

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**TENTATIVE ORDER NO. 2012-XXXX**

**CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR  
DISCHARGES FROM VINEYARD PROPERTIES IN THE  
NAPA RIVER AND SONOMA CREEK WATERSHEDS**

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

**Terms**

- 1) For purposes of this Order (Order or Conditional Waiver):
  - a) A landowner and/or operator of a **Vineyard Property** in the Napa River or Sonoma Creek watersheds who meets the Eligibility Criteria in Section A is hereinafter referred to as a **Landowner/Operator**.
  - b) Terms shown as both capitalized and **bold** text are defined in Section D(11).

**Background**

- 2) The Napa River and Sonoma Creek watersheds contain an estimated 131,500 acres of **Vineyard Properties** and more than 59,000 acres of planted vineyards from which there may be discharges that affect water quality.
- 3) The State Water Resources Control Board (State Water Board) and regional water quality control boards are the principal state agencies with primary responsibility for the coordination and control of water quality pursuant to the Porter-Cologne Water Quality Control Act (Porter-Cologne Act, codified in Water Code Division 7). The Legislature, in the Porter-Cologne Act, found and declared that the activities and factors which may affect the quality of the waters of the state shall be regulated to attain the highest water quality which is reasonable, considering all demands being made on it (Water Code § 13000).
- 4) Napa River, Sonoma Creek, and their major tributaries that enter San Pablo Bay provide critical habitat for several federally listed rare, threatened, and endangered species including steelhead trout and Chinook salmon.
- 5) The Napa River, Sonoma Creek, and their tributaries are impaired by pathogens, nutrients, sediment, settleable materials, and population and community ecology and are on the State's Clean Water Act Section 303(d) list of impaired water bodies.
- 6) Excess sediment impacts Napa River and Sonoma Creek beneficial uses including recreation, cold freshwater habitat, fish spawning, and preservation of rare and endangered species. Fine sediment particle loads are substantially elevated in both watersheds degrading aquatic habitat.

### **Total Maximum Daily Loads (TMDLs) and Associated Implementation Plans**

- 7) The Water Board adopted Total Maximum Daily Loads (TMDLs) for sediment in the Sonoma Creek watershed on September 8, 2010, and for the Napa River watershed on September 9, 2009. U.S. EPA subsequently approved these TMDLs on December 10, 2008, and on January 21, 2011, respectively.
- 8) The sediment TMDLs address water quality objectives for sediment, settleable materials, and population and community ecology that have been impaired due to elevated concentrations of fine sediment in the bed of the Napa River, Sonoma Creek, and their tributaries. The Water Board found that greater than half of all sediment delivered to streams in these watersheds comes from roads and road drainage systems, stream bed and bank erosion, vineyard soil erosion, and intensive historical grazing. Sediment loads within the watersheds are greatly influenced by and vary with terrain, geologic rock type(s), and land use.
- 9) The TMDLs contain implementation plans that provide a framework for actions needed to achieve water quality objectives for sediment, settleable material and population and community ecology. These actions translate into an approximate 50% reduction in human-caused sediment inputs from the significant sediment source categories identified in the TMDLs.

### **Waiver of Reports of Waste Discharge and Waste Discharge Requirements**

- 10) Water Code section 13260 requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, to file with the Water Board a report of waste discharge (ROWD) containing such information and data as may be required by the Water Board, unless the Water Board waives such requirement under Water Code section 13269.
- 11) Water Code section 13263 authorizes the Water Board to prescribe waste discharge requirements (WDRs) for any proposed discharge, existing discharge, or material change to an existing discharge. The WDRs must implement relevant water quality control plans and take into consideration, among other things, the beneficial uses of water to be protected, the water quality objectives reasonably required for that purpose, and the need to prevent nuisance.
- 12) CWC section 13269 authorizes the Water Board to waive the requirement to file ROWDs and to obtain WDRs for a specific discharge or type of discharge if the Water Board determines, after a hearing, that the waiver is consistent with the applicable water quality control plan and is in the public interest. A waiver is conditional and may be terminated at any time by the Water Board. The Water Board must require compliance with the conditions pursuant to which a waiver is granted. The conditions must include monitoring, unless the discharge does not pose a significant threat to water quality. The waiver may not exceed five years but may be renewed by the Water Board.
- 13) As authorized by Water Code section 13269, this Order conditionally waives the requirement to file a ROWD and to obtain WDRs pursuant to Water Code sections 13260 and 13263 for discharges of waste from a Vineyard Property that:

- a) Contains a **Vineyard Facility** with a **Slope** less than 5 percent located on one or more parcels totaling 40 acres or more, where 5 or more acres are a planted vineyard; or
- b) Contains a **Vineyard Facility** with a **Slope** of 5 percent or greater located on one or more parcels totaling 20 acres or more, where 5 or more acres are a planted vineyard; or
- c) Is identified by Water Board staff as discharging or proposing to discharge waste that could affect water quality and the Water Board staff finds that regulation of such vineyard through this Conditional Waiver will result in compliance with applicable water quality standards, such that regulation through individual or general WDRs is not necessary.

The waiver for the above vineyards is conditional upon meeting the requirements of this Order.

- 14) The Water Board finds that waiving ROWDs and WDRs for **Vineyard Properties** subject to this Order is consistent with the San Francisco Bay Basin Water Quality Control Plan (Basin Plan), the State Water Board’s 2004 Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Policy), and antidegradation requirements.
- 15) The Basin Plan is the Regional Water Board’s master water quality control planning document. It designates beneficial uses and water quality objectives (WQOs) for waters of the state. It also includes implementation programs to achieve WQOs. The Basin Plan was duly adopted by the Water Board and approved by the State Water Board, the Office of Administrative Law, and USEPA.
- 16) The Basin Plan designates the following beneficial uses for the Napa River, Sonoma Creek and San Pablo Bay:

The Basin Plan designates the following beneficial uses Napa River, Sonoma Creek and San Pablo Bay: Beneficial Use	San Pablo Bay	Napa River	Sonoma Creek
Agricultural Supply (AGR)		X	
Cold Freshwater Habitat (COLD)		X	X
Ocean, Commercial, and Sport Fishing (COMM)	X		
Estuarine Habitat (EST)	X		
Industrial Service Supply (IND)	X		
Fish Migration (MIGR)	X	X	X
Municipal and Domestic Supply (MUN)		X	
Navigation ( NAV)	X	X	
Preservation of Rare and Endangered Species (RARE)	X	X	X
Water Contact Recreation (REC-1)	X	X	X
Non-contact Recreation (REC-2)	X	X	X
Shellfish Harvesting (SHELL)	X		
Fish Spawning (SPWN)	X	X	X
Warm Freshwater Habitat (WARM)		X	X
Wildlife Habitat (WILD)	X	X	X

- 17) Excess sediment impacts Napa River and Sonoma Creek watershed beneficial uses including recreation, fishing, cold freshwater habitat, fish spawning, and preservation of rare and endangered species. Fine sediment particle loads are substantially elevated in both watersheds, degrading aquatic habitat.
- 18) In order to protect beneficial uses, this Order includes requirements to implement the Basin Plan and meet water quality objectives for toxicity, bio-stimulatory substances, sediment, settleable materials, population and community ecology, in the Napa River and Sonoma Creek sediment TMDLs.
- 19) Vineyard sources of toxicity or bio-stimulatory substances may include, but not be limited to, pesticides, herbicides, fungicides, compost, and fertilizers applied either directly to the vine, soil or to the roots through irrigation. Vineyard land use practices, including the storage, mixing and application of agricultural chemicals (e.g., herbicides, pesticides, fungicides, and fertilizers to control weeds, pests, vectors, etc.) can result in the release and transport of these substances to surface waters from stormwater runoff and to ground water. This Order, therefore, requires management practices to minimize delivery of agricultural chemicals to surface water and groundwater so that such discharges do not cause or contribute to the exceedance of Basin Plan water quality objectives for toxicity, bio-stimulatory substances, and population and community ecology. Vineyards also discharge excess sediment and therefore require management practices to limit such discharges and meet water quality objectives for sediment, settleable materials and population and community ecology.
- 20) This Order is consistent with and implements the Napa River and Sonoma Creek sediment TMDLs, which call for vineyards to be regulated through WDRs or waivers of WDRs. The TMDLs were developed to attain water quality objectives for sediment, settleable materials, and population and community ecology and are not self-implementing. This Order implements the TMDLs' performance standards to control excessive rates of sediment delivery from vineyard surface erosion by requiring erosion control practices to reduce sediment delivery to receiving waters. This Order implements the TMDLs' performance standards for road-related sediment delivery to channels (less than 500 cubic yards per mile of road over the sediment TMDLs implementation periods). **Vineyard Properties** subject to the Order are required, over time, to reduce the length of **Roads** that drain directly to receiving waters to 25 percent or less. Reducing the length of these directly draining roads in half will meet the sediment TMDL numeric targets for **Roads** that are located on **Vineyard Properties**. This Order also implements the TMDLs' performance standards to accelerate natural recovery and prevent human-caused increases in sediment delivery from unstable areas. This Order requires management practices to prevent further sediment delivery from unstable areas to receiving waters, reduce peak stormwater flows, and to prevent and mitigate erosion at **Points of Discharge**. Finally, this Order also implements the TMDLs' performance standards to effectively attenuate significant increases in storm runoff by requiring implementation of management practices to prevent excessive rates of runoff and soil loss from **Vineyard Facilities** and **Roads**. **New Vineyards** must demonstrate that runoff (including peak flows) and soil loss do not increase as a result of vineyard development.
- 21) The NPS Policy requires regulation of nonpoint source discharges using the Water Board's administrative permitting authorities, including WDRs, waiver of WDRs, Basin Plan Prohibitions, or some combination of these. This Order meets the NPS Policy

because it regulates nonpoint source discharges that previously were not regulated via a waiver of WDRs.

- 22) The Water Board finds that this Order is in the public interest because it:
- a) Includes conditions that are intended to reduce and prevent pollution and nuisance and protect beneficial uses of the waters of the State.
  - b) Will result in the rapid implementation of a geographically extensive and effective program of regulation of nonpoint source discharges from **Vineyard Facilities** in the Napa River and Sonoma Creek watersheds, which discharges were previously unregulated.
  - c) Efficiently regulates the discharge of nutrients and pesticides, wastes that could affect water quality, through the control of sediment discharges.
  - d) Provides flexibility by allowing a **Landowner/Operator** to select management practices to comply with the waiver standards that are best suited to their vineyard operation and on-site natural resources.
  - e) Provides a more efficient and timely mechanism of complying with water quality objectives than individual regulation through WDRs.
  - f) Provides for an efficient and effective use of limited Water Board resources while protecting beneficial uses.
  - g) Allows the Water Board to focus its limited resources to conduct field oversight, public outreach, and, when necessary, enforcement. It also allows the Water Board to focus on vineyard discharges with higher threats to water quality and to regulate them through individual or general WDRs.
- 23) State Water Board Resolution 68-16, Statement of Policy with Respect to Maintenance of High Quality Waters in California, finds “whenever the existing quality of the water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality will be maintained until it has been demonstrated to the State that any change will be consistent with the maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies. Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.”
- 24) The baseline water quality, which is the best water quality achieved since 1968, for the Napa River and Sonoma Creek for bio-stimulatory substances (nutrients) is equal to or less than the applicable water quality objectives, such that, generally speaking, they are not high quality waters. Sonoma Creek and Napa River have historically suffered from nutrient enrichment, specifically eutrophication, excess algae and low dissolved oxygen; however, there may be segments where water quality has been better than water quality objectives and must be maintained. The baseline water quality for these waters as it relates to toxicity is not well documented.

