered include:

- 1) No Project Alternative – This alternative consists of the existing regulatory system for vineyard waste discharges, without approval of the proposed project.
- 2) Project Scope Reduction Alternative – This alternative reduces the amount of discharges to be regulated by General WDRs by modifying the eligibility criteria for vineyard properties from 5 to 10 planted acres.
- 3) Project Scope Reduction Alternative – This Alternative reduces the amount of discharges to be regulated by the General WDRs by modifying the eligibility criteria for vineyard properties to exclude all vineyard areas that drain into municipal on-stream reservoirs.

### **AGENCIES THAT MAY USE THIS EIR**

The EIR may be used by the California Department of Fish and Wildlife for streambed alteration agreements and the State Water Resources Control Board or Regional Water Board for 401 Certifications for compliance actions implemented pursuant to the proposed General WDRs.

### **QUESTIONS AND ADDITIONAL INFORMATION**

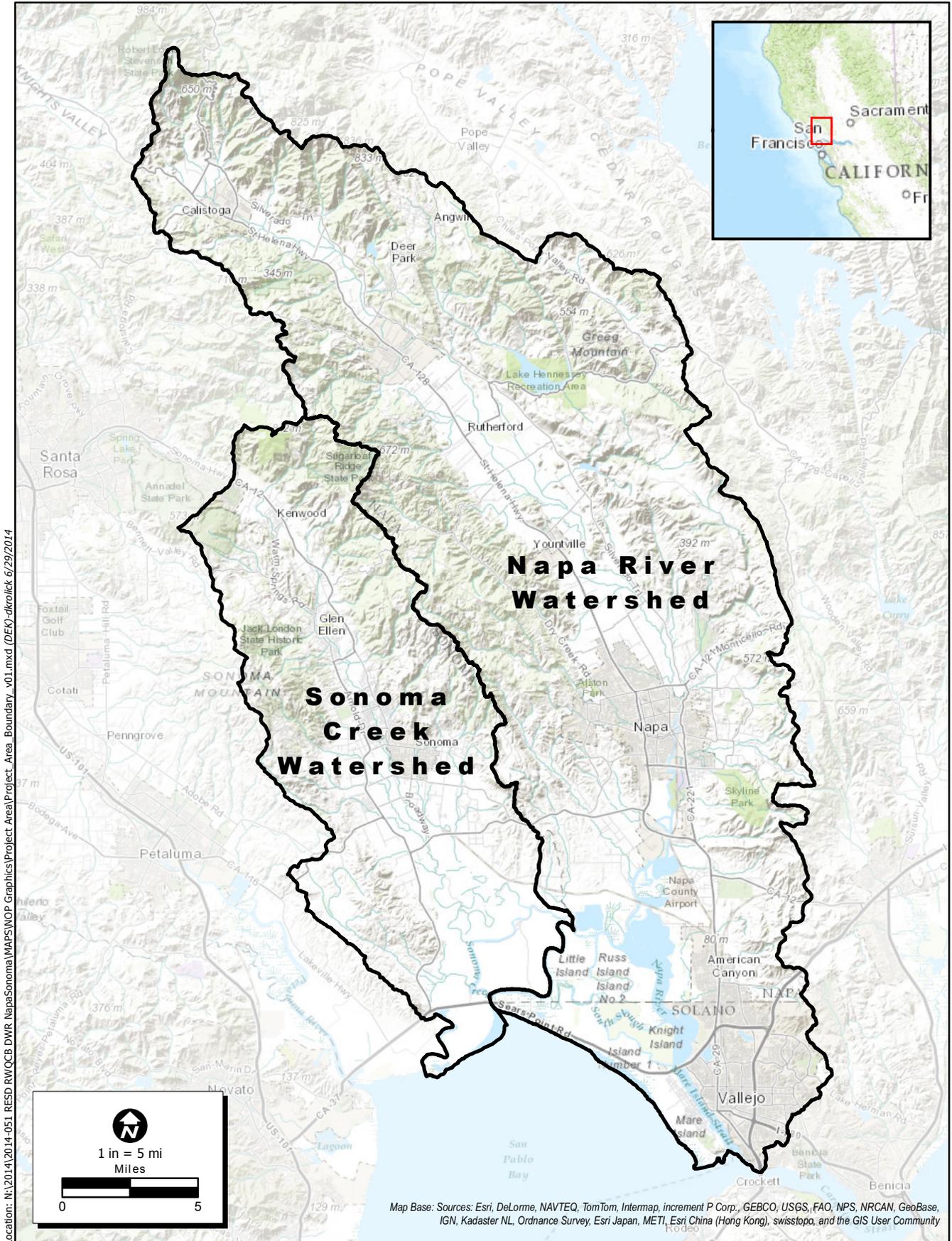
General questions about this NOP should be directed to Anya Starovoytov at (510) 622-2506 or [astarovoytov@waterboards.ca.gov](mailto:astarovoytov@waterboards.ca.gov).

