

September 8, 2016

Mike Napolitano  
Engineering Geologist, NPS & TMDL  
California Regional Water Quality Control Board, San Francisco Bay  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Re: Draft EIR General Waste Discharge Requirements (General Permit) for Vineyard Properties Located in the Napa River and Sonoma Creek Watersheds; Comments by California Fisheries & Water Unlimited

Dear Mr. Napolitano;

California Fisheries & Water Unlimited (CF&WU) appreciates the opportunity to comment on draft waste discharge requirements (General Permit) for vineyard properties located in the Napa River and Sonoma Creek watersheds. As the ultimate objective of this Project is to meet TMDL sediment allocation and targets for the impaired Napa River and Sonoma Creek watersheds in order to improve water quality and restore properly-functioning substrate conditions that provide habitat for native anadromous salmonid populations, the San Francisco Bay Regional Water Quality Control Board has much to accomplish. Tragically, it is too late for Coho salmon, which were extirpated from the Napa River watershed in the late 1960's, their particular genetic stock never to return. In this, the state and federal regulatory agencies which have been authorized with protecting public trust assets and water resources have failed the public as trustees, and attempts at restoration are now the unfortunate and expensive result.

Increasing demands on surface water and groundwater, mounting land use conversions to vineyard acreage with unpaved road construction, and density of cultivation in the Napa River and Sonoma Creek watersheds are projected to increase significantly in the next decades, having the potential to adversely impact the region's native anadromous fisheries further. With sediment delivery to the Napa River over twice that of natural background, it's evident that local measures (i.e., Napa County Code Conservation Regulations, Sonoma County VESCO requirements) have not been effective in protecting beneficial uses of the region's surface waters, marshes, wetlands, and groundwater, and that regulatory gaps are in desperate need of agency attention.

To that end, CF&WU respectfully requests the following questions and concerns be addressed and considered:

1. What is the evidence that substantiates the determination that a 50% reduction in land-use related sediment delivery in channels within vineyard properties is sufficient to restore properly-functioning substrate conditions which provide habitat for native anadromous salmonids? Please forward the supporting data.
2. How will sediment delivery be individually measured by the vineyard properties owners of this Project?
3. What was the total sediment delivery discharging to the San Pablo Bay in 1990 when the Napa River was 303(d) listed as impaired for sedimentation? What was the total acreage of vineyard property in the Napa River watershed at the time? What is the current total of vineyard acreage?

4. What was the total sediment delivery discharging to the San Pablo Bay in 1996 when Sonoma Creek was 303(d) listed as impaired for sedimentation? What was the total acreage of vineyard property in the Sonoma Creek watershed at the time? What is the current total of vineyard acreage?
5. With performance standards for this Project projected to take up to ten years for achievement (following final approval), what is the evidence to substantiate that rare Chinook salmon, protected Central California Coast Steelhead populations, California Freshwater Shrimp, and other listed species of the Napa River and Sonoma Creek watersheds will survive until that time? Please forward the projections. Please also include current stream survey data on salmonid populations for the Napa River and Sonoma Creek watersheds for the last twenty years, as well as the future projections for salmonid populations from the anticipated approval of this Project to twenty years forward, in all Water Year types including multiple dry year conditions.
6. Water management decisions and actions need to be based upon the same stream classification system to be effective. What are the stream classification systems utilized by Napa and Sonoma counties? How are they consistent with the stream classification system used by the U.S. Environmental Protection Agency (Rosgen) or Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan)? If inconsistent, how will this Project address and resolve the discrepancies in order to better protect the beneficial uses of the state's waters?
7. Many streams in the Napa River and Sonoma Creek watersheds are typically intermittent or have been caused or created to become so in recent history (i.e., tributaries of the Upper Napa River such as Cyrus Creek, Kimball Creek, and Simmons Canyon Creek). Intermittent streams are designated in the Basin Plan as existing and are protected as such throughout the year. How will the beneficial uses of streams which currently experience intermittent flows in the Napa River and Sonoma Creek watersheds be protected in all Water Year types, including multiple dry year conditions, by this Project?
8. Vineyard properties create erosion, storm runoff, and discharge sediment, nutrients, and pesticides which cumulatively impact the water quality of the Napa River and Sonoma Creek watersheds. Any method of regulation by this Project which is based upon the size of vineyard property acreage is not only arbitrary, but allows for loopholes so that waste discharge requirements may be avoided. What is the data that substantiates the determination of a five acre minimum in vineyard property acreage? How will this Project prevent the creation of vineyard properties of less than five acre parcels to avoid waste discharge requirements? CF&WU recommends that all vineyard properties be included and required to enroll in the proposed General Permit with annual reporting and water quality monitoring – regardless of total acreage.
9. CF&WU requests comprehensive regulatory oversight in all vineyard monitoring be performed by the staff of the San Francisco Bay Regional Water Quality Control Board and not retained, third-party and/or private-sector consultants.
10. Public access will be critical to insure compliance with federal and state mandates including the Clean Water Act, Porter-Cologne Water Quality Control Act, California Water Code, Basin Plan, and Public Records Act. CF&WU requests full and immediate public access to all related monitoring data and/or records, including Farm Water Quality Protection Plans (Farm Plans), Annual Compliance Reports, and any subsequent violations, etc. to be accessible on the San Francisco Bay Regional Water Quality Control Board website, with links to the State Water Resources Control Board's Electronic Water Rights Information System (eWRIMS) site for the purposes of tracking Statements of Water

Diversion and Use, registrations, certificates, permits, and licenses. If this Project does not allow for full and immediate public access, please respond with the specific reasons why it does not.

