

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

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In the Matter of Water Quality Certification for the

**COUNTY LINE VINEYARD, LLC  
COUNTY LINE VINEYARD PROJECT**

SOURCE: Unnamed tributary to Mark West Creek

COUNTY: Sonoma

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**WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE**

BY THE EXECUTIVE DIRECTOR:

**I. Project Background**

County Line Vineyard, LLC (County Line Vineyard or Applicant) is proposing the County Line Vineyard Project (Project) which entails construction of a reservoir and a diversion structure for seasonal diversion to storage of up to four acre-feet (AF) of water per year. The water will be used for irrigation and heat control of 11 acres of existing vineyard. The Project is located west of Spring Mountain Road and north of St. Helena Road in the Mayacamas Mountains between Santa Rosa and St. Helena, in Sonoma County, California. County Line Vineyard simultaneously applied to the State Water Resources Control Board (State Water Board) for: (1) a water quality certification (certification) under section 401 of the Clean Water Act; and (2) an appropriative water right (application 31501) to appropriate water from an unnamed stream tributary to Mark West Creek thence the Russian River. On April 24, 2017, the State Water Board issued Water Right Permit 21371 allowing the appropriation proposed in application 31501.

**II. Project Description**

Water Right Permit 21371 allows County Line Vineyard to divert up to four AF of water per year, from two Points of Diversion (POD 1 and POD 2) located on the same unnamed stream, tributary to Mark West Creek, from December 15 through March 15. Water would be stored at POD 1, a proposed 3.5 AF reservoir located near the headwaters of the unnamed stream. POD 2 is a proposed diversion structure located approximately 1,600 feet downstream of POD 1, from which water would be pumped to the reservoir. A minimum bypass flow of 0.11 cubic feet per second (cfs) will be maintained at POD 2 to prevent dewatering and provide flows needed for aquatic biological processes. Stored water in the reservoir will be used at the existing vineyard for irrigation and heat control.

The reservoir will be constructed at the highest point of the unnamed ephemeral stream with a combination of cut and fill. Approximate volumes of cut/fill at the reservoir site are: 3,400 cubic yards (CY) cut, 2,000 CY fill, resulting in 1,400 CY net cut. Some of the cut material (from shaping the reservoir) will be used to construct a 25-foot-high embankment dam with 2:1 side

slopes on both sides. The remainder of the cut material will be placed onsite in an area north of the proposed reservoir.

The total Project footprint is approximately 40,000 square feet. The final surface area of the pond will be approximately 16,000 square feet. A synthetic liner will be used on the entire pond to prevent seepage and to help maintain the structural integrity of the embankment dam. Runoff from the areas upslope of the reservoir will sheet flow to a concrete valley gutter and a series of area drains surrounding the reservoir. A 12-inch spill pipe will be installed at an invert elevation of 788 feet above sea level (maximum water surface elevation of the reservoir), which will discharge to rip-rap in the natural channel, downslope of the toe of the embankment dam. A 2-inch siphon line will be installed to enable the complete drainage of the pond. A 6-inch reservoir underdrain will be installed to inhibit the build-up of groundwater (or seepage) under the pond liner. A 3-inch diversion pipe will convey water from the diversion structure at POD 2 to the reservoir at POD 1. Water stored in the reservoir will be withdrawn via a submersible pump and used for irrigation and heat control of the surrounding existing vineyards. Currently, the reservoir site supports a seasonally inundated pond created by a small, abandoned earthen dam at the location of the proposed new dam. This site was identified in the 2009 Wetland Delineation Report<sup>1</sup> as a natural, seasonal pond. However, a subsequent visit to the site with California Department of Fish and Wildlife staff on October 17, 2012, revealed the presence of an existing earthen dam, approximately three to four feet high on the upstream side, which contains an overflow pipe. The dam has become overgrown with brush and the surrounding slopes did not contain any evidence of recent construction-related disturbance. As such, the dam may have been in existence for many years, but its construction date is unknown.

#### Diversion Structure

POD 2 will be constructed downstream of the reservoir (POD 1) in the unnamed stream. A concrete compound weir structure will divert streamflow greater than 0.11 cfs into a 2,000-gallon pump basin at a rate not to exceed one cfs. The pumps will be controlled by float switches connected to a control panel equipped with flow data logging capability. Rip-rap will be installed downstream of the weir structure for channel stabilization. A 3-inch drain pipe will be installed through the weir structure to enable the drainage of standing water upstream of the weir. The pump basin will be equipped with two, 30-gallon per minute pumps that will convey water to the reservoir through a 3-inch diversion pipe. Although the concrete weir and inlet will be located within the stream channel, the Project footprint is very small (less than 15 linear feet of the stream would be affected) and impacts to the bed and banks of the unnamed stream are expected to be not significant. Estimates of cut and fill at the diversion site are less than three CY of cut and six CY of fill to place the new structure. During the first season of operation (December 15 through March 15) following installation of the facilities, the Applicant will inspect the diversion and bypass facilities twice per week to ensure that they are operating as designed. During subsequent years, the Applicant will inspect the facilities once per week during the diversion season. The Applicant will keep a log of the inspection results.