- 25) The baseline water quality for Sonoma Creek and the Napa River for sediment, settleable materials, and population and community ecology is equal to or less than the applicable water quality standards, such that, generally speaking, they are not high quality waters. Both the Napa River and Sonoma Creek have historically been impaired by siltation and degraded fish spawning and rearing habitat due to elevated sediment levels, starting in the first half of the 20th century. There has been some improvement in recent years due to large scale river restoration projects; however, both rivers remain impaired. Sediment inputs and its effects on beneficial uses inherently vary on seasonal, annual and longer timeframes and are influenced by, and vary with, terrain, geology (soil types), and land use. Sub-regions within both rivers could therefore contain segments that exceeded standards for sediment, settleable materials, and population and community ecology, such that they are high quality waters, even though when viewed on a larger scale, Napa River and Sonoma Creek has not met and does not currently meet water quality standards.
- 26) This Order requires management practices to be implemented on **Vineyard Properties** so as to reduce existing discharges of sediment (sediment-bound nutrients and toxic pesticides will be similarly reduced) and storm runoff to meet the sediment TMDLs' allocations, which are based on the allowable sediment loadings these water bodies can receive and still meet water quality standards. This Order will not lower the baseline water quality; in fact, it will improve it. However, to the extent that baseline segments of the Napa River and Sonoma Creek are, or have been, high quality waters for the parameters discussed above, allowing discharges under this Order could arguably lower such high quality waters. Such lowering is consistent with the maximum benefit to the people in that it allows an important, world-famous regional economic activity to continue. The discharges will not affect present and anticipated beneficial uses and will not result in water quality less than prescribed in policies because the discharges will be controlled and regulated so that sediment, nutrient, and toxic pesticide inputs are reduced so that water quality standards can be met and present and future beneficial uses are protected, consistent with the TMDLs. Finally, this Order will result in the best practicable treatment or control (BPT) of discharges to prevent pollution or nuisance and the maintenance of the highest water quality consistent with the maximum benefit to the people of the State. The management practices required under the Order, examples of which are included in Attachment E (Example Agricultural Management Practices and Technical Assistance References), are BPT because they reflect the state-of-the-art methods for growing grapes that integrate soil and site management practices for pest management and weed control, nutrient management, pesticide storage, handling and modern spray techniques, vineyard soil and runoff control, and water conservation. The methods have proven to be effective in vineyards that have already implemented them.

### **Scope and Requirements of Waiver**

- 27) This Order regulates discharges of waste from **Vineyard Properties** meeting the eligibility criteria of this Order, including **Roads on Vineyard Properties**.
- 28) The eligibility criteria of this Order was developed with input from the Technical Advisory Committee and it captures an estimated 85 percent of vineyard parcels and cultivated acres in the Napa River and Sonoma Creek watersheds and takes into consideration parcel size, vineyard size, slope, geology, and soil erosion potential. A 40 acre parcel size was presented in the sediment TMDLs as a possible minimum parcel size

for regulating vineyards and is included in this Order as the threshold for vineyards on flat land. For vineyards not on flat land (greater than 5 percent **Slope**), the parcel size threshold is reduced to 20 acres to capture additional vineyards that may affect water quality. Small **Vineyard Facilities** (less than 5 acres) generally pose less risk to water quality due to the limited size of the operation and amount of soil exposed to cultivation. Similarly, **Vineyard Facilities** on relatively flat land (**Slopes** of less than 5 percent) that contain adequate **Stream Setbacks** generally do not adversely affect water quality through erosive stormwater forces and provide the added water quality benefit by filtering runoff before it enters receiving waters.

- 29) This Order excludes from coverage **New Vineyards** and **Vineyard Replants** of one acre or greater with vineyards planted on **Slopes** of 30 percent or greater and have soils with high erosion hazard ratings. Discharges from such areas are more appropriately regulated through WDRs due to their higher water quality threats. It also excludes from coverage construction activities on undisturbed land that contain sensitive species.
- 30) **Landowners/Operators** must prepare Farm Water Quality Plans and implement, and where appropriate, update or improve, management practices to effectively control discharges to meet water quality objectives and achieve compliance with this Order. The specific management practices cannot be dictated by the Water Board because Water Code section 13360 prohibits the Water Board from specifying the manner of compliance with a Water Board order.
- 31) Farm Water Quality Plans are working tools that farmers use to select, plan, and schedule implementation of management practices. The farm plan is a dynamic document that changes in response to changing onsite conditions and needs and is most appropriately kept and managed by the **Landowner/Operator** onsite. The Water Board finds it is not beneficial to water quality to lock **Landowners/Operators** to management practices that may prove to be ineffective by having fixed farms plans that must be submitted to the Water Board's office on an annual basis. Furthermore, some farm plans may contain broader issues of sustainability that are outside of the Water Board's purview, including energy use, labor practices, marketing, and other personal and proprietary information.
- 32) Development of new vineyards presents a greater risk for sediment production and changes to storm runoff than existing and replanted vineyards because they typically involve the conversion of open space with grassland or forest ground cover to cultivated ground cover. **New Vineyard** development may reduce the amount of vegetative cover, create bare soil, concentrate flow, or increase the timing and rate of runoff. Therefore, **New Vineyards** not excluded from coverage under this Order must be designed so that they do not result in excessive soil loss or increase in peak flows over pre-development conditions.
- 33) **Landowners/Operators** periodically replant grape vines or cultivated areas (vineyard blocks). Replanting provides an opportunity to modify the vineyard layout, row direction, and drainage system to reduce soil erosion and control storm runoff. **Vineyard Replants** must comply with the Water Quality Requirements of this Order, which may necessitate modifying vineyard layouts, row directions and drainage systems.
- 34) The Water Board retains the right to terminate coverage under this Order for a **Landowner/Operator** who fails to comply with its requirements and regulate through individual or general WDRs.

- 35) This Order does not apply to discharges of waste that are regulated under another waiver of WDRs, individual WDRs or general WDR, or National Pollutant Discharge Elimination System (NPDES) permit, such as winery waste discharge from a winery facility located on the **Vineyard Property**.

### **Monitoring**

- 36) Water Code section 13269 requires that waivers of WDRs include the performance of individual, group or watershed-based monitoring unless the Water Board determines that the discharges do not pose a significant threat to water quality. Monitoring requirements must be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the Water Board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors. Monitoring results must be made available to the public.
- 37) Three general types of monitoring are specified in the Napa River and Sonoma Creek sediment TMDLs to assess progress towards achievement of numeric targets and load allocations for sediment:
- a) Implementation monitoring to document that required sediment control and habitat enhancement actions are implemented.
  - b) Upslope effectiveness monitoring to evaluate effectiveness of sediment control actions in reducing rates of sediment delivery to channels.
  - c) In-channel effectiveness monitoring to evaluate channel response to management actions and natural processes and to evaluate progress towards achieving water quality targets.
- 38) This Order requires management practices implementation effectiveness monitoring (Finding 37(a)) by **Landowners/Operators**. The purpose of management practices implementation effectiveness monitoring is to document that sediment control actions specified in the Order actually occur, perform as expected, and are properly maintained.
- 39) The Water Board will conduct upslope effectiveness monitoring (Finding 37(b)) to evaluate sediment delivery (sediment budget) to channels from land use activities and natural processes. In-channel effectiveness monitoring (Finding 36(c)) will be conducted by local governments with scientific expertise and the ability to work with private property owners (to gain permission for site access), as needed to develop a representative sample of stream and habitat conditions, in relation to sediment supply and transport in the watersheds. In addition, the Water Board will conduct in-channel effectiveness monitoring as part of the Surface Water Ambient Monitoring Program.
- 40) Other significant ongoing assessment and monitoring efforts to track progress made toward attainment of water quality objectives for sediment, settleable matter, and population and community ecology include:
- a) The Napa Resource Conservation District's annual steelhead and salmonid outmigration monitoring program which began in 2009. Similarly, the Napa County

Resource Conservation District has conducted annual surveys since 2005 to estimate the size of the fall-run Chinook salmon.

- b) Monitoring to describe the performance of stream and riparian habitat enhancement projects being implemented throughout the Rutherford reach of the Napa River.
  - c) Continuous streamflow monitoring to protect critical habitat and guide water resources management at three locations along the Napa River.
  - d) The Napa County Resource Conservation District, in partnership with the Water Board, is developing a monitoring program to evaluate attainment of numeric targets for sediment in the Napa River watershed, which constitutes the in-channel effectiveness monitoring called for in the Basin Plan Amendment and described in 37(c). The in-channel effectiveness monitoring program is projected to begin in water year 2014.
  - e) Development of a TMDL Tracking and Accounting System to identify tools to prioritize Napa River sediment TMDL implementation and to advance water quality improvements.
  - f) Turbidity and suspended sediment monitoring at five locations on the mainstem Sonoma Creek.
  - g) Benthic macroinvertebrates monitoring and physical water quality parameters at eleven locations in the Sonoma Creek watershed.
  - h) Streamflow monitoring, stream depth, water temperature and air temperature at several locations in the Sonoma Creek watershed.
  - i) Smolt monitoring in Sonoma Creek beginning in 2013 in partnership Southern Sonoma RCD and Center for Ecosystem Management and Restoration.
- 41) The Water Board will evaluate various other types of information as presented above to determine compliance with this Order such as a) treatment or control measures installed, b) field inspections, c) farm plan review, d) watershed or sub-watershed scale receiving water sediment trends, and d) related reporting. Implementation monitoring documented through Annual Compliance Forms will be made available to the public at the Water Board's office. An annual summary of Conditional Waiver compliance monitoring, including updates on the watershed based monitoring described in Finding 40(a-i) above, will be posted on the Water Board's website as they become available.

### **Annual Fees**

- 42) Water Code section 13269 authorizes the Water Board to include as a condition of a conditional waiver the payment of an annual fee established by the State Water Board. California Code of Regulations, Title 23, Division 3, Chapter 9, Article 1, section 2200.3 sets forth the applicable fees. This Order requires each **Landowner/Operator** subject to the Order, or a discharger group on behalf of its participants, to pay an annual fee to the State Water Board in compliance with the fee schedule.

### **Third-Party Groups**

- 43) The NPS Policy encourages the Water Boards to “be as creative and efficient as possible in devising approaches to prevent or control nonpoint source pollution.” This includes development of third-party programs, including coalitions of dischargers in cooperation with a third-party representative, organization, or government agency to assist the dischargers in complying with the requirements and assure the Water Board and the public that actions have been taken to reduce nonpoint source pollution.
- 44) The Water Board supports a variety of third-party groups, such as Resource Conservation Districts, Natural Resource Conservation Service, UC Cooperative Extension, watershed groups, and non-profit groups such as Fish Friendly Farming (FFF), to assist **Landowners/Operators** in filing required forms, preparing Farm Water Quality Plans, implementing non-point source pollutant control projects, and assisting in annual compliance reporting to the Water Board.
- 45) The Water Board recognizes that many **Landowners/Operators** in the Napa River and Sonoma Creek watersheds have already taken actions to protect water quality. Of the approximately 131,500 acres of productive vineyards in the watersheds, 52,000 acres are enrolled in the FFF program, and 26,500 acres are certified by FFF. Certified vineyards differ from those categorized as enrolled in that certified vineyards are operated under comprehensive farm plans that have a water quality focus, very similar to the Farm Water Quality Plans that are required by this Order. Furthermore, certified vineyards are either in the process of, or have already implemented, management practices to reduce non-point source pollutant discharges from vineyards. These management practices are comparable to the actions that will be implemented through **Landowner/Operator** compliance with this Order and have been effective.
- 46) The Water Board acknowledges that **Landowners/Operators** may not be technical experts and technical assistance entities or consultants may be needed to assist **Landowners/Operators** to comply with the terms, conditions, and requirements of this Order.
- 47) The Water Board will consider and approve third-party technical assistance groups to assist **Landowners/Operators** to comply with this Order if the third-party group meets the requirements as set forth in the Attachment C hereto. Entities interested in forming a technical assistance third-party group must document their capabilities and request approval for their group from the Water Board’s Executive Officer. Each proposed group will be judged individually on its merits, including the group’s technical ability to work with regulated entities and experience in developing and implementing nonpoint source pollution control programs.
- 48) The Water Board will periodically review a third-party group’s performance to ensure that adequate Farm Water Quality Plans are being consistently prepared by **Landowners/Operators** subject the Order. The Executive Officer may terminate the approval of a third-party group if the Water Board’s requirements for a third-party group are not being met.

## Public Participation

49) The Water Board convened a Technical Advisory Committee (TAC) consisting of local experts in the areas of sediment, vineyards and vineyard management, storm water runoff issues, hydrology, and stream functions to vet technical and scientific issues and to seek their input on several issues including:

- Peak flow attenuation performance standards.
- Management practice effectiveness monitoring and the various field approaches that can be used to quantify the effectiveness of management practices.
- Waiver eligibility criteria and discussion of appropriate vineyard size thresholds in determining the significance of water quality threats.

The TAC met on January 6, June 2, and November 30, 2011, and its input helped Water Board staff in shaping key elements of this Order, including waiver conditions, performance standards, and the monitoring requirements.

50) The Water Board convened a series (June 10 and December 19, 2011, and on March 1, May 15, and August 21, 2012) of Stakeholder Advisory Group meetings to solicit input on this Order. The Stakeholder Advisory Group was comprised of representatives from Napa and Sonoma counties, Sonoma County Grape Growers, Napa County Vintners, Sonoma and Napa County Farm Bureau, the Resource Conservation Districts, UC Cooperative Extension, other agencies, and environmental groups. The Stakeholder Advisory Group provided valuable input on the terms and conditions of this Order, the requirements for a Third Party Group (Attachment C), the required elements of a Farm Water Quality Plan (Attachment D), and example lists of management practices (Attachment E).

