

August 24, 2006

**Public Notice for Water Quality Certification
and/or Waste Discharge Requirements (Dredge/Fill Projects)**

Summerwind Vineyards, Yorkville
Summerwind Vineyards Stream Restoration Project
WDID No. 1B06088WNME

Mendocino County

In response to an enforcement order, Cleanup and Abatement Order No. R1-2006-0044, on June 16, 2006, the North Coast Regional Water Quality Control Board (hereinafter Regional Water Board) received an application from Mr. Darren Wiemeyer with Golden Bear Biostudies, on behalf of Mr. Kevin Barr (hereinafter the applicant), requesting Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the Summerwind Vineyards Stream Restoration Project located at 28301 Highway 128, Yorkville, Mendocino County, APN 049-250-54 and 049-300-49. The proposed project will cause disturbances to Waters of the United States associated with Dry Creek in the Russian River Hydrologic unit, Warm Springs Hydrologic Subarea No. 114.24.

On November 23, 2005, the applicant began performing emergency bank stabilization activities on the south bank of Dry Creek, towards the easternmost end of the property, in an area known as Site 2. Using heavy equipment, the applicant diverted the primary and secondary stream channels away from the eroding bank, excavated gravel from the north side of the stream channel, and placed it against the south bank at a 2:1 slope. The applicant transported rip-rap from an upstream stockpile area, and placed it along the 2:1 slope for a distance of approximately 100 linear feet. In response to these unauthorized activities, the Regional Water Board issued Cleanup and Abatement Order (CAO) No. R1-2006-0044 to Mr. Barr for unauthorized activities and discharges of waste to upper Dry Creek, and requested that Mr. Barr apply for Clean Water Act Section 401 Water Quality Certification and/or Waste Discharge Requirements (Workplan), apply for a California Department of Fish and Game Streambed Alteration Agreement, and apply for a U.S. Army Corps of Engineers Clean Water Act Section 404 permit, and to implement the Workplan.

The proposed project includes bank stabilization and habitat restoration activities in four discrete but related locations of Dry Creek on the Summerwind Vineyards property. These four sites, and work proposed at each site, are described below:

Site 1

Severe erosion has created a 12-foot high vertical bank along the south bank adjacent to an orchard. As part of the proposed project, 230 linear feet of bank will be stabilized. The upper 6 feet of the bank will be sloped back at a 2:1 slope. The applicant will excavate gravel from an on-site channel gravel bar and will place it along the vertical bank with additional gravels from an excavated 4-foot deep toe trench to a height of 4 feet. Approximately 2,200 square feet (0.051 acres) of streambed habitat will be filled to

re-establish this bank contour. An additional 2 feet of soil will be placed on top of the gravel bench, the bench will be graded to a 2:1 slope, and large diameter rip-rap (24 to 48 inches) will be placed in the trench to a height of 6 vertical feet. Willow stakes will be planted at the toe of the rip-rap, and between the boulders, with a mix of upland type native trees planted on the bench and to the top of the slope. A temporary irrigation system will be installed. A J-vane consisting of 24 to 48-inch rip-rap will be constructed just upstream of Site 1 to direct the stream away from the newly constructed bank. Work on site 1 is considered mitigation for unpermitted work in the Site 2 area.

Site 2

At this site, project activities will include stabilization of 435 linear feet of the south bank. The lower (downstream) 335 feet of this bank segment is located close to Highway 128, fiber optic line, and mature oak and willow trees; therefore, the bank cannot be sloped back. Gravel bed material placed against the former vertical bank will remain but the rip-rap will be removed and returned to the stockpile at the western end of the site. The upper 100 linear feet of bank will be sloped back at a 2:1 slope, generating excess soils. These soils will be used to fill two eroded gullies, and to reconstruct the bank both at this site and at Site 1. A 4 foot deep toe trench will be excavated at the toe of the slope, and 24 to 48-inch rip-rap will be placed in the trench and extended up the slope to a vertical height of 6 feet. Willow stakes will be planted at two foot intervals at the toe of the slope, and within spaces between the rip-rap. Clean soil will be spread on top of the gravel slope, and trees and shrubs will be planted at the top of the slope and beyond. A temporary irrigation system will be installed. The Highway 128 culvert swale will be redesigned and stabilized to decrease erosion. The swale will be widened, realigned, sloped back, stabilized with erosion control matting, and 12 to 24-inch rip-rap will be placed at the culvert outlet. A small swale will be installed in the orchard to redirect stormwater from gullies into the Highway 128 culvert swale.

Site 3

At this site, 50 linear feet of bank on the south bank will be stabilized and restored to protect the bank against future erosion. Existing rip-rap will be removed and native soils will be placed around existing vegetation and contoured. A 4-foot deep toe trench will be excavated at the toe of the slope and 24 to 48-inch rip-rap will be placed in the trench and extended up the slope to a vertical height of 4 feet. Willow stakes will be planted at two foot intervals at the toe of the slope and within spaces between the rip-rap, and trees and shrubs will be planted at the top of the slope and beyond. A temporary irrigation system will be installed. Two areas near the red barn which are experiencing minor erosion from surface water runoff will be filled in with native soils and erosion matting will be installed over the erosion areas. Both these areas will be planted with trees and shrubs, and a temporary irrigation system will be installed. Work on site 3 is considered mitigation for unpermitted work in the Site 2 area.