#### Diversion Pipe

A 3-inch diversion pipe will be installed to convey water from the diversion structure at POD 2 to the reservoir at POD 1. Where the pipe is laid within or across existing roads and driveways, the pipe will be buried below existing grade. In these areas, the pipe will be installed to a depth of approximately six to 12 inches using a ride-on trencher or hand tools. The width of the excavation area needed for underground pipe installation is approximately six inches; backfill

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<sup>1</sup> Formal wetland delineation was conducted in the Project area on February 19, 2009, by Valley Environmental Consulting.

would be native soil. Where the pipe runs across the vineyard (for most of the alignment), the pipe will be laid above ground, secured with stakes, and threaded through existing vegetation. Air relief valves will be installed at high points along the route. The 3-inch diversion pipe is approximately 1,500 feet long, of which approximately 300 feet would be underground and 1,200 feet would be aboveground. The pipe alignment crosses two stream segments between the diversion structure and the reservoir. At these locations, the pipe will cross the drainage channel at an existing road culvert and will be installed within the roadway (i.e., above the culvert). The pipe will not be buried within the stream channel, so there will be no impact to any jurisdictional features or the bed, channel, or bank of the unnamed stream segments.

#### Soil Disposal

The soil disposal site is located north of the proposed reservoir site. The total area proposed for fill is 0.194 acre, and is located 50 feet upslope of the beginning of an intermittent drainage, which is a water of the United States and the state. Erosion control measures for the disposal site will include hydroseeding, straw mulch, geotextiles, and revegetation. Sediment control measures on exposed slopes also include fiber rolls and silt fences. A native seed mix will be used. Fiber rolls will be installed on contour over erosion control mats (e.g., jute mat) to prevent concentrating flows and prevent erosion. Fiber rolls (8- to 10-inch minimum) will be keyed into the slope and secured with wooden stakes. Because the soil disposal site is also proposed for chaparral restoration, details regarding specific planting techniques and mulching (long-term erosion control) can be found in the Habitat Restoration Plan for the County Line Vineyard Project<sup>2</sup>. Per the Habitat Restoration Plan, the disposal site will be monitored one year after initial planting to determine if restoration goals are being met. During the first year an erosion assessment will be conducted concurrently with the mitigation planting monitoring. At that time, if signs of accelerated erosion (e.g., sloughed soil/hydroseed material, rills, etc.) are observed, additional erosion control measures will be implemented in keeping with the measures outlined in the Project description. Following implementation of corrective measures, an additional site visit will be conducted. At that time it will be determined if more substantial corrective erosion control measures and additional monitoring are warranted.

#### Construction Schedule

Construction is estimated to take 90 days and is scheduled to occur during a single dry season, between June 1 and October 31. Equipment used during construction would include excavators, dump trucks, cement trucks, boom trucks, pick-up trucks, grading equipment, and various hand tools.

The conditions included in this certification will ensure beneficial uses are protected and water quality objectives are met during and after construction of the proposed reservoir and diversion structures.

### **III. Legal Authority and Requirements**

#### Water Quality Certification and Related Authorities

The Federal Clean Water Act (33 U.S.C. §§ 1251-1387) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." (33 U.S.C. § 1251(a).) Section 101 of the Clean Water Act (33 U.S.C. § 1251 (g)) requires federal agencies to "co-operate with the State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources."

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<sup>2</sup> The Habitat Restoration Plan was received by the Division of Water Rights on June 10, 2016.

Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance with specified provisions of the Clean Water Act, including water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act. (33 U.S.C. § 1313.) Section 401 of the Clean Water Act directs the agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law. Section 401 of the Clean Water Act further provides that state certification conditions shall become conditions of any federal license or permit for the project. The State Water Board is designated as the state water pollution control agency for all purposes stated in the Clean Water Act and any other federal act. (Wat. Code, § 13160.) The State Water Board's Executive Director has been delegated the authority to issue a decision on a water quality certification application. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)

On September 23, 2015, the State Water Board provided notice of receipt of a complete certification application for the Project to the Applicant, United States Environmental Protection Agency (USEPA), United States Army Corps of Engineers (USACE), and North Coast Regional Water Quality Control Board (North Coast Regional Water Board). (Cal. Code of Regs., tit. 23, sec 3835.) The State Water Board provided public notice of the certification application pursuant to California Code of Regulations, title 23, section 3858(a) by posting information describing the Project on the State Water Board's website and by sending notification of receipt of the application to a list of parties interested in State Water Board actions on certifications on December 10, 2015. No comments were received.