51) Water Board staff met on several occasions with parties interested in developing third-party technical assistance groups, as well as individuals concerned with how compliance with the Order could affect their current operations, or potentially limit future efforts to expand or replant their vineyards. These meetings ranged in scope from one-on-one meetings and small field trips, to expanded meetings that involved Water Board staff presentations at the:

- UC Cooperative Extension and Napa County Grape Growers Workshop (December 1, 2011).
- Napa County Watershed Information Center and Conservancy (March 22, 2012).
- Sonoma Farm Bureau (April 5 and June 7, 2012).
- Napa Valley Vintners *Green Issues Affecting Your Winery* meeting (August 23, 2012).

## California Environmental Quality Act (CEQA)

52) The Water Board is the lead agency pursuant to California Environmental Quality Act (Public Resources Code section 21000 et seq.; CEQA).

53) On April 14, 2010, the Water Board conducted a CEQA scoping meeting at the Napa Main Library, City of Napa.

- 54) The Water Board filed a Notice of Intent to adopt a Mitigated Negative Declaration on November 16, 2012 at the State Clearinghouse and prepared a final Mitigated Negative Declaration prior to adoption of this Order.
- 55) The Water Board has considered the Mitigated Negative Declaration, as well as all comments, and finds on the basis of the whole record, available at the Water Board's office through Sandia Potter, there is no substantial evidence the Order will have a significant effect on the environment with incorporation of mitigation measures and project changes into the Order. The Mitigated Negative Declaration reflects the Water Board's independent judgment and analysis, and this Order includes a program for reporting on the mitigation measures imposed by this Order.

### **Notice**

- 56) The Water Board has notified interested agencies and persons of its intent to adopt this Order and has provided them notice of a public hearing and an opportunity to submit written comments.

### **Public Hearing**

- 57) The Water Board, in a public meeting, heard and considered all comments pertaining to this Order.

### **IT IS HEREBY ORDERED that:**

The Mitigated Negative Declaration is adopted and in order to meet the provisions contained in Division 7 of the Water Code (and regulations adopted there under) and those of the Basin Plan, the Water Board hereby conditionally waives the requirement for reports of waste discharge and waste discharge requirements for discharges of wastes from **Vineyard Properties** in the Napa River and Sonoma Creek watersheds that meet the eligibility criteria set forth below, provided there is compliance with all of the conditions and requirements of this Order.

#### **A. Eligibility for Waiver Coverage; Exclusions; Non-Applicability**

1. **Vineyards Eligible for Coverage under Conditional Waiver -**  
A **Vineyard Property** in the Napa River or Sonoma Creek watersheds that meets one of the following is eligible for coverage under this Conditional Waiver:
  - a) Contains a **Vineyard Facility** with a **Slope** less than 5 percent located on one or more parcels totaling 40 acres or more, where 5 or more acres are a planted vineyard; or
  - b) Contains a **Vineyard Facility** with a **Slope** of 5 percent or greater located on one or more parcels totaling 20 acres or more, where 5 or more acres are a planted vineyard; or
  - c) Is a **Vineyard Property** identified by Water Board staff as discharging or proposing to discharge waste that could affect water quality and the Water Board staff finds that regulation of such vineyard through this Conditional Waiver will

result in compliance with applicable water quality standards, such that regulation through individual or general WDRs is not necessary.

Vineyards meeting the above criteria are hereinafter sometimes referred to as “**Covered Vineyards.**”

2. **Vineyards Excluded from Conditional Waiver Coverage** - The following **Vineyard Facilities** are excluded from this Conditional Waiver and must submit a ROWD in accordance with California Water Code section 13260 for regulation through waste discharge requirements:
  - a) **New Vineyards** of one acre or greater, constructed after adoption of this Conditional Waiver, with vineyards planted on **Slopes** of 30 percent or greater and that have soils (mapped using the U.S. Department of Agriculture (USDA) soil classification system) with an erosion hazard rating of “high,” “very high,” or “extreme,” as determined by site-specific soils mapping; or
  - b) **Vineyard Replants** of one acre or greater where vineyard replants are located on land with Slopes of 30 percent or greater and that have soils (mapped using USDA soil classification system) with an erosion hazard rating of “high,” “very high,” or “extreme” as determined by site-specific soils mapping; or
  - c) A **Vineyard Facility, Vineyard Property, New Vineyard or Vineyard Replant**, regardless of size, slope, and soil rating, from which there is a discharge or proposed discharge of waste that the Water Board determines could affect water quality and that cannot or fails to meet the requirements of this Order to achieve compliance with water quality standards such that they are more appropriately regulated under WDRs as opposed to a conditional waiver.
  
3. **Vineyards Excluded from Conditional Waiver Coverage due to Non-Applicability of Conditional Waiver due to Stream Setbacks** -
  - a) The Water Board finds that a **Vineyard Facility** that 1) is located on **Slopes** less than five percent, and 2) contains established **Stream Setbacks** along the entire length of the Class I or Class II stream that is on, or adjacent to, the **Vineyard Facility**, are not likely to affect water quality. Therefore, **Landowners/Operators** of a **Vineyard Facility** that is in operation as of the date of adoption of this Conditional Waiver that meet these criteria may file a Notice of Non-Applicability (Attachment B) and supporting documentation by April 30, 2013.
  - b) **Landowners/Operators** of **Covered Vineyards** who obtain coverage under this Order and establish **Stream Setbacks** during the term of this Conditional Waiver may submit documentation and file a Notice of Termination (Attachment F).
  - c) Notwithstanding all of the foregoing, a **Vineyard Facility** located on **Slopes** less than five percent with an established **Stream Setback** may nevertheless be subject to regulation under Sections (A)(1)(c) or (A)(2)(c) above where the Water Board determines that the facility is not meeting water quality standards even with an established **Stream Setback**.

## **B. Scope of Coverage**

This Conditional Waiver covers discharges from **Covered Vineyards**, including **Roads on Vineyard Properties**. It also covers **New Vineyards** and **Vineyard Replants**.

## **C. Process for Obtaining Coverage**

A **Landowner/Operator** of **Covered Vineyards** may obtain coverage under this Conditional Waiver by submitting a completed Notice of Intent (NOI) (Attachment A) that indicates the **Landowner/Operator's** commitment to prepare a Farm Water Quality Plan and to satisfy all the requirements, terms and conditions of this Conditional Waiver. The NOI shall be sent to the Water Board no later than April 30, 2013, or within 60 days of acquiring ownership/control of a Covered Vineyard, to the following address:

**San Francisco Bay Regional Water Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612  
ATTN: Vineyard Waiver Program**

The **Landowner/Operator** shall also pay all required annual fees.

## **D. Conditions**

In order to receive authorization to discharge through this Conditional Waiver of WDRs in lieu of regulation through individual or general WDRs, **Landowner/Operators** of **Covered Vineyards** and **Roads** in the Napa River and Sonoma Creek watersheds shall comply with the following conditions (as well as the rest of the requirements of this Order):

### **1. Farm Water Quality Plan**

- a) The **Landowner/Operator** shall complete a Farm Water Quality Plan by April 30, 2014, or within 6 months of filing an NOI if the NOI was filed after April 30, 2013, as allowed by Section C, above. A copy of the Farm Water Quality Plan shall be kept at the **Vineyard Facility** or at a nearby location identified in the NOI and be available for review by or submitted to Water Board staff upon request. Except in cases of an unauthorized discharge or emergency circumstances, Water Board staff will typically contact **Landowners/Operators** a minimum of 72 hours prior to site inspection.
- b) The Farm Water Quality Plan shall include a copy of the NOI and all of the elements and information required in Attachment D hereto. In preparing a Farm Water Quality Plan, **Landowners/Operators** may use existing erosion control plans, integrated pest management plans, agricultural commissioner pesticide use certificates, and other available site-specific environmental documents and supplement these with additional information as needed to meet requirements for a Farm Water Quality Plan. **Landowners/Operators** are also encouraged to use available information and to work with an approved Third Party Technical Assistance Group to develop their Farm Water Quality Plans. The requirement to prepare a Farm Water Quality Plan can be satisfied by completion of a Farm Water Quality Plan prepared by Fish Friendly Farming or other Water Board-

approved Third Party Technical Assistance Group, provided that the Farm Water Quality Plan complies with all of the requirements of Attachment D.

## 2. Deadlines

Each **Landowner/Operator** shall comply with the implementation timelines proposed in the Farm Water Quality Plan. Implementation of the Farm Water Quality Plan shall begin during the timeframe of this Conditional Waiver, as indicated in Table 1, below.

**Table 1. Time Schedule for Compliance with Conditional Waiver Conditions**

CONDITIONS	DEADLINE
Submit Notice of Intent (NOI)	April 30, 2013 or Within 60 days of acquiring ownership/control of a <b>Covered Vineyard</b>
Submit Notice of Termination	Immediately, when applicable
Complete Farm Water Quality Plan	April 30, 2014 or within 6 months of acquiring ownership/control of a <b>Covered Vineyard</b>
Submit Annual Compliance Form	August 31, 2015 and annually thereafter
Implementation of <b>Vineyard Facility</b> and <b>Road</b> management practices	In accordance with the Farm Water Quality Plan

## 3. Conditional Waiver Water Quality Requirements

- a) **Landowners/Operators** of existing **Covered Vineyards** shall implement on an ongoing basis management practices identified in their Farm Water Quality Plan, to comply with the Conditional Waiver Water Quality Requirements listed in Table 2, below.
- b) **Vineyard Replants** shall be designed, constructed and managed to meet the Water Quality Requirements contained in Table 2. Compliance with Table 2 requirements may require changes to the vineyard layout, row directions, and infrastructure (such as the drainage system), and shall be implemented to meet requirements in accordance with the management practices and schedule identified in the Farm Water Quality Plan. **Vineyard Replants** shall be designed, constructed and managed so that the volume and timing of runoff discharging into creeks does not result in increased peak flows that cause the initiation of gullies or erosion at **Points of Discharge**.
- c) In addition to complying with all Conditional Waiver Water Quality Requirements listed in Table 2, **New Vineyards** shall be designed so that the volume and timing of storm runoff discharging into streams does not increase above pre-vineyard development conditions. In addition, for **New Vineyards** on **Slopes** of 5 percent or greater, **Landowners/Operators** shall document that the

**New Vineyard** will not result in measureable increases in rates of soil loss or storm runoff, over existing conditions (using a predictive hydrologic and/or soil loss model such as a TR55 or other published or peer-reviewed method consistent with the standard of care that demonstrates that the project will result in no net increase in soil loss and storm runoff). All assumptions, variables, and calculations used in the model to demonstrate no net-increase shall be documented in the Farm Water Quality Plan.

#### 4. Implementation of Management Practices

- a) The **Landowner/Operator** shall meet the Conditional Waiver Water Quality Requirements listed in Table 2 by implementing site-specific management practices that reduce pollutant discharges and runoff from **Vineyard Facilities** and **Roads** and that protect water quality. In selecting which management practices to deploy, the **Landowner/Operator** shall take into consideration the topography, proximity to water courses, vineyard layout, and general **Vineyard Facility** operation procedures.
- b) A list of example management practices and reference sources may be found in Attachment E of this Conditional Waiver.

#### 5. Required CEQA Mitigation Measures

Mitigation measures identified in the Initial Study/Mitigated Negative Declaration for this Conditional Waiver shall be implemented as follows:

##### a) Biological Resources

**Landowners/Operators** conducting road repair at streams, culvert repair, or bank stabilization shall identify all applicable regulations and obtain all required permits or agency consultations prior to initiating construction. **Landowners/Operators** shall obtain permits from the Water Board and all applicable agencies including the U.S. Army Corps, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the California Department of Fish and Game for approval.

**Landowners/Operators** must construct projects as approved in the applicable permits and implement all avoidance measures, conservation management practices or other mitigation measures stipulated in these permits or approvals.

##### b) Biological Resources

**Landowners/Operators** conducting road repair at streams, culvert repair, bank stabilization, or other activities that involve excavation, fill, or hydrologic interruption (dewatering) in federally or state-protected riparian or wetland areas, including vernal pools and marshes, shall obtain authorization from the U.S. Army Corps of Engineers in accordance with Section 404 of the Clean Water Act and shall obtain Water Quality Certification from the Water Board in accordance with Section 401 of the Clean Water Act prior to initiating construction.

