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SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

Regulatory Branch  
333 Market Street  
San Francisco, CA 94105-2197

NUMBER: 28828N      DATE: July 10, 2006  
RESPONSE REQUIRED BY: August 10, 2006

PERMIT MANAGER: Katerina Galacatos

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Email: Katerina.Galacatos@spd-2usace.army.mil

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1. **INTRODUCTION:** Windsor Oaks Vineyard, P.O. Box 883, Windsor, California 95492-0883, (707-433-3133), through its agent Jason Booth, 707 Wilshire Blvd., Los Angeles, California 90017 (213-943-6100), has applied for an after-the-fact Department of the Army permit for the discharge of fill material into waters of the U.S. undertaken to develop new acreage of vineyard. In addition, Windsor Oaks Vineyard is applying for a Department of the Army permit to restore and mitigate for the work that has already taken place without Department of the Army authorization. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. **PROJECT SITE:** Windsor Oaks Vineyard is approximately 700 acres located at 10810 Hillview Road, Windsor, Sonoma County, California (Figure 1). 480 acres are in vineyard production with both mature and recently planted grapes. In addition, 230 acres have been placed in a Forever Wild Open Space conservation easement held by Sonoma County Agricultural Preservation and Open Space District (Figure 2). The undeveloped, protected area encompasses open meadows, hardwood forests and streams.

3. **PROPOSED PROJECT:** Windsor Oaks Vineyard discharged fill material into 2,500 square feet of wetlands and 1,300 linear feet of three streams during 2001 and 2003. The purpose of this project was to replace existing culverts, to install new culverts, to redesign existing vineyard to facilitate

ongoing production and to develop new vineyard plantings. In the area noted as Block 6 a 2,500 square foot wetland and 100 foot stream were impacted by the installation of culverts. In Block 7 a 400 foot section of stream has been culverted and filled with a 20 foot fill prism. In Block 8 a 800 foot stream feature has been culverted and filled over to facilitate vineyard plantings.

Windsor Oaks Vineyard proposes to undertake the following restoration and enhancement activities. In Block 1 the creation of 4,050 square feet of wetland, the creation of 400 feet of stream, and the enhancement of 800 feet of existing stream channel (Figures 3a and 3b). In Block 6 the enhancement of 2,500 square foot wetland area (Figure 4). And lastly in Block 7 the restoration of the 400 foot long stream section (Figure 5). Only native trees and plant species will be used for the proposed restoration and enhancement. The restoration and enhancement will be monitored annually for five years. The applicant will also undertake additional enhancement activities to comply with conditions of the North Coast Regional Water Quality Control Board has issued a Clean Up and Abatement Order

4. **OTHER STATE AND FEDERAL PERMITS:** Water Quality Certification: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341) an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. No Corps permit will be granted until the applicant obtains the required water quality

certification. The North Coast Regional Water Quality Control Board has issued a Clean Up and Abatement Order No.R1-2004-077 for vineyard development and maintenance that has occurred and the proposed restoration and mitigation.

Endangered Species Act of 1973 (ESA): No federally listed threatened or endangered species are known to occur at the project site.

Magnuson-Stevens Fisheries Conservation and Management Act: NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. No specific EFH concerns associated with this proposal have been identified.

National Historic Preservation Act of 1966 (NHPA): A cultural resources assessment of the permit area, involving review of published and unpublished data on file with city, State, and Federal agencies will be undertaken by the applicant. If, based upon assessment results, a field investigation of the permit area is warranted, and cultural properties listed or eligible for listing on the National Register of Historic Places are identified during the inspection, the Corps of Engineers will coordinate with the State Historic Preservation Officer to take into account any project effects on such properties.

**5. ENVIRONMENTAL ASSESSMENT:** The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500 - 1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation

of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197.

**6. EVALUATION OF ALTERNATIVES:** Evaluation of the proposed activity's impact will include application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation will be made by this office under the guidelines and will determine if the proposed project is not water dependent.

**7. PUBLIC INTEREST EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

**8. CONSIDERATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to

consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

**9. SUBMISSION OF COMMENTS:** Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Katerina Galacatos of our office at telephone 415-977-8440 or E-mail: Katerina.Galacatos@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.