State Water Board staff forwarded the portions of the application that have the potential to cause adverse water quality impacts other than specific impacts resulting from alterations to instream flows to the North Coast Regional Water Board on July 21, 2017. (See Cal. Code Regs., tit. 23, sec. 3855, subd. (b)(2)(B)). North Coast Regional Water Board staff responded with no comments on July 21, 2017.

#### Water Quality Control Plans and Related Authorities

The California Regional Water Quality Control Boards (Regional Water Boards) adopt, and the State Water Board and USEPA approve, water quality control plans, also known as basin plans, for each watershed basin in the State. The basin plans designate the beneficial uses of waters within each watershed basin, and water quality objectives designed to protect those uses pursuant to Section 303 of the Clean Water Act. (33 U.S.C. § 1313.) The State Water Board may also adopt water quality control plans. The beneficial uses together with the water quality objectives that are contained in the basin plans and state water quality control plans, and state and federal anti-degradation requirements constitute California's water quality standards.

The *Water Quality Control Plan for the North Coast Region* (North Coast Basin Plan) designates the beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses for the Russian River and its tributaries, including Mark West Creek.

The North Coast Basin Plan identifies existing beneficial uses for the Mark West Creek Hydrologic Area as: municipal and domestic supply; agricultural supply; industrial service supply; groundwater recharge; freshwater replenishment; navigation; water contact recreation; non-contact water recreation; commercial and sport fishing; warm freshwater habitat; cold freshwater habitat; wildlife habitat; rare, threatened, or endangered species; migration of aquatic organisms; and spawning, reproduction and/or early development. Potential beneficial uses include industrial process supply, hydropower generation, shellfish harvesting, and aquaculture.

Construction General Permit

The State Water Board has adopted a Construction General Permit<sup>3</sup>, which is required for activities that disturb one or more acres of soil with activities such as clearing, grading, stockpiling or excavation. The Construction General Permit authorizes the discharge of stormwater runoff to surface waters from construction activities that result in the disturbance of one or more acres of land, provided that the discharger satisfies all conditions set forth in the permit.

The Project will disturb one or more acres of soil and, as a condition of this certification, must obtain coverage under the Construction General Permit.

California Environmental Quality Act

The California Environmental Quality Act (CEQA) requires environmental review of most public agencies' discretionary actions that have the potential to negatively affect the environment. The State Water Board is the lead agency for the purpose of CEQA compliance, meaning that it is primarily responsible for environmental review.

On April 24, 2017, the State Water Board approved a CEQA Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Plan (MMRP) for the Project and filed a notice of determination (NOD) finding that the proposed Project will not have a significant effect on the environment.

The MND includes mandatory findings of significance and mitigation measures to ensure that impacts to air quality, biological resources, cultural resources, hazards and hazardous materials, hydrology and water quality, and geology and soils are less-than-significant impacts with mitigation incorporated.

The State Water Board considered the MND and MMRP in connection with the issuance of this certification. The State Water Board will file a NOD within five days of issuance of this certification.

Other Agencies' Permits

USACE determined that the Project qualifies for authorization under Department of the Army Nationwide Permit (NWP) No. 40 for Agricultural Activities, pursuant to Section 404 of the Clean Water Act. The USACE identification number for the Project is SPN-2009-00223N. On October 12, 2016, the USACE issued verification that the Project is authorized by NWP No. 40, pending issuance of certification by the State Water Board. The verification requires the Applicant to comply with NWP No. 40 general terms and conditions as well as Project-specific conditions described in the verification.

The Applicant filed a Notification for Lake or Streambed Alteration with the California Department of Fish and Wildlife (CDFW), and CDFW accepted the Notification as complete on March 23, 2015. On May 2, 2016, the Applicant filed a Revised Notification of Lake or Streambed Alteration for the Project (File No. 1600-2015-0035).

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<sup>3</sup> Construction General Permit; Water Quality Order 2009-0009-DWQ and National Pollutant Discharge Elimination System [NPDES] No. CAS000002, as amended by Order No. 2010-0014-DWQ and Order No. 2012-0006-DWQ.



**ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES THAT THE COUNTY LINE VINEYARD PROJECT** will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, if County Line Vineyard, LLC complies with the following terms and conditions during the Project activities certified herein.