**Landowners/Operators** must construct projects as approved in applicable permits and implement all avoidance measures, conservation management practices or other mitigation measures stipulated in these permits or approvals.

c) Cultural Resources

**Landowners/Operators** undertaking large-scale road repair projects that require deep excavation, erosion control management measures that involve excavation in and adjacent to stream channels or in riparian or wetlands areas, or that propose deep excavation for large detention basins that could uncover or disturb Native American artifacts shall:

- Minimize the amount (width and depth) of excavation needed to achieve the desired contour, employ road cover fill techniques and processes (burial) for roads and other sensitive areas near creeks, at the base of hills, or where archeological artifacts are known to occur.
- Conduct an archeological survey prior to construction in the area planned for construction. Following the survey, if previously unidentified cultural resources are discovered during construction, project activities in the immediate vicinity of the discovery shall be halted and the **Landowner/Operator** shall take all reasonable measures to avoid or minimize harm to the discovered resources until a qualified archeologist can assess the discovery. All artifacts shall be properly documented in place, recorded, preserved, and curated. Such actions by the **Landowner/Operator** would ensure that management practices needed to comply with the Conditional Waiver would not result in a substantial adverse change in the significance of an archaeological resource, or directly or indirectly destroy a unique archeological resource.

**6. Exclusion from Conditional Waiver Based on Impacts to Special Status Species, Habitat and Sensitive Natural Communities**

In order to be covered by this Order, **Landowners/Operators** shall:

- a) Not construct new structures or facilities (such as stormwater detention basins) on undisturbed land that contains candidate, sensitive, or special status species, habitats and sensitive natural communities identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or the U.S. Fish and Wildlife Species.
- b) To ensure compliance with (a) above, identify implementation actions that involve the construction of new structures or facilities (such as stormwater detention basins) on undisturbed land and survey such areas to ensure that they do not contain special status species, habitats and sensitive natural communities as specified above.
- c) Where undisturbed land has been determined not to contain the above sensitive species or areas, retain a California licensed professional engineer to design and oversee the construction of stormwater detention basins or similar structures so that they are properly built, sited, and sized and document this work.
- d) For **Vineyard Properties** located in the Napa River watershed, shall avoid management practices beyond the development footprint authorized by the local land use authority in any of the following natural communities within the Napa River watershed:

- Redwood forest
- Ponderosa Pint alliance
- Tanbark Oak alliance
- Oregon white oak woodland
- Mixed serpentine chaparral
- Wet meadow grasses NFD super alliance.

Locations for these sensitive natural communities and/or land-cover types in the Napa River watershed can be determined by review of the Vegetation Map of Napa County, California (Thorne et al., 2004; <http://cain.ice.ucdavis.edu/regional/napavegmap/>), the Baseline Data Report (Chapter 4, Jones & Stokes, 2005) and/or the California Natural Diversity Database (<http://www.dfg.ca.gov/biogeodata/cnddb/>).

## 7. Compliance Monitoring and Reporting

- a) **Landowner/Operator** shall annually conduct visual monitoring and site inspections of the entire **Vineyard Facility** and **Roads** to observe and document that discharge control actions listed on the Farm Water Quality Plan implementation timeline are installed and properly maintained and to verify that chosen management practices are being implemented such that Conditional Waiver Water Quality Requirements (Table 2) are being met.
- b) For **Vineyard Properties** containing streams or located adjacent to riparian areas, **Landowners/Operators** shall, on an annual basis, visually inspect the physical condition of the stream channel at or near **Points of Discharge** and at the first accessible downstream response reach location (if access is not available off-site, then inspection shall be limited to stream channel reaches on the **Vineyard Property**).

Representative photo-point locations shall be established and mapped. Baseline photographs shall document existing conditions and should be accompanied by a description of existing or past land uses, on-site and upstream, that may be or have been the cause of excess sediment delivery to channels, if applicable. Photo documentation and any associated narrative description shall be included in the Farm Water Quality Plan. Photo documentation may follow the protocol outlined in the State Water Board's Surface Water Ambient Monitoring Program (SWAMP) Stream Photo Documentation Procedure (standard Operating Procedure 4.2.1.4 provides guidance on how to visually assess and photo-document stream conditions. Annual photo-documentation shall be conducted in a manner such that it illustrates changes in creek condition and water quality and shall be accompanied by a narrative explanation of any changes in creek conditions resulting from **Vineyard Facility** operations. Photos must be maintained with the Farm Water Quality Plan.

While water quality sampling is not required to demonstrate progress towards improved water quality and achieving water quality requirements, voluntary water sampling by interested groups is encouraged. Water Board staff is available to provide technical assistance in planning and developing voluntary water sampling programs.

- c) Site readiness inspections shall be completed annually, prior to the beginning of the rainy season and shall encompass the **Vineyard Facility** and **Roads** to ensure the facility's readiness for the rainy season. **Vineyard Facility** inspection shall be conducted periodically throughout the rainy season and after storm events to confirm that management practices have functioned as designed, and to determine if additional management measures are required. A **Landowner/Operator** is not required to perform inspections during dangerous weather conditions or when a storm begins after scheduled facility operating hours.
- d) The **Landowners/Operators** shall maintain records of inspections, monitoring observations, and any responses taken to reduce potential sources of pollutants from the **Vineyard Facility** and sediment delivery from **Roads**. These records shall be maintained at the same location as the Farm Water Quality Plan. If excessive rates of erosion are observed during the inspection, the **Landowner/Operator** shall record the source and cause of erosion (based on available information), note the management practices taken to correct it, and report it in the Annual Compliance Form.
- e) The **Landowner/Operator** of **Vineyard Facilities** shall submit an electronic Annual Compliance Form to the Water Board, either individually or through an approved Third Party Technical Assistance Group (Attachment C), certifying whether their facility meets the conditions of this Conditional Waiver and that the Farm Water Quality Plan is being implemented according to all milestones and schedules.

At a minimum, Annual Compliance reporting shall include a report on the management practices implemented to meet the Conditional Waiver Water Quality Requirements (Table 2) per the milestones and schedules developed in the Farm Water Quality Plan. Annual Compliance reports shall also report on the sources and causes of erosion identified during site inspections and the management practices undertaken to correct identified sources of erosion (Section D(7)(d), above). Annual Compliance reports shall also report on compliance with the CEQA mitigation measures required by this Order.

- f) Annual Compliance Forms shall be submitted electronically within one year of completion of the Farm Water Quality Plan, and resubmitted each subsequent year no later than August 30. **Landowners/Operators** submitting annual reports through an approved Third Party Technical Assistance Group shall submit annual reports to the approved third party group no later than May 1.

**Table 2. Conditional Waiver Water Quality Requirements**

<b>Pollutant Category</b>	<b>Water Quality Objective or Sediment TMDL Performance Standard</b>	<b>Conditional Waiver Water Quality Requirements</b>
<b>Nutrients</b>	Waters shall not contain bio-stimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.	<b>Landowners/Operators</b> shall implement nutrient management practices so that fertilizers and other soil nutrients, including compost, are stored, mixed, and applied in a manner consistent with all applicable regulations, and that prevents excess nutrients <sup>1</sup> from reaching surface and groundwater.
<b>Pesticides</b>	All waters shall be maintained free of toxic substances in concentrations that are lethal to or that produce other detrimental responses in aquatic organisms	<b>Landowners/Operators</b> shall implement <b>Pesticide</b> management practices so that <b>Pesticides</b> are stored, mixed, and applied in a manner, consistent with all applicable regulations to minimize delivery of agricultural chemicals to surface and groundwater. This condition can be satisfied by compliance with California Department of Pesticide Regulation requirements, as documented by a current County Agricultural Commissioner's certificate.
<b>Surface Erosion from Vineyards</b>	Control excessive rates <sup>2</sup> of sediment delivery to channels resulting from vineyard surface erosion	<b>Landowners/Operators</b> shall implement management practices to protect soil, promote onsite water infiltration, and prevent excessive rates of sediment delivery to receiving waters. Such management practices may include establishment and maintenance of cover crop/tillage/mulch management practice that includes establishing and regularly maintaining vegetative cover on the cultivated portion of the <b>Vineyard Facility</b> during the rainy season, typically beginning on October 15 and continuing through April 15. Vegetation coverage may be mulch, stubble, volunteer plants, or vegetation planted from seed. Cover crop management practices shall, where necessary to prevent erosion, be combined with vegetated filter strips and/or structural management practices (i.e. sediment basins, straw check dams, straw wattle collars around drop inlets, etc.) as specified in the Farm Water Quality Plan to prevent delivery of sediment to receiving waters.

<sup>1</sup> Excessive nutrients are those that cause or contribute to algal blooms or otherwise adversely affect beneficial uses.

<sup>2</sup> Rates of sediment delivery are “excessive” when the predicted soil loss rate exceeds the tolerable soil loss rate (T); calculations as described in the “Universal Soil Loss Equation” or Revised Universal Soil Loss Equation (RUSLE2) (refer to Attachment E for reference and website to USLE and RUSLE2 methodology).

Pollutant Category	Water Quality Objective or Sediment TMDL Performance Standard	Conditional Waiver Water Quality Requirements
<b>Roads</b>	Road-related sediment delivery to channels less than or equal to 500 cubic yards per mile of <b>Road</b> <sup>3</sup> over the sediment TMDL implementation period	<p><b>Landowners/Operators</b> shall inventory the conditions of <b>Roads</b> on <b>Slopes</b> and implement appropriate and feasible management practices on Roads with slopes of 5 percent or greater to disconnect <b>Roads</b> from streams, such as those articulated in <i>A Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds</i> as identified in the Farm Water Quality Plan.</p> <p><b>Landowners/Operators</b> shall come up with a schedule to implement the above management practices so that not more than 25 percent of <b>Roads</b> on the <b>Vineyard Property</b> are <b>Hydrologically Connected</b> to receiving waters by the TMDLs' 20-year implementation timeframe. The percent calculation is based on <b>Road</b> length under ownership and control of the <b>Landowner/Operator</b> and does not include <b>Roads</b> that are maintained by other entities under property easement(s) or other legally binding agreements.</p>
<b>Gullies and shallow landslides (unstable areas)</b>	Accelerate natural recovery and prevent human-caused increases in sediment delivery from unstable areas	<b>Landowners/Operators</b> shall implement management practices, as identified in the Farm Water Quality Plan, to stabilize unstable areas, including gullies, mass wasting (landslides, rock fall, mudflows, etc.), and bank erosion that are the result of past or current <b>Roads</b> and vineyard operations on the <b>Vineyard Property</b> . Stabilization actions shall promote natural recovery or active stabilization of these erosional features to prevent additional erosion and/or minimize sediment delivery to receiving waters.
<b>Storm runoff</b>	Effectively attenuate significant increase in storm runoff, so that runoff from vineyards shall not cause or contribute to downstream increases in rates of bank or bed erosion	In addition to complying with measures to control surface erosion from <b>Vineyard Facilities, Roads</b> , and unstable areas, <b>Landowners/Operators</b> shall implement management practices to slow, sink, spread and otherwise reduce storm runoff, as specified in the Farm Water Quality Plan. Example management practices include constructing detention basins, disconnecting tile drains, and/or re-establishing native vegetative cover to reduce storm runoff. The management practices shall ensure that storm runoff flow rates (volume, velocity, and duration) do not result in active erosion at <b>Points of Discharge</b> and storm runoff does not contribute to an increase in the rate of bed and bank erosion at the furthest downstream channel reach located on the <b>Vineyard Property</b> , as evidenced by active channel incision, channel head cutting, failing channel banks, or undercutting of tree roots or man-made structures. Where there is evidence of downstream channel incision, the Water Board may require that a <b>Landowner/Operator</b> provide additional monitoring or documentation of storm runoff to evaluate the <b>Vineyard Facilities and Roads</b> contribution to downstream rates of bed and bank erosion.

<sup>3</sup> Reducing the length of **Hydrologically Connected Roads** by half will meet Napa River and Sonoma Creek sediment TMDL sediment reduction goals and numeric performance standard.

## 8. Third-Party Program

If a third party technical assistance program is developed, the third party entity must be approved by the Executive Officer in accordance with Attachment C.

## 9. Termination Procedures

### a) Noncompliance with the Conditional Waiver

The **Landowner/Operator** shall file ROWD after receiving notice from the Water Board that its facility no longer qualifies for coverage under this Conditional Waiver due to failure to comply with its terms, conditions, and requirements. Failure to do so may result in unauthorized discharges in violation of the Porter-Cologne Water Quality Control Act. The ROWD shall be submitted with the applicable filing fee. Discharges that could affect the quality of the waters of the State may commence only in accordance with CWC section 13264 (a).