Site 4

At this site, 210 linear feet of bank on the north bank will be enhanced and stabilized by willow stakes. Willow stakes will be planted at two foot intervals at the toe of the slope and extended 2 feet vertically up the slope. An existing rip-rap stockpile will be removed

and used elsewhere on the project, and the site will be restored as riparian habitat, with trees and shrubs planted in the area. A temporary irrigation system will be installed. Work on site 4 is considered mitigation for unpermitted work in the Site 2 area.

Additional Riparian Restoration

580 linear feet of the top of bank along the south bank will be planted with trees and shrubs to form a continuous riparian corridor. No bank stabilization or streambed restoration activities are proposed along this section. A temporary irrigation system will be installed. Work on this section is considered mitigation for unpermitted work in the Site 2 area.

Trash and Debris Removal

Trash and debris will be removed from the creek channel; this material includes an old tractor embedded in the channel and a cable attached to an ash tree that has accumulated unwanted trash and debris. After the tractor is removed, the remaining hole will be filled with gravel bed material. Work on this section is considered mitigation for unpermitted work in the Site 2 area.

Giant Reed Removal and Streambed Restoration

A large stand of giant reed (*Arundo donax*) located near the center of the stream will be removed using an excavator. The excavation hole will be filled with gravel bed material. The giant reed will be transported by dump truck to an upland area, where it will be burned. Work on this section is considered mitigation for unpermitted work in the Site 2 area.

The proposed project will directly and temporarily impact approximately 710 linear feet of streambank (waters of the United States), and 2,200 square feet of streambed habitat will be filled to re-establish bank contour. To arrest severe streambank erosion, approximately 730 cubic yards of native materials and rip-rap fill will be used at Site 1, approximately 275 cubic yards of native materials and rip-rap fill will be used at Site 2, and approximately 35 cubic yards of native materials and rip-rap fill will be used at Site 3, for a total of 2,840 square feet of fill (0.065 acres). Approximately 570 cubic yards of gravel might be skimmed from an in-channel gravel bar, covering approximately 15,300 square feet (0.30 acres), and used at Site 1. No excavated material will be transported out of the project area. Another 580 linear feet of top of bank will be planted to form a continuous riparian corridor.

The project has been designed to avoid and minimize adverse impacts and permanent impacts to waters of the United States, and will include the following measures:

1. All bank stabilization activities will occur when there is no flow in Dry Creek.
2. Heavy equipment access to Dry Creek will be restricted through worker training, flagging, and exclusion fencing.
3. Heavy equipment will be restricted to the haul route and areas where bank stabilization work will be performed.

4. All burrows and cavities that may contain amphibians including yellow-legged frogs will be inspected prior to construction activities. If any amphibians are found, they will be relocated to a suitable habitat out of the project area.

Work at Sites 1, 3, 4, Additional Riparian Restoration, Trash and Debris Removal, and Giant Reed Removal and Streambed Restoration are all considered compensatory mitigation for the unpermitted work performed at Site 2.

The Monitoring Plan includes specific minimum threshold values to assess whether restored riparian and stream habitats in Dry Creek are developing into properly functioning systems. Monitoring will be conducted in June or July of each year, for a period of five years. Failure to attain a minimum threshold value(s) will require that the applicant take remedial action(s). The monitoring will include measuring and assessing vegetation plant cover and plant species composition, visual inspections of the stabilized bank segments, and photo documentation. The applicant will submit annual monitoring reports summarizing the results.

The applicant has filed an application with the United States Army Corps of Engineers to implement the proposed project under Nationwide Permit Number 27. On June 15, 2006, the applicant submitted a California Department of Fish and Game Lake or Streambed Alteration Agreement (1600 permit) for the proposed work and they consider this project to be a small habitat restoration project. On June 16, 2006 this CWA Section 401 application (Workplan) was submitted to satisfy Task 1 required by CAO No. R1-2006-0044 with the intent to implement the Workplan by October 15, 2006 as required by Task 2 contained in CAO No. R1-2006-0044. The submitted Workplan is the result of an enforcement action being taken for the protection of the environment. As such it is exempt from the document preparation requirements of the California Environmental Quality Act (Pub. Resources Code, section 21000 et seq.), as specified in the California Code of Regulations, Title 14, sections 15308 and 15321.

In implementation of the CAO, Regional Water Board staff are proposing to regulate this remediation project pursuant to Section 401 of the Clean Water Act (33 USC 1341) and/or Porter-Cologne Water Quality Control Act authority. In addition, staff will consider all written comments submitted during a 21-day comment period that begins on the first date of issuance of this letter at 5:00 p.m. on the last day of the comment period. If you have any questions, please contact staff member Scott Gergus at (707) 576-2585 or by e-mail at sgergus@waterboards.ca.gov within 21 days of the posting of this notice.