1. The Applicant shall obtain coverage under and comply with the Construction General Permit and any amendments thereto.
2. If dewatering is found to be necessary during construction, the Applicant shall use a method of water disposal other than disposal to surface waters (such as land disposal) approved by the North Coast Regional Water Board or the Applicant shall apply for coverage under Waste Discharge Requirements Order No. R1-2015-2003, National Pollutant Discharge Elimination System (NPDES) No. CAG0024902, for Low Threat Discharges to Surface Waters in the North Coast Region or an individual NPDES permit. The Applicant shall obtain coverage under the general or an individual NPDES permit from the North Coast Regional Water Board or State Water Board prior to dewatering activities to surface waters.
3. The Applicant shall comply with all terms of Water Right Permit 21371, including the MMRP, and any amendments thereto.
4. Waters shall be free of changes in turbidity (due to Project activities) that cause nuisance or adversely affect beneficial uses. Increases in turbidity attributable to Project controllable water quality factors shall not exceed the limits as defined in the North Coast Basin Plan.

Turbidity shall be measured using nephelometry. A hand-held field meter may be used, provided the meter uses a USEPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. For each meter used for monitoring, a calibration and maintenance log shall be maintained onsite and provided to State Water Board staff upon request.

The Deputy Director for the Division (Deputy Director) and the North Coast Regional Water Board Executive Officer (Executive Officer) shall be notified promptly and in no case more than 24 hours after monitoring results indicate an averaged turbidity limit exceedance. Activities associated with these exceedances may not resume without approval from the Deputy Director.

5. All water quality compliance monitoring shall be conducted using the State Water Board Surface Water Ambient Monitoring Program methods and procedures described in Code of Federal Regulations Title 40, Chapter I, Subchapter D, Part 136 (40 C.F.R. § 136), unless approved by the Deputy Director.
6. Monitoring reports, which contain turbidity sampling results and any other required monitoring, shall be submitted in a tabular format to the State Water Board's designated Project Manager within two weeks of initiation of monitoring and every two weeks thereafter for the remainder of the Project construction period.
7. Prior to a rain event or when there is greater than 50 percent possibility of rain forecasted by the National Weather Service during the next 24 hours, erosion control BMPs shall be applied to all exposed areas upon completion of the day's activities.

8. Location of spoil sites shall be free of vegetation and upland such that they do not drain directly into a surface water feature. After Project construction is completed, spoil sites shall be graded and vegetated to reduce the potential for erosion. Drainage patterns shall be preserved by maintaining original land contours when possible. Spoil sites that are to remain on-site through the rainy season (October 16 to May 14 of the following year) shall be protected with appropriate BMPs to prevent erosion.
9. Sediment control measures shall be in place prior to the onset of the first forecasted rain event or October 16, whichever comes first. Sediment control measures shall be monitored and maintained in good working condition until vegetation becomes established within all disturbed areas.
10. No unset cement, concrete, grout, damaged concrete, concrete spoils, or wash water used to clean concrete surfaces shall contact or enter surface waters. No leachate from truck or grout mixer cleaning stations shall percolate into Project area soils. Cleaning of concrete trucks or grout mixers shall be performed in designated washout areas of sufficient size to completely contain all liquid and waste concrete or grout generated during washout procedures. All wash water and hardened concrete or grout shall be disposed of at an authorized landfill or other disposal site, in compliance with State and local laws, ordinances and regulations.
11. Construction material, debris, spoils, or earthen material, and any other substances from any Project-related activity shall be prevented from entering surface waters. All construction debris and trash shall be contained and regularly removed from the work area to the staging area during construction activities. Upon completion, all Project-generated debris, building materials, excess material, waste, and trash shall be removed from all the Project sites for disposal at an authorized landfill or other disposal site in compliance with State and local laws, ordinances, and regulations.
12. All equipment must be washed prior to transport to the Project site and must be free of sediment, debris, and foreign matter.
13. Staging areas shall be established for all construction equipment and refueling operations to avoid pollutants from entering any surface waters or sensitive habitats. Staging areas shall be away from all surface waters, including seasonal swales and wetlands, and free of vegetation. Fueling construction equipment shall be done at a fixed fueling station to reduce the area exposed to the potential for fuel spills. Secondary containment, such as a drain pan or drop cloth, shall be used to catch spills or leaks when removing or changing fluids. Spill containment materials shall be kept onsite at all times to contain any accidental spill. Absorbent materials shall be used on small spills. The absorbent material shall be promptly removed and disposed of properly.
14. Onsite vehicles and equipment shall be regularly inspected for leaks and repaired immediately. If vehicle and equipment maintenance must occur onsite, it shall be done in designated areas, located away from drainage courses, to prevent the run-on of stormwater and the run-off of spills.
15. Onsite containment for storage of chemicals classified as hazardous shall include secondary containment and appropriate management as specified in California Code of Regulations, title 27, section 20320.