### b) Changes of Control or Ownership of Land

In the event of any change in control or ownership of land, the **Landowner/Operator** shall immediately submit a Notice of Termination (Attachment F) to the Water Board in order for the original **Landowner/Operator** to be relieved of his/her responsibility to comply with this Conditional Waiver. The succeeding **Landowner/Operator** may obtain coverage under this Conditional Waiver if he or she qualifies for coverage and shall submit an NOI within 60-days of assuming control or ownership of the land, to avoid discharging without authorization.

### c) Vineyards with Slopes Less than 5 Percent with Newly Established Stream Setbacks

**Landowner/Operator of Vineyard Facilities** located on **Slopes** of less than 5 percent that establish **Stream Setbacks** meeting the criteria set forth in Section D(11) may submit a Notice of Termination to the Water Board. The notice shall include photo documentation of the **Stream Setbacks**. Upon Water Board receipt of the Notice of Termination and Water Board staff verification of established **Stream Setbacks**, the **Landowner/Operator** of the **Vineyard Facility** will no longer be required to be covered under this Conditional Waiver, pursuant to Section A(3).

## 10. Failure to Comply with Terms and Conditions of this Conditional Waiver

**Landowners/Operators** who fail to comply with the terms, conditions, and requirements of this Conditional Waiver are subject to enforcement action consistent with the State Water Board's Enforcement Policy. The Water Board will consider the **Landowner/Operator's** history of compliance and violations as well as other factors set forth in the Enforcement Policy in determining potential enforcement actions. As specified in Section D(9), above, the Water Board may terminate coverage under this Conditional Waiver, require the **Landowner/Operator** to submit a ROWD, and comply with the Water Code pursuant to individual WDRs (CWC section 13263).

## 11. Definitions

For purposes of this Conditional Waiver the following terms are defined:

**Covered Vineyard.** Vineyards in the Napa River and Sonoma Creek watersheds meeting the eligibility criteria (set forth in “Eligibility for Coverage” above) for coverage under this Conditional Waiver.

**Hydrologically Connected.** Refers to a **Road** section that generates or receives runoff or overland flow from **Road** surfaces, cut slopes, or fill slopes and flows to the stream network (such as where inboard ditches convey **Road** runoff to stream channels). These **Roads** discharge to receiving waters.

**New Vineyard.** Grading and planting of a **Vineyard Facility** on land that has not previously been planted with grapevines, or land that has been fallow for a period of time and for which approval for replanting has not been obtained from the local jurisdiction.

**Pesticides.** Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. Pests can be insects, mice and other animals, unwanted plants (weeds), fungi, or micro-organisms like bacteria and viruses. The term pesticide also applies to herbicides, fungicides, and various other substances used to control pests. Under United States law, a pesticide is also any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

**Point(s) of Discharge.** **Point(s) of Discharge** include all locations where storm runoff is discharged via concentrated surface flow into a defined channel that has a bed and banks. Also, at locations where engineered drainage has been installed and storm runoff is collected first (e.g., subsurface drainage pipes or tiles in a vineyard block, an inboard ditch along a **Road**, etc.), a **Point of Discharge** is located at the outlet of the engineered drainage feature, whether that location is on a hill slope or in a defined channel.

**Roads.** **Roads** include (1) access routes through a vineyard that are graded to accommodate vehicular traffic (farmed areas between grape vine rows are excluded from this definition); (2) roads that provide access to **Vineyard Facilities** from other parts of the **Vineyard Property**; and (3) roads that serve, or once served, other uses on the **Vineyard Property**. For the purposes of this Conditional Waiver, only roads that are under ownership and control of the **Landowner/Operator** are included (do not include roads that are maintained by other entities under property easement(s) or other legally binding agreements).

**Slope.** The inclination of the terrain calculated in accordance with the methodology set forth in county agricultural or land use regulation of the applicable county.

**Stream Setback.** An area of land adjacent to a stream where no agricultural cultivation, **Roads**, or structures (excluding wells or pumping facilities) are located and which is managed in such a way as to promote the growth of predominately native vegetation. The setback area must satisfy all of the following criteria: (a) the vegetation in the **Stream Setback** area shall be of sufficient maturity and density to support water quality beneficial uses; (b) the **Vineyard Facility Points of Discharge** must be located outside and upland from the **Stream Setback** area; and (c) the distance of the setback area must comply with applicable local regulations or where no local regulations exist, 45 feet. The **Stream Setback** shall be measured from the top-of-bank (based on geomorphic observation of distinct break-in-slope)

to a point, upland and away from the top-of-bank in accordance with applicable stream setbacks requirements established in general plan goals and policies, ordinances, or regulation within the local jurisdiction in which the **Vineyard Facility** is located (where no local regulation exists, the **Stream Setback** distance shall be 45 feet measured from top of the channel bank) or be measured from the drip-line of the existing riparian tree canopy, whichever is greater. Exceptions to the **Stream Setback** distance may be allowed by the Water Board Executive Officer, on a case-by-case basis, if he finds equivalent water quality and habitat protection can be achieved by smaller setback distances. For example, historical ecology information may indicate that natural riparian conditions did not support the required setback and yet provided equivalent protection. Similarly, site topography, hydrology or groundwater conditions may not allow for the required setback and yet provide equivalent water quality and habitat protections.

**Vineyard Property.** One or more parcels of land in Napa or Sonoma Counties containing, in whole or in part, a **Vineyard Facility**.

**Vineyard Facility.** The 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. **Vineyard Facilities** include existing and **New Vineyards**, as well as **Vineyard Replants**.

**Vineyard Replant.** The removal of one acre or more of grapevines at an existing **Vineyard Facility** and replanting of new grapevines in the same area, or a portion of the original vineyard block footprint. A **Vineyard Replant** may include changes to vineyard layout and commonly includes removal and replacement of infrastructure, such as drainage facilities.



<p>A. Total Vineyard Property Parcel(s) Size: _____acres</p> <p>B. Total area planted in grapes: _____acres</p> <p>C. Slope (as defined by the Conditional Waiver): _____%</p> <p>D. Nearest Receiving water:</p>	<p>E. Farm Water Quality Plan Technical Contact:</p> <p>1. Person with custody of the Farm Water Quality Plan Name: _____</p> <p>Phone No: _____</p> <p>Alternate Phone No.: _____</p> <p>2. Location of Farm Water Quality Plan : Address/Assessor Parcel Number (APN) and building name or number: _____ _____ _____ Or other nearby location of Farm Plan : _____</p>	<p>F. Farm Water Quality Plan Completion: (check one and complete Section )</p> <p>1. <input type="checkbox"/> Developing a Farm Water Quality Plan that will be complete by: April 30, 2014 (Complete Section V (A), below)</p> <p>2. <input type="checkbox"/> Farm Water Quality Plan complete but still implementing management practices for <b>Vineyard Facilities and Roads</b> in accordance with a time scheduled identified in the Farm Water Quality Plan (Complete Section V (B), below)</p> <p>3. <input type="checkbox"/> Farm Water Quality Plan complete and all management practices have been implemented. <b>Vineyard Facility and Roads</b> meet Conditional Waiver Water Quality Requirements (Complete Section V (C), below)</p>
---	--	---

**SECTION IV. ADDRESS FOR CORRESPONDENCE**

<p>Send Correspondence to <input type="checkbox"/> Facility Operator Mailing Address (Section I) <input type="checkbox"/> Landowner Mailing Address (Section II)</p>
--

**SECTION V. STATUS OF IMPLEMENTATION OF WAIVER OF WDRs CONDITIONS**

<p>A. FARM WATER QUALITY PLAN HAS NOT BEEN PREPARED (check if true)</p> <p><input type="checkbox"/> Developing a Farm Plan that will be complete by: April 30, 2014</p> <p>Farm Water Quality Plan technical assistance is being or will be provided: (check all that apply and indicate technical assistance, if other than <b>Landowner/Operator</b>):</p> <p><input type="checkbox"/> Individual: _____</p> <p><input type="checkbox"/> Approved Third Party Group: _____</p> <p><input type="checkbox"/> Other (identify) _____</p> <hr/> <p>B. FARM WATER QUALITY PLAN HAS BEEN PREPARED, STILL IMPLEMENTING IMPROVEMENTS (check if true)</p> <p><input type="checkbox"/> A Farm Water Quality Plan and its associated schedule for implementation have been prepared and are maintained on site. Farm Water Quality Plan technical assistance: (check all that apply and indicate technical assistance, if other than <b>Landowner/Operator</b>):</p> <p><input type="checkbox"/> Individual: _____</p> <p><input type="checkbox"/> Approved Third Party Group: _____</p> <p><input type="checkbox"/> Other (identify) _____</p> <p><input type="checkbox"/> Farm Water Quality Plan is certified by an approved Third-Party Group (Date of certification: _____)</p> <hr/>
---

C. A FARM WATER QUALITY PLAN HAS BEEN PREPARED AND ALL MANAGEMENT PRACTICES IMPLEMENTED (check if true)

All Farm Water Quality Plan management practices have been fully implemented and **Vineyard Facilities** and **Roads** comply with Conditional Waiver Water Quality Requirements in Table 2.

Farm Water Quality Plan technical assistance: (check all that apply and indicate technical assistance, if other than **Landowner/Operator**):

Individual: \_\_\_\_\_

Approved Third Party Group: \_\_\_\_\_

Other: \_\_\_\_\_

Farm Water Quality Plan is certified by an approved Third-Party Group (Date of certification: \_\_\_\_\_)

Grant funding provided by federal, state or local agencies or organizations were used to implement management practices (if yes, please list below):

\_\_\_\_\_  
\_\_\_\_\_

#### SECTION VI. LANDOWNER NOTIFICATION

If the Facility Operator is not the owner of the facility, the Operator must certify that the Landowner has been notified of this Conditional Waiver and its requirements.

Operator's Printed Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

#### SECTION VII. CERTIFICATION

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines. In addition, I certify that the **Covered Vineyard** will comply with the provisions of the waiver, including the implementation of a Farm Water Quality Plan."

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

# ATTACHMENT B

## NOTICE OF NON-APPLICABILITY

To inform the Water Board that the Conditional Waiver of Waste Discharge Requirements for Discharges from Vineyard Properties in the Napa River and Sonoma Creek Watersheds is not applicable to the facility identified in this form

**Signed forms must be submitted to:**

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

1515 Clay Street, Suite 1400

Oakland, CA 94612

ATTN: Vineyard Waiver Program

### SECTION I. FACILITY OPERATOR INFORMATION

Name:		Contact E-mail:
Mailing Address:		
City:	State: CA	Zip Code:
Name of Contact Person:		Contact Phone:

### SECTION II. LANDOWNER INFORMATION (IF OPERATOR IS NOT THE OWNER)

Name:		Contact E-mail:
Mailing Address:		
City:	State:	Zip Code:
Name of Contact Person:		Contact Phone:

### SECTION III. FACILITY INFORMATION

A. Facility Name:		County:
Mailing Address:		Contact E-mail:
City:	State: CA	Zip Code:
Name of Contact Person:		Contact Phone:
Facility County Assessor's Parcel Number		

A. Total Vineyard Property Parcel(s) Size: _____ acres	C. <b>Slope</b> (as defined by the Conditional Waiver): _____ %
B. Total area planted in grapes: _____ acres	D. Name of nearest receiving water: _____

<b>Documentation of Established Stream Setbacks</b>	<p><b>Stream Setback</b> Definition:          An area of land adjacent to a stream where no agricultural cultivation, <b>Roads</b>, or structures (excluding wells or pumping facilities) are located and which is managed in such a way as to promote the growth of predominately native vegetation. The setback area must satisfy all of the following criteria: (a) the vegetation in the <b>Stream Setback</b> area shall be of sufficient maturity and density to support water quality beneficial uses; (b) the <b>Vineyard Facility Points of Discharge</b> must be located outside and upland from the <b>Stream Setback</b> area; and (c) the distance of the setback area must comply with applicable local regulations or where no local regulations exist, 45 feet. The <b>Stream Setback</b> shall be measured from the top-of-bank (based on geomorphic observation of distinct break-in-slope) to a point, upland and away from the top-of-bank in accordance with applicable stream setbacks requirements established in general plan goals and policies, ordinances, or regulation within the local jurisdiction in which the <b>Vineyard Facility</b> is located (where no local regulation exists, the <b>Stream Setback</b> distance shall be 45 feet measured from top of the channel bank) or be measured from the drip-line of the existing riparian tree canopy, whichever is greater. Exceptions to the <b>Stream Setback</b> distance may be allowed by Water Board staff, on a case-by-case basis, if they find equivalent water quality and habitat protection can be achieved by smaller setback distances. For example, historical ecology information may indicate that natural riparian conditions did not support the required setback and yet provided equivalent protection. Similarly, site topography, hydrology or groundwater conditions may not allow for the required setback and yet provide equivalent water quality and habitat protections.</p> <p>A. <b>Stream Setback</b> measurement is established in accordance with regulations of the following local jurisdiction:</p> <p> <input type="checkbox"/> Napa County              <input type="checkbox"/> Sonoma County              <input type="checkbox"/> City of Calistoga              <input type="checkbox"/> City of Napa  <input type="checkbox"/> City of Sonoma              <input type="checkbox"/> City of St. Helena              <input type="checkbox"/> City of Yountville  <input type="checkbox"/> Other: _____         </p> <p>No cultivated land, <b>Roads</b>, or structures are located within the established <b>Stream Setback</b>. The minimum <b>Stream Setback</b> distance as measured in accordance with the Conditional Waiver is:          _____ feet as measured          from: _____</p> <p>B. Documentation of the quality of <b>Stream Setbacks</b> (attach photo documentation)  <input type="checkbox"/> The <b>Stream Setback</b> meets, and is managed to in accordance with, the criteria established in the <b>Stream Setback</b> definition, above.</p>
---	---

**SECTION IV. BASIS OF NON-APPLICABILITY**

<p><b>STREAM SETBACKS ESTABLISHED</b> (check if true)</p> <p><input type="checkbox"/> This <b>Vineyard Facility</b> is located on land with <b>Slopes</b> less than 5 percent and has established <b>Stream Setbacks</b> as defined in the Conditional Waiver</p>
---

**SECTION V. LANDOWNER NOTIFICATION**

<p>If the Facility Operator is not the owner of the facility, the Operator must certify that the Landowner has been notified of this Conditional Waiver and its requirements.</p> <p>Operator's Printed Name: _____ Signature: _____</p> <p>Title: _____ Date: _____</p>
--

**SECTION VI. CERTIFICATION**

"I certify under penalty of law that this document and attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines."