#### Attachments

Figure 1 – Project Area Boundary

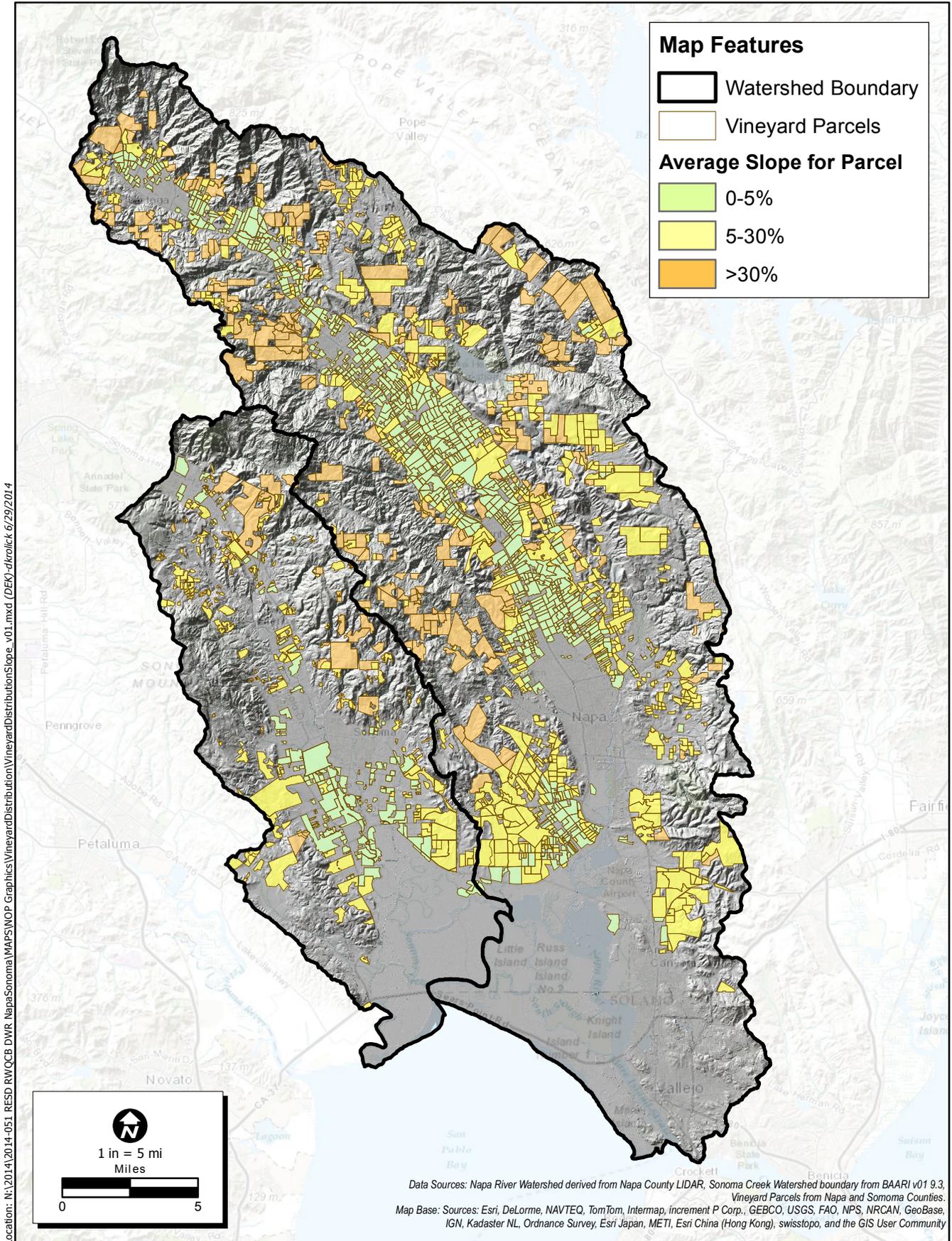
Figure 2 – Existing Vineyard Properties

Attachment 1 – Initial Study



Location: N:\2014\2014-051\_RESD\_RVQCE\_DWR\_NapaSonoma\MAPS\NOP\_Graphics\Project Area\Project\_Area\_Boundary\_v01.mxd (DEK) dkr/lick 6/29/2014

**Figure 1. Project Area Boundary, Notice of Preparation for Environmental Impact Report, General WDRs for Vineyards in Napa River and Sonoma Creek Watersheds**  
 2014-051 WRD for Napa River and Sonoma Creek



**Figure 2. Existing Vineyard Properties, Notice of Preparation for Environmental Impact Report, General WDRs for Vineyard in Napa River and Sonoma Creek Watersheds**

2014-051 WRD for Napa River and Sonoma Creek