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16. All equipment and materials shall be stored at least 50 feet away from all surface water features.
17. The Applicant shall take all necessary measures in preconstruction planning to minimize construction impacts on riparian habitat. Prior to construction, the Applicant shall install construction fencing along the outer edges of the construction zone, where necessary, to prevent accidental entry into riparian habitat. All stockpiling of materials and equipment shall occur outside of riparian habitat. Upon completion of construction activities, any impacted areas, within the riparian corridor shall be reseeded with native plants or grasses.
18. Following Project construction, areas of disturbed soil, including locations of buried pipe, temporary staging areas, and areas containing excess soil, shall be secured with sterile straw mulch and seeded with a native plant mix either manually or through hydroseeding. Revegetation efforts must prevent soil erosion during the subsequent rainy season and ensure revegetation during the following growing season.
19. The Applicant shall monitor erosion control methods at revegetation sites during the rainy season to ensure their efficacy and to ensure that erosional runoff is not occurring.
20. The Applicant, including its contractors and subcontractors, shall report any noncompliance to the conditions of this certification to the Deputy Director within 24 hours of the time when the Applicant, or its contractors, or subcontractors become aware of the circumstances of noncompliance.
21. The State Water Board's approval authority includes the authority to withhold approval or to require modification of a proposal or plan prior to approval. The State Water Board may take enforcement action if the Applicant fails to provide or implement a required plan in a timely manner.
22. The State Water Board reserves the authority to add to or modify the conditions of this certification to incorporate changes in technology, sampling, or methodologies and/or load allocations developed in a total maximum daily load developed by the State Water Board or a Regional Water Board.
23. This certification requires compliance with all applicable requirements of the North Coast Basin Plan. If at any time an unauthorized discharge to surface waters (including river or streams) occurs or monitoring indicates that the Project has or could soon be in violation with water quality objectives, the associated Project activities shall cease immediately and the Deputy Director and the Executive Officer shall be notified. Associated activities may not resume without approval from the Deputy Director.
24. Notwithstanding any more specific conditions in this certification, the Project shall be operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act and to section 303 of the Clean Water Act. The Applicant must take all reasonable measures to protect the beneficial uses of waters of Mark West Creek and tributaries. The State Water Board reserves authority to modify this certification if monitoring results indicate that continued operation of the Project could violate water quality objectives or impair beneficial uses.
25. This certification does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes

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prohibited in the future, under either the California Endangered Species Act (ESA) (Fish & Game Code §§ 2050-2097) or the federal ESA (16 U.S.C. §§ 1531 - 1544). If a "take" will result from any act authorized under this certification or water rights held by the Applicant, the Applicant must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Applicant is responsible for meeting all requirements of the applicable ESAs for the Project authorized under this certification.

26. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation is subject to any remedies, penalties, process, or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
27. In response to a suspected violation of any condition of this certification, the State Water Board or Regional Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports (California Water Code sections 1051, 13165, 13267, and 13383). The State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
28. Unless otherwise specified in this certification or at the request of the State Water Board, data and/or reports must be submitted electronically in a format accepted by the State Water Board to facilitate the incorporation of this information into public reports and the State Water Board's water quality database systems in compliance with California Water Code section 13167.
29. The Applicant is responsible for compliance with all applicable federal, state, or local laws or ordinances and shall obtain authorization from applicable regulatory agencies prior to the commencement of construction activities.
30. A copy of this certification shall be provided to all contractors and subcontractors conducting work related to the Project, and copies shall remain in their possession at the Project site. The Applicant shall be responsible for work conducted by its contractors or subcontractors.
31. The Deputy Director and the Executive Officer shall be notified no later than 24 hours prior to the commencement of ground disturbing activities. Upon request, a construction schedule shall be provided to agency staff.
32. The Deputy Director and the Executive Officer shall be notified within one week of completion of construction.
33. Any requirement in this certification that refers to an agency whose authorities and responsibilities are transferred to or subsumed by another state or federal agency, will apply equally to the successor agency.
34. The Applicant must submit any changes to the Project, including Project operation, which would have a significant or material effect on the findings, conclusions, or conditions of this

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certification, to the State Water Board for prior review and written approval. If the State Water Board is not notified of a significant change to the Project, it will be considered a violation of this certification.

35. The Applicant shall provide State Water Board and Regional Water Board staffs access to Project sites to document compliance with this certification.
36. The State Water Board shall provide notice and an opportunity to be heard in exercising its authority to add to or modify any of the conditions of this certification.
37. This certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code, section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).
38. This certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent water quality certification application was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
39. Certification is conditioned upon total payment of any fee required under article 4, title 23 of the California Code of Regulations.
40. Nothing in this certification shall be construed as State Water Board approval of the validity of any water rights, including pre-1914 claims. The State Water Board has separate authority under the Water Code to investigate and take enforcement action if necessary to prevent any unauthorized or threatened unauthorized diversions of water.



