



## Memorandum

Date: December 11, 2012

To: Ms. Sandi Potter  
San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

From:   
Scott Wilson, Acting Regional Manager  
Department of Fish and Game – Bay Delta Region, 7329 Silverado Trail, Napa, California 94558

Subject: Conditional Waiver of Waste Discharge Requirements for Vineyards in Napa and Sonoma Valley Watersheds, Mitigated Negative Declaration, SCH #2012112046, Napa and Sonoma Counties

The Department of Fish and Game (DFG) has reviewed the Mitigated Negative Declaration (MND) for the Conditional Waiver of Waste Discharge Requirements for Discharges from Vineyard Properties in the Napa and Sonoma Valley Watersheds. The MND was received in our office on November 20, 2012.

The proposed project consists of establishing a Conditional Waiver of Waste Discharge Requirements (Conditional Waiver) for discharge from existing and future vineyard properties in the Napa River and Sonoma Creek watersheds that meet certain criteria relative to project size and property slope.

The Conditional Waiver establishes a regulatory mechanism to reduce erosion and discharges of pollutants from existing vineyards, vineyard replants, and new vineyards provided that management practices are implemented so that discharge will meet the Water Quality Control Plan for San Francisco Bay Basin (Basin Plan) requirements, including Total Maximum Daily Loads (TMDLs) for sediment in the Napa River and Sonoma Creek.

### *California Freshwater Shrimp*

The MND correctly recognizes that the Napa River and Sonoma Creek watersheds are inhabited by numerous state and federally listed species including Chinook salmon (federally threatened) and steelhead trout (federally threatened). The MND states that the adoption of the Conditional Waiver will result in a reduction of fine sediment delivery to streams, which will lead to environmental improvements, including enhancement to fish habitat and no increases in storm water runoff rates above existing conditions. DFG agrees that adoption of the Conditional Waiver will result in instream habitat improvements for listed salmonids. However, in addition to listed salmonids, the Napa River and Sonoma Creek watersheds provide habitat for California freshwater shrimp (*Syncares pacifica*), which is both state and federally listed as endangered. California freshwater shrimp are found in low elevation, low gradient, freshwater, perennial streams in Marin, Napa, and Sonoma counties.

During the winter, habitat includes shallow margins of stream pools containing undercut banks and exposed living fine-root material that provide shelter and refuge from high water velocities associated with winter storm events. During the summer months, California freshwater shrimp

are often associated with slow moving pool environments and submerged leafy branches. It is believed both winter and summer habitat components need to be found in close proximity in order for this species to persist for prolonged periods.

California freshwater shrimp are threatened by multiple sources, including, but not limited to, agricultural development, water pollution, heavy earth moving equipment, and siltation from poor soil conservation practices. Therefore, DFG believes that the implementation of the Condition Waiver, whose goal is to reduce sediment discharges into the watersheds, will have a positive effect on California freshwater shrimp habitat in addition to the positive impacts on salmonid habitat. Therefore, the MND should include a brief discussion of California freshwater shrimp and the impacts of the Conditional Waiver on the species.

#### *California Endangered Species Act*

On page 42, within the section entitled "Regulatory Framework," a discussion of the California Endangered Species Act (CESA) should be included. A CESA Permit must be obtained if a project has the potential to result in take of species of plants or animals listed under CESA, either during construction or over the life of the project. Issuance of a CESA Permit is subject to the California Environmental Quality Act (CEQA) documentation. Therefore, the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

#### *Lake and Streambed Alteration Agreement*

For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed, DFG may require a Lake and Streambed Alteration Agreement (LSAA), pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant. Issuance of an LSAA is subject to CEQA. DFG, as a responsible agency under CEQA, will consider the CEQA document for the project. The CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for completion of the agreement. To obtain information about the LSAA notification process, please access our website at <http://www.dfg.ca.gov/habcon/1600/> or to request a notification package, contact the Lake and Streambed Alteration Program at (707) 944-5520.

DFG appreciates the opportunity to comment on the Conditional Waiver. DFG staff is available to meet with you to further clarify our comments and provide technical assistance on any changes necessary to protect resources. If you have any questions, please contact Mr. Adam McKannay, Environmental Scientist, at (707) 944-5534; Ms. Suzanne Gilmore, Environmental Scientist, at (707) 944-5536, or Ms. Karen Weiss, Senior Environmental Scientist, at (707) 944-5525.

cc: State Clearinghouse