11. What are the agrichemicals to be regulated by this Project, including pesticides, insecticides, algaecides, herbicides, fungicides, nematicides, fertilizers, hormones, growth agents, and any others? Please provide a complete account of the agrichemicals to be regulated by this Project, noting which are controlled by the U.S. Environmental Protection Agency, California Environmental Protection Agency, Department of Toxic Substances Control (DTSC), Safe Drinking Water and Toxic Enforcement Act (Proposition 65), Regional Monitoring Program of the Basin Plan, or any additional federal or state mandate.

12. Groundwater is a primary source of summer base flows in streams of the Napa-Sonoma region and is proven to be a public trust resource (ELF vs. State Water Resources Control Board, et al). Because of the hydraulic connection between wells and surface water, the pumping of groundwater has the potential to adversely impact surface flows and the habitat of rare and protected anadromous fish species in all life stages. How does this Project protect surface flows of the Napa River and Sonoma Creek watersheds by the over-extraction of groundwater? How will this Project measure and monitor the adverse impacts of groundwater extraction upon surface waters?

13. As TMDL levels for nutrients discharged to San Pablo Bay from the Napa River and Sonoma Creek watersheds remain substantially elevated, and vineyard acreage in the Napa River and Sonoma Creek region continues to increase in number and density, what is the evidence to substantiate the agency's February 2014 proposal to delist these water bodies? CF&WU would like to take this opportunity to state its strong support for the continued 303(d) listing of the Napa River and Sonoma Creek for nutrient impairment pursuant to the Clean Water Act, whose objective it is to restore and maintain the chemical, physical, and biological integrity of the nation's waters.

14. Riparian woodlands and forest are considered rare biotic communities within the Napa River watershed. Of the 450 acres of timber conversion plans processed in the past 17 years, how many were approved by the California Department of Forestry and Fire Protection? How many applicants were denied? If this trend is seen by your agency as increasing, how will this Project address and resolve any adverse cumulative impacts to aquatic resources caused or created by timber conversion plans and timber harvest plans approved by CDF?

15. How will the Upper Napa River Habitat and Sediment Reduction Plan effect this Project?

16. While the Project DEIR acknowledges fish migration problems in the Napa River and Sonoma Creek watersheds, it fails to identify specific barriers or account for their compliance with state bypass mandates. How does this Project resolve the problem barriers? Please forward the data for all private and/or public barriers in these watersheds.

While the goals of this Project may assist in improvements to surface water and groundwater quality standards related to vineyard properties located in the Napa River and Sonoma Creek watersheds, comprehensive restoration of conditions specific to native anadromous salmonid populations will not be possible without addressing water quantity problems as well: that is, the instream flows adequate to keep the native fisheries of the Napa River and Sonoma Creek watersheds in good condition. California Fish and Game Code Section 5937 is a straight-forward law with broad power to rehabilitate aquatic systems and habitat. The Napa River Sediment Reduction Plan also calls to reduce the number and significance of human-made structures in channels which block or impede fish passage and

migration. With an estimated 30% of the Napa River watershed captured by public and private reservoirs, many of which continue to ignore Section 5937 at the expense of rare and protected native anadromous fisheries, dam bypass compliance must be addressed and resolved in these impaired watersheds.

CF&WU was fortunate enough to be in attendance on December 16, 2015 of the Triennial Review of the Basin Plan, when State Water Quality Control Board member Steven Moore spoke at length about the State and Regional Board system as one evolving, no longer separate in their respective obligations to water rights versus water quality (“That line is gone now.”). Instead, Moore emphasized collaborative management between the State and Regional Boards, something the Porter-Cologne Water Quality Control Act refers to as a coordinated water quality and water rights responsibility. If the objective of this Project is the restoration of native fish habitat and the preservation of endangered species, then diminished instream flows, the elevated temperatures associated with them, widespread habitat simplification, and additional cumulative factors that have caused these impacts, including noncompliance with dam bypass requirements, illegal water diversions, over-extraction of groundwater, and continued deforestation, must be considered and addressed by the State and Regional Boards in any comprehensive plan for this Project to succeed.

Thank you,

Christina Baiocchi Aranguren  
California Fisheries & Water Unlimited