FOR

Michael Lauffer  
Acting Executive Director

JUL 27 2017

Date

Attachment A – Figure 1 – Project Map  
Attachment B – Mitigation Monitoring and Reporting Plan

**ATTACHMENT A**  
**County Line Vineyard Project**

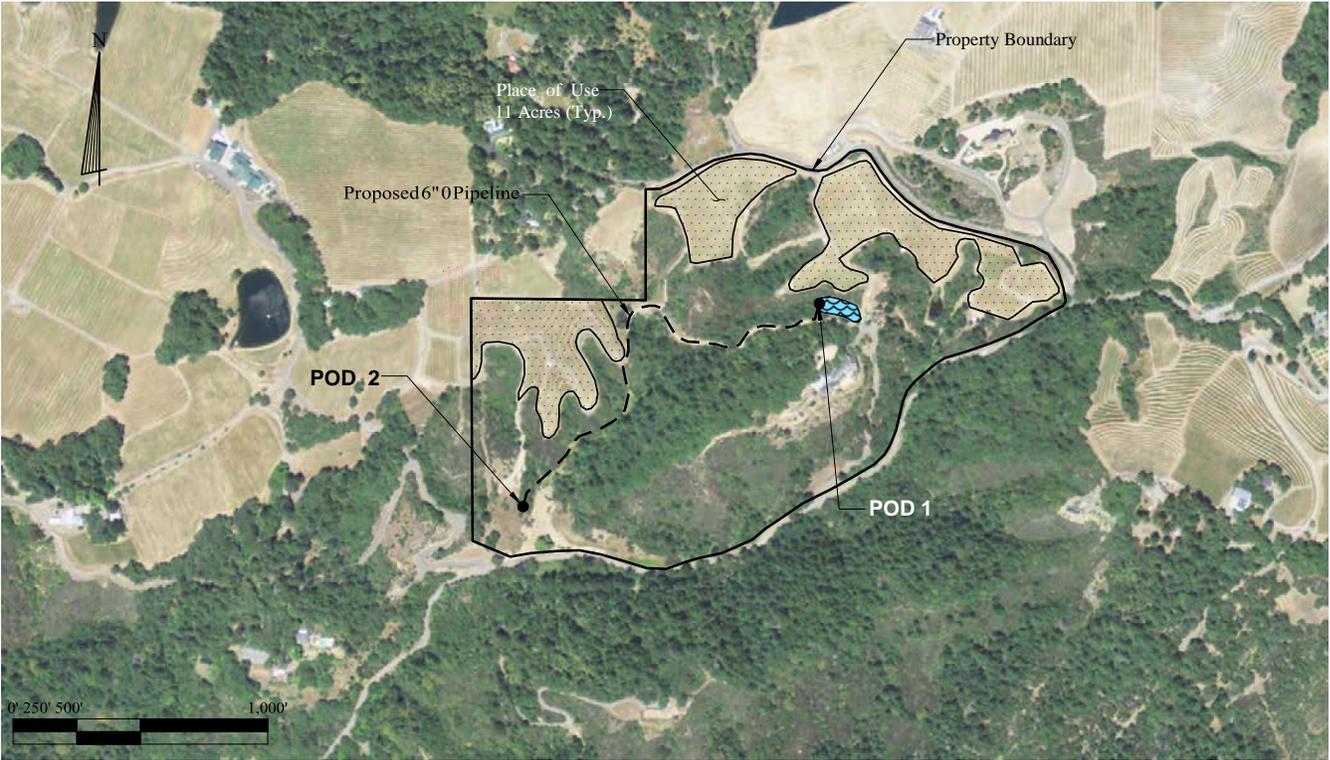


Figure 1 – Project Map.

Source: April 2014 Initial Study for Water Right Application 31501

**ATTACHMENT B**  
**California Environmental Quality Act**  
**Mitigation Monitoring and Reporting Plan**  
**for**  
**County Line Vineyard Project**

This Mitigation Monitoring and Reporting Plan (MMRP) has been prepared in conformance with the California Environmental Quality Act (CEQA) (Public Resources Code section 21081.6). The MMRP has been developed based on the information and mitigation measures contained in the Mitigated Negative Declaration (MND) for the County Line Vineyard Project (Project), which includes the Project described in the water quality certification application. The MMRP lists mitigation measures recommended in the MND for the proposed Project and specifies implementation and monitoring responsibilities. Pursuant to Public Resources Code section 21081.6, subdivision (b), each of the mitigation measures identified in the MMRP are included as enforceable conditions of the water quality certification for County Line Vineyard, LLC (Applicant).

Generally, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) staff will monitor mitigation measures requiring pre-construction actions or submittals. Construction and post-construction mitigation measures will be reported to Division staff as specified in the attached matrix. Implementation of mitigation measures is the sole responsibility of the Applicant. Compliance with mitigation measures will be assessed through the Division’s routine compliance monitoring activities. Non-compliance with mitigation measures may be addressed through the Division’s ongoing enforcement program on an as needed basis.