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



## ATTACHMENT C Agricultural Third-Party Technical Assistance Groups Approval Process



### Third Party Groups and Water Quality

**The San Francisco Bay Regional Water Quality Control Board (Water Board) supports a variety of third-party groups, such as Resource Conservation Districts, Natural Resource Conservation Service, UC Cooperative Extension, watershed groups, and non-profit groups, to assist land managers in achieving compliance with regulatory programs. Approved groups will use local expertise to work with regulated entities such as owners and operators of vineyards and grazing lands to develop and implement farm/ranch plans that will reduce pollutants in creeks and streams.**

The work of these groups is often made possible through federal, State and local grant programs. Many of the partnerships formed to assist ranchers and farmers have developed into comprehensive programs that make significant contributions to nonpoint source pollution prevention and land restoration efforts.

The Water Board encourages the development of third party agricultural technical assistance programs to assist dischargers in complying with regulatory requirements, such as conditional waivers of Waste Discharge Requirements (Conditional Waivers), and to assist in the implementation of projects to assure that actions have been taken to reduce nonpoint source pollution.

#### **Role of Approved Third Party Groups**

Technical assistance groups may help land managers to comply with requirements of approved Conditional Waivers, by assisting in:

- Completing the Notice of Intent to Comply with a regulatory program such as a waiver of waste discharge requirements
- Preparing Farm/Ranch Water Quality Plans that identify, plan, and schedule effective management practices to control nonpoint source pollution associated with agriculture, livestock management and roads
- Completing and submitting annual compliance forms, either individually or as part of group reporting

Third party groups may assist landowners or groups of landowners with applications for grants or other financial assistance that will promote nonpoint source pollution control. Individual dischargers (e.g. ranchers, farmers, and vineyard operators) are responsible for being in compliance with waivers or permits applicable to their agricultural operation.

## Who May Be Approved as a Third Party Group?

Groups may differentiate themselves in many ways: regionally, sub-regionally, by watershed, discharge characteristics, discharger community type, or through participation in a publicly or privately developed program.

In order to be approved, groups must demonstrate both technical ability to work with regulated entities, and experience in developing and implementing non-point source pollution control programs.

### Groups that may apply

- Local public agencies
- Resource Conservation Districts
- Natural Resource Conservation Service
- UC Cooperative Extension
- Non-profit organizations
- Water quality coalitions or other watershed groups
- At a minimum, one of the staff or consultants of a third party group must be a California registered professional in a discipline associated with erosion and sediment control (professional engineer, licensed geologist, or certified professional in erosion and sediment control) and be available to provide appropriate technical input and review as needed.
- Groups and individuals providing third party technical assistance must provide objective input for farm/ranch planning and non-point source pollution control.



### Groups that may not apply

- Entities that own or operate agricultural land under Water Board permitting and enforcement jurisdiction (except those who operate a vineyard primarily for public education, research, or demonstration purposes).
- Entities or individuals that have a conflict of interest. A conflict of interest is a situation in which financial or other personal considerations have the potential to compromise or bias professional judgment and objectivity in preparing, reviewing, or certifying a farm Water Quality Plan. An individual is considered to have a financial conflict of interest if they have a financial stake/interest in the facility for which they are providing technical assistance. Entities that collect fees from program participants to sustain or administer third party technical assistance programs or assist with State Water Board fee collection are not considered to have a financial conflict of interest.

## Preparing a Request for Approval as a Third Party Technical Assistance Group

In order to be approved by the Water Board Executive Officer as a third party agricultural technical assistance group, entities must prepare documents that include the information described below. Water Board staff are available to provide technical and regulatory input to interested groups as they develop required materials.

To be approved, each request must include all of the following elements:

- Farm/ranch plan assistance materials developed with input from Water Board staff, technical professionals and/or academics, and growers who have experience and knowledge of agricultural management practices. Materials must be comprehensive enough to ensure that implementation of plans will satisfy the appropriate regulatory requirements to protect water quality and beneficial uses.
- Documentation showing that submitted assistance materials have been developed collaboratively with Water Board staff, technical experts, other agency staff, and landowners and growers.
- Description of a process (workshops/training, site visits, outreach, etc.) for using the assistance materials to assist farmers and ranchers in developing complete and accurate farm/ranch plans. An effective third party group shall have staff or contractors who have the appropriate professional

licenses or certifications, technical expertise, or academic training in disciplines associated with preparing farm/ranch plans.

- Description of a process for confirming that farm/ranch plans are complete and that program participants are implementing management practices as scheduled. This should include:
  - A reliable tracking process for ensuring that farmers/ranchers are on schedule to implement management practices identified in their farm/ranch plans, by the deadlines contained in the plan and consistent with applicable Conditional Waivers approved by the Water Board.
  - A plan for evaluation (by site inspection or farm plan audit) of a percentage of farm/ranch participants and their implementation actions each year. The evaluation program must include a plan to evaluate all participants over the term of the waiver.

### **Submitting a Request for Water Board Approval**

Interested third party groups should submit requests for approval that include the elements listed above. The Water Board's Executive Officer will review each request and may:

- Approve the request
- Notify the group that the application package is incomplete and identify what additional information is necessary to complete the submittal, or
- Disapprove the request. In this case, staff will provide a written summary identifying deficiencies in the farm/ranch plan assistance materials and modifications necessary to obtain approval.

Following approval of the request, electronic copies of the recognized third-party group's farm/ranch plan assistance materials will be available to the public upon request.

Water Board staff will periodically review a third party group's performance to ensure that adequate farm/ranch water quality plans are consistently being prepared by all regulated entities. The Executive Officer may terminate its approval of a third party group if Water Board requirements are not being met.

A request for approval must be submitted electronically to Sandi Potter or Rico Duazo at the email addresses provided below.

#### **San Francisco Bay Water Board Contacts:**

**Ranch Planning:**

Rico Duazo  
510-622-2340  
[RDuazo@waterboards.ca.gov](mailto:RDuazo@waterboards.ca.gov)

**Executive Officer**

Bruce Wolfe  
S.F. Bay Regional Water Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612  
[BWolfe@waterboards.ca.gov](mailto:BWolfe@waterboards.ca.gov)

**Vineyard Planning:**

Sandi Potter  
510-622-2426  
[Smpotter@waterboards.ca.gov](mailto:Smpotter@waterboards.ca.gov)

### **Nonpoint Source Policy**

The State Water Resources Control Board's Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program adopted on May 20, 2004 (NPS Policy) requires regulation of nonpoint source pollution in California through Waste Discharge Requirements (WDRs), WDR waiver programs, or discharge prohibitions. The NPS Policy specifically allows for third party groups or coalitions of dischargers to work collaboratively to improve water quality and allows the Regional Water Board to evaluate groups' program. Each proposed program will be judged individually on its merits, including the program's potential to result in prevention or control of discharges of nonpoint sources of pollution.

The Water Board currently has established relationships with groups who assist in implementing Conditional Waiver programs in the Tomales Bay, Napa River, and Sonoma Creek watersheds. The Water Board has adopted a vineyard waiver for the Napa River and Sonoma Creek watersheds and encourages the formation of third party groups to assist farmers and ranchers in filing required forms and preparing farm/ranch water quality plans.

## ATTACHMENT D

### Farm Water Quality Plan Requirements

The Farm Water Quality Plan shall include a comprehensive inventory and assessment of agricultural lands, **Roads**, and vineyard management practices at the **Vineyard Property**. This inventory and assessment is intended to document existing management practices, and to guide a strategy for implementing additional management practices and projects, as necessary, that are designed to meet Conditional Waiver Water Quality Requirements (see Table 2). Management practices and implementation projects must address all sources of pollutants related to **Vineyard Facilities** and **Roads**, including: surface erosion and excessive runoff from vineyards and **Roads**; chemical and fertilizer applications; and sediment delivery from unstable areas such as gullies, rills, ditches, creeks, river channels, and landslides. A Farm Water Quality Plan shall address each of the elements as set forth below.

A copy of the Farm Water Quality Plan shall be kept at the **Vineyard Facility** or nearby location identified in the Notice of Intent (NOI) and be available for review by Water Board staff upon request. Except in cases of an unauthorized discharge or emergency circumstances, Water Board staff will typically contact **Landowners/Operators** a minimum of 72 hours prior to any site inspection. Only Water Board staff, other authorized agency staff, or individuals authorized by the **Landowner/Operator** will inspect the **Vineyard Facility** and **Roads**.

The Farm Water Quality Plan, at a minimum, shall include a copy of the NOI and contain the following elements, as described below: General Site Features; Vineyard Management Practices; Surface Erosion; **Road** Management; Stormwater Runoff Management; Gullies and Shallow Landslides; Stream and Riparian; and Schedule of Compliance and Monitoring. The Water Board acknowledges that many **Landowners/Operators** have effectively implemented actions to control erosion and reduce other non-point source pollutants. In preparing a Farm Water Quality Plan, **Landowners/Operators** are encouraged to build on these existing efforts and to supplement any existing documentation of these efforts with additional information as needed to meet the requirements for a Farm Water Quality Plan and the Conditional Waiver Water Quality Requirements. A **Landowner/Operator** may include county-approved erosion control plans, integrated pest management (IPM) plans, agricultural commissioner pesticide use certificates, and any available site-specific environmental documents and supplement them as necessary to meet the requirements herein. In addition, **Landowners/Operators** participating in reach-wide creek restoration projects, such as the Rutherford reach and Oakville to Oak Knoll reaches in Napa Valley, and on Carriger and Nathanson creeks in Sonoma Valley, should describe their level of participation in the Farm Water Quality Plan.

## 1. General Site Features Element

The Farm Water Quality Plan shall include a summary that outlines general conditions at the **Vineyard Facility and Roads**; list major sediment sources,<sup>1</sup> if any; identify existing management practices or projects; a list of already completed erosion-control projects; and a time-schedule to implement any additional management practices and erosion control projects necessary to meet the Conditional Waiver Water Quality Requirements (see Table 2).

The Farm Water Quality Plan shall include map(s) of the **Vineyard Property** map, aerial photo, or adequate Google Earth image, on a 1:12,000 scale and include:

- a. Property boundaries.
- b. Topography (clearly indicating areas with **Slope** <5% and areas with **Slope** >30%).
- c. Soil type(s) indicate erosion hazard rating.
- d. Drainage features including all streams (including but not limited to all Class I, II, and III drainages (as defined below), rivers, lakes, wetlands, stock ponds, and riparian areas, noting the width. For drainage features within the **Vineyard Facility and Roads** include the width, density, and type of riparian vegetation cover.
- e. General description of erosion features on the **Vineyard Property**, such as gullies, rills, landslides, mudflows, rock falls, bank erosion, or channel incision. Erosion features within the **Vineyard Facility and Roads** will be clearly identified.
- f. Any known barriers to fish migration or other instream structures that may affect stream morphology or cause erosion.
- g. Vineyard block layout and type (grid, terraces, up/down slope grid, contour).
- h. Vineyard areas including drainage systems and networks (location of all storm runoff inlets and outlets).
- i. Runoff facilities within the **Vineyard Facility and Roads** (including detention basins, ponds, etc., if any).
- j. **Roads**, road surface material (dirt, gravel, paved), and stream crossings.
- k. Location of **Pesticide** and fertilizer mixing and storage facilities, if any.
- l. Other land uses on the **Vineyard Property** (grazing land, winery, other non-vineyard uses).
- m. Areas under consideration for **New Vineyard** or a **Vineyard Replant**.

