
San Francisco Bay Regional Water Quality Control Board

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November 1, 2017
CIWQS Place ID 829621

Clearwater Hydrology
2974 Adeline Street
Berkeley, CA 94703
Attn.: William Vandivere, Principal
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Subject: Comments on Technical Assessment Report, Provision #1 of Cleanup and Abatement Order No. R2-2017-0025, Bremer Family Winery Vineyard, Napa County

Dear Mr. Vandivere:

We are sending you this letter as the designated representative for your clients, John and Laura Bremer. Thank you for submitting the *Technical Assessment Report in Response to SF Bay Regional Water Quality Control Board Cease and Abatement Order No. R2-2017-0025 Re: Construction Impacts to an Unnamed Ephemeral Creek and Habitat at the Bremer Family Winery Vineyard Blocks K-EE, 881 Deer Park Road, Napa County, CA* (Technical Report).

Cleanup and Abatement Order No. R2-2017-0025 (CAO) Provision 1 requires the submittal of a technical report providing a description of recent unauthorized construction activities at the Bremer Family Winery Vineyard (Site) and an assessment of impacts to an unnamed creek and associated riparian habitat. Based on our review, the Technical Report addresses the Provision 1 requirements with the exception of the following:

Extent of Waters of the State

Provision 1 requires a jurisdictional delineation of the extent of federal and State waters at the Site prior to and following the constructed Project. This information is particularly important because it will inform the Corrective Action Workplan required by CAO Provision 2. The Corrective Action Plan must include a proposal for corrective actions that will (1) remove, from waters of the State, sediment, rock, and other earthen materials placed without authorization, (2) restore the Creek and associated riparian habitat, and (3) establish an appropriately protective buffer area around the creek and riparian habitat. As such, we will require restoration of the Creek to pre-project conditions including the riparian habitat consisting of the chaparral plant community formerly adjacent to the Creek along with an additional buffer area large enough to protect Creek functions.

The Technical Report estimates fill placed within the ordinary high water mark and thus jurisdictional waters of the United States. However, it does not define the extent of fill placed within waters of the State. The Technical Report also estimates the fill placed within the 100-year pre-disturbance flood levels and states that “[t]he State could assert additional jurisdiction over filled portions of the floodplain, depending on how riparian vegetation and habitat is defined.” We do not define riparian vegetation by the type of plant species present, but rather by the water quality enhancement and functions it provides to waters of the State (i.e., by its relationship to beneficial uses). Water quality functions provided by riparian vegetation include shading, erosion control and streambank stabilization, filtration and purification of pollutants, nutrient cycling, soil infiltration and groundwater recharge, wildlife habitat, and habitat connectivity.

Therefore, the Technical Report should be revised to delineate the extent of fill placed into waters of the State including the chaparral vegetation that previously existed, which provided water quality functions to the Creek. Based on this information, we anticipate that the Corrective Action Workplan to be submitted no later than November 6, 2017, will include a proposal for corrective actions designed to restore the Creek to pre-project conditions, which will include the chaparral community formerly adjacent to the Creek, and an appropriately protective buffer area.

If you have any questions, please contact Agnes Farres of my staff at (510) 622-2401 or by email to agnes.farres@waterboards.ca.gov.

Sincerely,

for Bruce H. Wolfe
Executive Officer

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