All documents and other information that constitute the public record for this Project shall be maintained by the Division and shall be available for public review at the following address:

State Water Resources Control Board  
 Division of Water Rights  
 1001 I Street  
 Sacramento, CA 95814

**PROJECT DESCRIPTION:**

County Line Vineyard, LLC will divert four acre-feet per year of water to storage from December 15 of each year to March 15 of the succeeding year, from an unnamed stream tributary to Mark West Creek thence the Russian River, and stored behind a proposed onstream dam. Stored water would be used for irrigation of 11 acres of existing vineyard. The project involves review of potential impacts resulting from construction of the onstream reservoir, construction of an instream diversion structure, and diversion of four acre-feet per year of water.

<b>Mitigation Measures for the County Line Vineyard Project</b>	
<b>Biological Resources</b>	
Mitigation Measures:	<p><b>BIO-1:</b> For the protection of the rare Napa false indigo (<i>Amorpha californica</i> var. <i>napensis</i>) populations identified in the 2012 Terrestrial Biological Resources Assessment, the following conditions shall apply to any activities authorized under the water right issued pursuant to Application 31501:</p> <ul style="list-style-type: none"> <li>a. Applicant shall ensure that construction equipment and vehicles remain along the main access road and do not travel off-road in the vicinity of either plant population;</li> <li>b. Applicant shall not allow any further land disturbance within 20 feet of either specified plant population;</li> </ul>

**ATTACHMENT B**  
**California Environmental Quality Act**  
**Mitigation Monitoring and Reporting Plan**  
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	<p>c. During project construction, Applicant shall identify and protect both plant populations by surrounding each site with plastic construction fencing or flags to be spaced and maintained at a maximum distance of 3 feet apart. Applicant shall provide evidence of fencing and/or flags to the Deputy Director for Water Rights prior to the commencement of construction; and</p> <p>d. Applicant shall allow representatives of the Division of Water Rights reasonable access upon notification of the Applicant or the Applicant's agent for the purpose of verifying these conditions of the permit.</p> <p>These requirements shall remain in effect as long as water is being diverted by the Applicant (or successors-in-interest) under any permit or license issued pursuant to Application 31501.</p> <p><b>BIO-2:</b> For the protection of fish and wildlife:</p> <p>a. No water shall be diverted under this right unless the flow in the Unnamed Stream is at or above 0.11 cubic foot per second, as determined at POD 2; and</p> <p>b. No water shall be diverted under water right Permit 21371 unless Applicant is bypassing the flow required by water right permit 21371 by use of a passive bypass device.</p> <p><b>BIO-3:</b> No water shall be diverted unless Applicant is operating in accordance with a habitat restoration plan satisfactory to the Deputy Director for Water Rights. Applicant shall submit a report on restoration plan activities in accordance with the time schedule contained in the restoration plan, and whenever requested by the Division of Water Rights. The Deputy Director for Water Rights may require modification of the restoration plan upon a determination that the plan is ineffective or unsuccessful, or provide relief from this term upon a determination that the restoration plan is no longer required. Prior to initiation of construction, Applicant shall develop a habitat restoration plan in consultation with the California Department of Fish and Wildlife and submit a copy of the final plan to the Deputy Director for Water Rights. The plan shall:</p> <p>a. Characterize the type, species composition, spatial extent, and ecological functions and values of the chaparral habitat that will be removed, lost, or damaged by the onstream dam based on estimates provided by a qualified biologist;</p> <p>b. Describe the approach that will be used to replace the chaparral habitat removed, lost, or adversely impacted by the onstream dam, including a list of the soil, plants, and other materials that will be necessary for successful chaparral habitat replacement, and a description of planting methods, location, spacing, erosion protection, and irrigation measures that will be needed, if any. This mitigation shall be within the Mark West Creek watershed, and may be on the Applicant's property, if approved by the California Department of Fish and Wildlife;</p> <p>c. Describe the mitigation ratio to be used in calculating the acreage of chaparral habitat to be planted;</p> <p>d. Describe the criteria that will be used to evaluate the effectiveness and success of the chaparral habitat replacement approach;</p> <p>e. Describe the program that will be used for monitoring the effectiveness and success of the chaparral habitat replacement</p>
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	<p>approach;</p> <p>f. Describe how the chaparral habitat replacement approach will be supplemented or modified if the monitoring program indicates that the current approach is not effective or successful; and</p> <p>g. Include a time schedule for the implementation and monitoring of the chaparral habitat replacement.</p> <p><b>BIO-4:</b> No water shall be diverted or used, and no construction related to such diversion shall commence, unless Applicant has obtained and is in compliance with all necessary permits or other approvals required by other agencies. If an amended water right is issued, no new facilities shall be utilized, nor shall the amount of water diverted or used increase beyond the maximum amount diverted or used during the previously authorized development schedule, Applicant has obtained and is in compliance with all necessary requirements, including but not limited to the permits and approvals listed in this term.</p>
<p>Level of Impact Before and After Mitigation:</p>	<p>Before: Potentially Significant  After: Less than Significant with mitigation incorporation</p>
<p>Timing of Implementation, Monitoring, and Implementation Responsibility:</p>	<p>Prior to and during Project construction by the Applicant.</p>
<p>Timing for Reporting on Implementation and Monitoring:</p>	<p><b>BIO-2:</b> Applicant shall provide the Division of Water Rights with evidence that the device has been installed with the first annual report submitted after device installation. Applicant shall provide the Division of Water Rights with evidence that substantiates that the device is functioning properly every year after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights. Evidence required by this condition shall include current photographs of the system in place and a statement, signed by the Applicant, certifying that the system is still operating as designed.</p> <p><b>BIO-3:</b> Applicant shall submit a report on restoration plan activities in accordance with the time schedule contained in the restoration plan, and whenever requested by the Division of Water Rights.</p> <p><b>BIO-4:</b> Within 90 days of the issuance of this right or any subsequent amendment, Applicant shall prepare and submit to the Division of Water Rights a list of, or provide information that shows proof of attempts to solicit information regarding the need for, permits or approvals that may be required for the project. At a minimum, Applicant shall provide a list or other information pertaining to whether any of the following permits or approvals are required: (1) lake or streambed alteration agreement with the Department of Fish and Wildlife (Fish &amp; G. Code, § 1600 et seq.); (2) Department of Water Resources, Division of Safety of Dams approval (Wat. Code, § 6002); (3) Regional Water Quality Control Board Waste Discharge Requirements (Wat. Code, § 13260 et seq.); (4) U.S. Army Corps of Engineers Clean Water Act section 404 permit (33 U.S.C. § 1344); and (5) local grading permits.</p> <p>Applicant shall, within 30 days of issuance of any permits, approvals or waivers, transmit copies to the Division of Water Rights.</p>