More than one map may be used to display the above information. A more detailed map (scale of 1 in. = 500 ft.) may be needed to accurately depict stream channels, riparian corridors, or other smaller scale features.

## 2. Vineyard Management Practices Element

The Farm Water Quality Plan shall describe the management practices that will be, or are being implemented, at existing Vineyard Facilities and planned New Vineyards and Vineyard Replants, to conserve soil and prevent erosion, including measures needed to prevent erosion resulting from increases in concentrated flow as identified in Table 2 (Conditional Waiver Water Quality Requirements).

The Farm Water Quality Plan must identify vineyard water quality management practices currently implemented at the Vineyard Facility and describe the following:

- a. Soil type (s), Slopes, and erosion hazard rating as needed to inform vineyard management decisions and to understand the types and scope of erosion control needs.
- b. Suspected causes of erosional features identified at the Vineyard Facility and Roads (e.g., erosive flow from a culvert, vegetation removal, diversion/concentration of runoff, etc.), if any.
- c. Controllable sources of nutrients, pesticides, sediment, and other pollutants, including type, amount, and usage pattern of fertilizers and pesticides (existing IPM plan or agricultural commissioner pesticide use certificate may be included in the Farm Water Quality Plan to satisfy this requirement).
- d. Management practices and infrastructure that promote and maximize infiltration on-site to reduce erosion and to prevent increase in stormwater peak flows.
- e. Baseline photographs to document existing conditions at the Vineyard Facility including established photo-points at points at the following location if any exist: Points of Discharge in receiving waters; significant erosional features for which actions will be prescribed in the Farm Water Quality Plan; and locations of other sources of pollutants. These photo-points will be photographed annually as part of monitoring requirements.
- f. Determination of whether all existing or planned management practices (including but not limited to those described below) are (1) correctly installed, (2) appropriately located given site conditions ; (3) working as designed/planned; and (4) properly maintained in such a way as to meet the Conditional Waiver Water Quality Requirements (see Table 2).

The Farm Water Quality Plan must also identify vineyard water quality management practices proposed to be implemented at the **Vineyard Facility** to bring the **Vineyard Facility** into compliance with the Table 2 Water Quality Requirements. For all proposed management practices, **Landowners/Operators** shall comply with the Conditional Waiver Section D(5)'s CEQA mitigation measures. In addition, in order to be covered under the Conditional Waiver, **Landowners/Operators** must comply with Section D(6) of the Conditional Waiver and avoid proposed structures or facilities on undisturbed land that may contain candidate, sensitive and special status species and sensitive natural communities

### 3. Surface Erosion Element

As described above, and in the **Road** management and Stormwater Runoff Element below, the Farm Water Quality Plan shall describe management practices to protect soil, promote on site water infiltration, and prevent excessive rates of sediment delivery (such as cover crop/tillage/mulch practices) and document that these management practices are being properly implemented to meet the Conditional Waiver Water Quality Requirements (Table 2) to reduce excess rates of sediment delivery to receiving waters. Attachment E (Table E-1) provides a list of examples of predictive hydrologic and soil loss models that can be used to evaluate excessive soil loss. The **Landowners/Operators** may include a county-approved erosion control plan in this element of the Farm Water Quality Plan, provided that erosion control measures implement meet the Conditional Waiver Water Quality Requirements (Table 2).

In addition, for **New Vineyards** on Slopes of 5 percent or greater, the **Landowner/Operator** shall document that the New Vineyard will not result in measureable increases in rates of soil loss or storm runoff, over existing conditions (using a predictive hydrologic and/or soil loss model such as a TR55 or other published or peer-reviewed method consistent with the standard of care that demonstrates that the project will result in no net increase in soil loss and storm runoff). All assumptions, variables, and calculations used in the model to demonstrate no net-increase shall be documented in the Farm Water Quality Plan.

#### **4. Road Management Element**

The Farm Water Quality Plan shall describe the **Roads**, and shall assess current **Road** management practices. The Farm Water Quality Plan shall include:

- a. Description of Roads, including identification of Roads on Slopes of 5 percent or greater; quantification of the percentage of roadway length that is Hydrologically Connected to receiving waters; and identification of any Roads that are outside the control of the Landowner/Operator. The Farm Water Quality Plan shall identify the entity, other than Landowner/Operator, that has responsibility for the road and shall indicate if this obligation is through easement or other legal agreement.
- b. Description of and current Road management and maintenance practices at stream crossings, including an evaluation of the condition and capacity of culverts at road and stream crossings.
- c. Identification of areas where active restoration or Road removal has already occurred.
- d. Description of Road management actions to prevent runoff from being concentrated or directed onto unstable areas or concentrated directly to receiving waters.
- e. A schedule for implementation of Road erosion control and prevention management practices that will disconnect Roads from receiving waters and to reduce the amount of sediment and peak stormwater flow (management practices may include installation of water bars, rolling dips, culvert replacement as described in Attachment E). The schedule shall be such that not more than 25 percent of the qualifying Road lengths remain Hydrologically Connected to receiving waters by the deadlines set in the Napa River and Sonoma Creek sediment TMDLs, which are 2029 and 2028, respectively.
- f. Documentation of actions commenced to disconnect Roads from receiving waters in accordance with the above schedule.

#### **5. Stormwater Runoff Management Element**

In addition to management measures to reduce erosion from **Vineyard Facilities, Roads**, and unstable areas, the Farm Water Quality Plan shall demonstrate how stormwater runoff is being managed so as to prevent erosion and to reduce concentration of flow from the **Vineyard Facilities and Roads** to meet the Conditional Waiver Water Quality Requirements (Table 2). The Farm Water Quality Plan shall:

- a. Depict runoff flow patterns, including areas where runoff will be infiltrated, detained, and discharged via sheet flow and via a drainage system into the receiving waters.

- b. Evaluate storm water management at the Vineyard Facility and from Roads, and specify management actions needed to correct areas where concentrated flow is, or has the potential to cause or contribute to erosion, sediment delivery to channels, or increased peak flows and resulting downstream channel incision. The Farm Water Quality Plan shall include a description of bed and bank erosion at the furthest downstream response reach on the Vineyard Property, if any, and specify management actions to address such erosion.
- c. Describe erosion features, if any, at Points of Discharge and specify management actions to address such erosion.
- d. For New Vineyards, the Plan shall document compliance with the Conditional Waiver's requirements for New Vineyards in Section (D)(3)(c), including the requirement that the volume and timing of runoff discharging into streams does not increase above pre-vineyard development conditions.
- e. For Vineyard Replants, the Plan shall document compliance with Conditional Waiver Section (D)(3)(b) and the Water Quality Requirements in Table 2. The Plan shall document any modifications to vineyard layout, row direction, and drainage systems made or to be made to comply with the Conditional Waiver.

## **6. Gullies and Shallow Landslides Element**

Unstable areas, such as gullies, rills, landslides, mudflows, rock falls, and channel erosion are significant sources of sediment. Where they exist, the Farm Water Quality Plan shall:

- a. Describe the location of erosional features including gullies, rills, landslides, mudflows, and channel erosion that have the potential to deliver more than 10 cubic yards (as defined above) of sediment to the channel that are a result of past or current Road and vineyard operations on the Vineyard Property.
- b. Identify and implement management practices needed to promote natural recovery or to actively stabilize unstable areas and to minimize increases in sediment delivery to receiving waters, including actions to disburse runoff causing or contributing to gullies and other erosional features.
- c. Indicate areas where active restoration of gullies, shallow landslides, or other unstable areas has already occurred.

## **7. Stream and Riparian Element**

Streams include all Class I, II or III streams as defined by State Water Resources Control Board's [\*Policy for Maintaining Instream Flows in Northern California Coastal Streams \(2010\)\*](#) as follows:

- Class I: Fish are always or seasonally present, either currently or historically; and habitat to sustain fish exists.
- Class II: Seasonal or year-round habitat exists for aquatic non-fish vertebrates and/or aquatic benthic macroinvertebrates.

- Class III: An intermittent or ephemeral stream exists that has a defined channel with a defined bank (slope break) that shows evidence of periodic scour and sediment transport.

A Farm Water Quality Plan for Vineyard Properties that contain or abut a stream or riparian area shall to include the following descriptive information:

- a. The condition of channel and riparian areas, such as the general condition of stream channel and evidence of erosion of bed and banks (as indicated by active channel incision, channel head cutting, failing channel banks, or undercutting of tree roots or manmade structures); and whether there are visually observable water quality problems such as excessive algae.
- b. Management practices being implemented to accommodate the establishment of native woody plants and native trees to provide shade, stabilize stream banks, and provide other water quality benefits.
- c. The location and dimensions of Stream Setbacks from Vineyard Facilities and Roads. Status of compliance with applicable county or city stream protection policies and regulations. Describe plans to establish additional Stream Setbacks.

## **8. Schedule and Compliance Monitoring Element**

The Farm Water Quality Plan shall include a schedule for implementation of management practices as needed to meet the Conditional Waiver Water Quality Requirements. Where a **Covered Vineyard** is not currently in compliance with the Conditional Waiver Water Quality Requirements (Table 2), the Farm Water Quality Plan shall propose a schedule with milestones that specifies a reasonable timeline for implementing management practices and other actions specified in the Farm Water Quality Plan and in compliance with Table 2. The Water Board may review Farm Water Quality Plan timelines to determine if other timelines are more reasonable.

For monitoring, a Farm Water Quality Plan shall contain plans for complying with the all of the monitoring requirements set forth in Conditional Waiver Section (D)(7). The Plan shall describe the protocols and methods that will be used to conduct annual and rainy season site-readiness inspections and to document that management practices have been implement properly and are being maintained so that Table 2 Conditional Waiver Water Quality Requirements are achieved. The Plan shall include a feedback mechanism for use in modifying and updating the Farm Water Quality Plan and management practices as necessary to achieve compliance with the Conditional Waiver.

## ATTACHMENT E

### Example Agricultural Management Practices and Technical Assistance References

To assist Landowners/Operators in designing and constructing management practices, Table E-1 provides a list of reference sources (available at the websites listed) for engineering standards and specifications for many vineyard and road management practices used by federal, state and local agencies throughout Napa and Sonoma counties. This list is not exhaustive and provides examples of resources that are available. Landowners/Operators are encouraged to consult with Water Board-approved Third Party Technical Assistance Groups to select the management practices and projects that are best suited for their particular **Vineyard Facilities** and **Roads** to comply with the Conditional Waiver Water Quality Requirements listed on Table 2.

Existing local Farm Water Quality Plan assistance materials (listed below) provide guidance on ways to reduce or all sources of non-point source pollutants and these technical assistance materials may be used in development of portions of Farm Water Quality Plans (but would not necessarily result in a complete Farm Water Quality Plan).

Fish Friendly Farming Farm Conservation Plan Certification Program (FFF)  
<http://www.fishfriendlyfarming.org/farm.html>

Sonoma County Vineyard Manual (Southern Sonoma Resource Conservation District)  
<http://www.ssrcrd.org/publications.php>

Sustainability in Practice (SIP) Vineyard Certification Program  
<http://www.vineyardteam.org/files/sip/SIP%20Vineyard%20Standards%202012.pdf>

Certified California Sustainable Winegrowers (CCSW)  
<http://www.sustainablewinegrowing.org/swpcertification.php>

**Table E-1 Examples of Agricultural Management Practices and Technical Assistance References**

Pollutant Category	Example Agricultural Management Practice	Technical Assistance Reference
<p><b>Nutrient runoff from Vineyards</b></p>	<ul style="list-style-type: none"> <li>• Select the best type and application method for fertilizers</li> <li>• Avoid mixing, storing or applying fertilizers in a manner whereby agricultural nutrients will enter water ways</li> <li>• Avoid over-application of nutrients and time nutrient application when no rain is in the forecast</li> <li>• Ensure that agricultural chemicals used in drip irrigation systems are not resulting in chemicals in surface waters</li> </ul>	<p>Extension Service Best Management Practices for Nutrients:  <a href="http://www.soil.ncsu.edu/publications/Soilfacts/AG-439-20/">http://www.soil.ncsu.edu/publications/Soilfacts/AG-439-20/</a></p>
<p><b>Pesticide runoff from Vineyards/</b></p>	<ul style="list-style-type: none"> <li>• Implement Integrated Pest Management practices</li> <li>• Comply with all applicable laws and regulations of the California Department of Pesticide Regulation as implemented by the County Agricultural Commissioner</li> <li>• Minimize the application of pesticides and fungicides where possible, where necessary use only approved products in accordance with all label instructions</li> <li>• Avoid mixing, storing or applying pesticides/fungicides near water wells, water ways or in a manner in which these chemicals may enter receiving waters</li> </ul>	<p>Statewide Integrated Pest Management Program:  <a href="http://www.ipm.ucdavis.edu/PMG/selectnewpest.grapes.html">http://www.ipm.ucdavis.edu/PMG/selectnewpest.grapes.html</a>  <i>Conservation Buffers to Reduce Pesticide Losses:</i>  <a href="http://www.in.nrcs.usda.gov/technical/agronomy/newconbuf.pdf">http://www.in.nrcs.usda.gov/technical/agronomy/newconbuf.pdf</a></p>
<p><b>Surface Erosion from Vineyards</b></p>	<ul style="list-style-type: none"> <li>• Seed with appropriate cover crop and minimize tillage</li> <li>• Apply mulch or other protective cover to bare areas before the wet season</li> <li>• Check and clear all inlets and drainage facilities at the beginning of the season and after every storm event that generates runoff</li> <li>• Install drop inlet debris trash rack, as appropriate, to minimize drop inlet clogging</li> <li>• Cover exposed piles of soil or other material</li> <li>• Locate soil stockpiles or other erodible material away from creeks, storm drains, and ditches</li> <li>• Inspect and ensure adequate free board in all sedimentation/retention/detention basins during significant storm events</li> <li>• Use straw wattles around outlets and inlets to filter sediment from runoff</li> <li>• Install sediment basins or other structural management practice to reduce sediment loads</li> </ul>	<p>How to calculate soil loss using the Universal Soil Loss Equation:  <a href="http://efotg.sc.egov.usda.gov/references/pubs/CA/erosionGuidesCA1977-1996.pdf">http://efotg.sc.egov.usda.gov/references/pubs/CA/erosionGuidesCA1977-1996.pdf</a></p> <p>(RUSLE2):  <a href="http://fargo.nserl.purdue.edu/rusle2dataweb/RUSLE2index.htm">http://fargo.nserl.purdue.edu/rusle2dataweb/RUSLE2index.htm</a>.</p>

Pollutant Category	Example Agricultural Management Practice	Technical Assistance Reference
<p><b>Surface Erosion and concentrated runoff from Roads</b></p>	<ul style="list-style-type: none"> <li>• Install water bars or rolling dips to reduce concentrated flow</li> <li>• Install ditch relief culverts to reduce the volume of directly connect road runoff</li> <li>• Out-sloping roads to encourage sheet flow</li> <li>• Apply road surface treatment to minimize soil loss and reduce storm runoff</li> <li>• Increase the width of buffers between roads and streams to promote infiltration and to improve water quality</li> <li>• Where appropriate minimize the length of all-weather roads and instead maintain vegetated avenues and turn-arounds and apply straw to reduce surface erosion of difficult road reaches</li> <li>• Locate staging areas for vineyard maintenance, harvest, and pruning away from streams</li> <li>• Other road design and maintenance practices that reduce the area of directly connected roadway and prevent road-related sediment for entering receiving waters.</li> <li>• Maintain ditches and/or road cuts to minimize erosion</li> <li>• Rock lining or installation of erosion control fabrics in ditches or on road cuts to minimize erosion</li> <li>• Design and maintain road crossings so that road runoff diversion potential is reduced or eliminated</li> <li>• Ensure that culverts at stream crossings are properly sized, installed, and maintained to prevent blowouts and allow for fish passage</li> <li>• Replacing culvert crossings with bridges or open bottom culverts</li> </ul>	<p><i>A Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watershed:</i></p> <p><a href="http://www.5counties.org/roadmanual.htm">www.5counties.org/roadmanual.htm</a></p> <p><a href="http://www.dfg.ca.gov/fish/resources/habitatmanual.asp">www.dfg.ca.gov/fish/resources/habitatmanual.asp</a></p> <p><a href="http://www.co.sanmateo.ca.us/vgn/images/portal/cit_609/23704076appendix_b.pdf">www.co.sanmateo.ca.us/vgn/images/portal/cit_609/23704076appendix_b.pdf</a></p> <p>Design for design and installation of culverts:</p> <p><a href="http://stream.fs.fed.us/fishxing/">http://stream.fs.fed.us/fishxing/</a></p>
<p><b>Erosion from Gullies and/or Shallow Landslides</b></p>	<ul style="list-style-type: none"> <li>• Grading and/or drainage features to reduce concentrated stormwater flow onto, or through unstable areas</li> <li>• Grading to redirect stormwater flow away from unstable areas</li> <li>• Re-vegetate unstable areas</li> <li>• Stabilize gullies, landslides, and bank erosion using biotechnical methods such as grading to a more stable (gentler) slope configuration, using large woody debris, and planting appropriate vegetation</li> <li>• Stabilize or remove failed material so sediment will not be transported to receiving waters</li> </ul>	<p><a href="http://policy.nrcs.usda.gov/OpenNonWebContent.aspx?content=17548.wba">policy.nrcs.usda.gov/OpenNonWebContent.aspx?content=17548.wba</a></p> <p><a href="http://www.fao.org/docrep/006/ad082e/AD082e02.htm#top">www.fao.org/docrep/006/ad082e/AD082e02.htm#top</a></p>

Pollutant Category	Example Agricultural Management Practice	Technical Assistance Reference
	<ul style="list-style-type: none"> <li>Other effective gully and landslide repair or stabilization</li> </ul>	
<b>Erosion from Stormwater Runoff</b>	<ul style="list-style-type: none"> <li>Implement cover crop/tillage/mulch management practices as described, above</li> <li>Reduce or disconnect engineered drainages that result in concentrated flow erosion at Points of Discharge</li> <li>Install energy dissipater facilities, rock level spreaders, pipe T-spreaders, and/or benches, to sink, slow and spread runoff</li> <li>Install detention basins where other erosion control and stormwater practices do not effectively control vineyard runoff</li> <li>Consider alternative vineyard layout and/or drainage system at the time if vineyard replanting to control runoff from steep, erodible vineyard blocks</li> <li>Sediment or stormwater detention basins, adequately designed to prevent overflow, may be needed to temporarily store and attenuate peak flows and prevent increased rates of runoff during peak runoff events</li> </ul>	<p><i>Protecting Water Quality from Agricultural Runoff</i></p> <p><a href="http://water.epa.gov/polwaste/nps/upload/2005_4_29_nps_Ag_Runoff_Fact_Sheet.pdf">http://water.epa.gov/polwaste/nps/upload/2005_4_29_nps_Ag_Runoff_Fact_Sheet.pdf</a></p>
<b>Stream and Riparian Area Protection and Enhancement</b>	<ul style="list-style-type: none"> <li>Established vegetated Stream Setbacks to create a buffer between Vineyard Facilities and Roads and to allow surface water to be filtered before entering stream and wetland areas</li> <li>Retain and/or plant new native riparian vegetation</li> <li>Where possible natural debris should be left in creek channels</li> <li>Bank stabilization projects, approved by all applicable agencies, should consider allowing banks to widen naturally and should minimize the amount of riprap and other hardscape</li> <li>Fallen trees and other woody debris in the channel should remain to provide habitat</li> </ul>	<p><i>A Primer in Stream and River Protection for the Regulator and Program Manager</i></p> <p><a href="http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stream_wetland/streamprotectioncircular.pdf">http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stream_wetland/streamprotectioncircular.pdf</a></p> <p>Fish Passage design:  <a href="http://nrm.dfg.ca.gov/PAD/Default.aspx">http://nrm.dfg.ca.gov/PAD/Default.aspx</a></p> <p>State Water Board's Surface Water Ambient Monitoring Program (SWAMP) Stream Photo Documentation Procedure (standard Operating Procedure 4.2.1.4  <a href="http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/cwt/guidance/4214.pdf">http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/cwt/guidance/4214.pdf</a></p> <p>Example Photo-documentation form:  <a href="http://www.waterboards.ca.gov/rwqcb6/board_info/agenda/2012/apr/sthshr/ss_propc7.pdf">http://www.waterboards.ca.gov/rwqcb6/board_info/agenda/2012/apr/sthshr/ss_propc7.pdf</a></p>

# ATTACHMENT F

## NOTICE OF TERMINATION CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM VINEYARD PROPERTIES IN THE NAPA RIVER AND SONOMA CREEK WATERSHEDS

**Signed forms must be submitted to:**  
**San Francisco Bay Regional Water Quality Control Board**  
1515 Clay Street, Suite 1400  
Oakland, CA 94612  
ATTN: Vineyard Waiver Program

### SECTION I. FACILITY OPERATOR INFORMATION

Name:		Contact E-mail:
Mailing Address:		
City:	State: CA	Zip Code:
Name of Contact Person:		Contact Phone:

### SECTION II. LANDOWNER INFORMATION (IF OPERATOR IS NOT THE OWNER)

Name:		Contact E-mail:
Mailing Address:		
City:	State:	Zip Code:
Name of Contact Person:		Contact Phone:

### SECTION III. FACILITY INFORMATION

A. Facility Name		County:
Mailing Address:		Contact E-mail:
City:	State: CA	Zip Code:
Name of Contact Person:		Contact Phone:
Facility County Assessor's Parcel Number		

A. Total Vineyard Property Parcel(s) Size:  
 \_\_\_\_\_ acres

B. Total area planted in grapes:  
 \_\_\_\_\_ acres

C. Slope (as defined by the Conditional Waiver): \_\_\_\_\_%    D. Nearest Receiving water: \_\_\_\_\_

**SECTION IV. BASIS OF TERMINATION**

A. CHANGE OF OWNERSHIP (check if true)  
 The control or ownership of this **Vineyard Facility** has changed. Contact information for the succeeding **Landowner/Operator** is:  
 \_\_\_\_\_  
 \_\_\_\_\_

B. STREAM SETBACKS ESTABLISHED (check if true)

1. **Stream Setback** measurement has been established in accordance with regulations of the following local jurisdiction:

Napa County     Sonoma County     City of Calistoga     City of Napa     City of Sonoma  
 City of St. Helena     City of Yountville     Other: \_\_\_\_\_

No cultivated land, **Roads**, or structures are located within the established **Stream Setback**. The minimum setback distance as measured in accordance with the Conditional Waiver is: \_\_\_\_\_ feet as measured from: \_\_\_\_\_

2. Documentation of the quality of **Stream Setbacks** (attach photo documentation)

The **Stream Setback** meets, and is managed to in accordance with, the criteria established in the **Stream Setback definition** below.

**Stream Setback** Definition:  
 An area of land adjacent to a stream where no agricultural cultivation, **Roads**, or structures (excluding wells or pumping facilities) are located and which is managed in such a way as to promote the growth of predominately native vegetation. The setback area must satisfy all of the following criteria: (a) the vegetation in the **Stream Setback** area shall be of sufficient maturity and density to support water quality beneficial uses; (b) the **Vineyard Facility Points of Discharge** must be located outside and upland from the **Stream Setback** area; and (c) the distance of the setback area must comply with applicable local regulations or where no local regulations exist, 45 feet. The **Stream Setback** shall be measured from the top-of-bank (based on geomorphic observation of distinct break-in-slope) to a point, upland and away from the top-of-bank in accordance with applicable stream setbacks requirements established in general plan goals and policies, ordinances, or regulation within the local jurisdiction in which the **Vineyard Facility** is located (where no local regulation exists, the **Stream Setback** distance shall be 45 feet measured from top of the channel bank) or be measured from the drip-line of the existing riparian tree canopy, whichever is greater. Exceptions to the **Stream Setback** distance may be allowed by Water Board staff, on a case-by-case basis, if they find equivalent water quality and habitat protection can be achieved by smaller setback distances. For example, historical ecology information may indicate that natural riparian conditions did not support the required setback and yet provided equivalent protection. Similarly, site topography, hydrology or groundwater conditions may not allow for the required setback and yet provide equivalent water quality and habitat protections.

**SECTION V. LANDOWNER NOTIFICATION**

If the Facility Operator is not the owner of the facility, the Operator must certify that the Landowner has been notified of this Conditional Waiver and its requirements.

Operator's Printed Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

**SECTION VI. CERTIFICATION**

"I certify under penalty of law that this document and attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines."

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_