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<b>Geology and Soils</b>	
Mitigation Measures:	<p><b>GS-1:</b> Construction of the reservoir shall not begin until a Geotechnical Engineer or Engineering Geologist registered by the State of California has approved the plans and specifications for the dam. Prior to the start of construction, Applicant shall submit the approved plans and specifications to the Deputy Director for Water Rights. Construction of the dam shall be under the direction of a qualified Civil Engineer, Geotechnical Engineer or Engineering Geologist, and should be designed with the following parameters:</p> <ul style="list-style-type: none"> <li>a. The dam and reservoir side slopes should be designed and constructed to withstand ground shaking caused by the maximum credible earthquake;</li> <li>b. The dam and reservoir slopes should be designed such that they do not fail as a result of the maximum credible earthquake in the project area; and</li> </ul> <p>The geologist/engineer should review drainage conditions along the pipeline route from POD 2 to POD 1 to ensure that drainage water is not introduced into a slope such that it increases the potential for a landslide.</p> <p><b>GS-2:</b> No water shall be diverted or used, and no construction related to such diversion shall commence, unless Applicant has obtained and/or complied with the identified permits required by the following agencies:</p> <ul style="list-style-type: none"> <li>a. Regional Board: General Permit for Discharges of Storm Water Associated with Construction Activity and Land Disturbance Activities (General Permit Order 2009-0009-DWQ);and</li> <li>b. Sonoma County Permit and Resource Management Department: Grading Permit.</li> </ul>
Level of Impact Before and After Mitigation:	<p>Before: Potentially Significant            After: Less than Significant with mitigation incorporation</p>
Timing of Implementation, Monitoring, and Implementation Responsibility:	Prior to and during Project construction by the Applicant.
Timing for Reporting on Implementation and Monitoring:	<p>GS-1: Prior to the start of construction, Applicant shall submit the approved plans and specifications for the dam to the Deputy Director for Water Rights.</p> <p>GS-2: Within 30 days of issuance, Applicant will transmit copies of permits issued for the project to the Division of Water Rights.</p>
<b>Hazards and Hazardous Materials</b>	
Mitigation Measures:	<p><b>HHM-1:</b> No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.</p>
Level of Impact Before and After Mitigation:	<p>Before: Potentially Significant            After: Less than Significant with mitigation incorporation</p>

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Timing of Implementation, Monitoring, and Implementation Responsibility:	Prior to, during and after Project construction by the Applicant.
Timing for Reporting on Implementation and Monitoring:	Within 60 days after construction is completed, the Applicant shall submit a summary of compliance for HHM-1 to the Deputy Director including the dates of when construction activities occurred and verification of compliance.