



US Army Corps  
of Engineers®

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

NUMBER: 26784S

DATE: 22 January 2003

RESPONSE REQUIRED BY: 22 February 2003

Regulatory Branch

333 Market Street

San Francisco, CA 94105-2197

PROJECT MANAGER: Bob Smith

Phone: (415) 977-8450/E-mail: rsmith@spd.usace.army.mil

1. INTRODUCTION: Alpine Road Vineyards LLC, 7620 Alpine Road, La Honda, California 94020, (Contact: Robert Susk, 650-366-9800) has applied for a Department of the Army permit to retain unauthorized fill placed in the headwaters of Tarwater Creek near La Honda in southern unincorporated San Mateo County, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. PROJECT DESCRIPTION: The 26 acre Alpine Road Vineyard (ARV) site is located near the summit of the Santa Cruz Mountain range on a steep (10%-65%), generally south facing slope with two riparian/wetland drainages (shown in photo below) that join approximately 200 feet south of the ARV property line and constitute the headwaters of

Tarwater Creek. Tarwater Creek is part of the headwaters system of Pescadero Creek.

In the fall of 2001, AVR undertook extensive earthwork, grading and site drainage activities to establish a vineyard. As part of this work the drainage located in the center of the photo below, containing an estimated 0.33-acre wetland/water mosaic (water/wetland #2), was cleared of vegetation, graded to flatten the slope, and drained by the installation of a surface drain system. The drain system was directed to an outfall placed in the tree filled drainage (water/wetland #1) located on the left side of the photo. Storm events during the winter of 2001-2002 caused significant erosion on the channel side slopes below and opposite the outfall, and significant sedimentation downstream. The lower (southern) ends of both drainages were



filled and culverted to construct an access road. In addition, sediment and woody debris from grading were pushed into the lower end of water/wetland #1.

As a result of the work there was a total of 0.01 acres of fill placed in water/wetland #1 and 0.33 acres in waters/wetland #2 on the ARV property. In addition to direct impacts due to filling, 250 linear feet of Tarwater Creek on the ARV property were indirectly impacted by sediment deposition below the ordinary high water mark (ohwm). On the adjoining (downstream) property 0.01 acres of fill were placed in the creek, and indirect sediment deposition impacted 55 linear feet of the creek. Total on and offsite impacts in Corps jurisdiction are estimated at 0.35 acres.

Site investigations undertaken for ARV by their consultants determined that the impacts to waters/wetland #2 were permanent and irreversible. Due to the combined effects of (a) a lack of significant soil water storage capacity in the higher elevation portion of the site, (b) the new surface water drainpipe system, (c) continued flow down gradient in the uncompacted backfill materials that surround the surface drainpipe system, (d) no energy dissipation in the drainpipe system, and (e) no provision for on-site retention or detention current water discharges from the site are highly erosive. In the best professional judgment of the consultants any waters/wetland restoration measures would exacerbate and/or perpetuate conditions of significant slope instability, unacceptable risk of future mass failure(s), and significant sedimentation in downstream reaches of the Tarwater/Pescadero Creek ecosystem. Emergency corrective measures to stabilize the site prior to the onset of the winter rains were proposed by ARV and their consultants. The Corps subsequently approved the implementation of the corrective measures.

Prior to October 15, 2002 all grading to stabilize the slopes was completed and a cover crop was planted,

cleanup at the top of waters/wetlands #1 was completed, fill was removed by hand from waters/wetland #1, five T-spreader outfalls into wetland/waters #1 were completed, and retention/detention ponds were constructed at the foot of water/wetland # 1 & 2. Subsequently additional erosion control measures were put in place to winterize the entire site. During the spring of 2003 the fill and culvert at the foot of waters/wetland #1 will be replaced with a clear span flat car bridge and the downstream debris plug on the adjacent property will be removed.

The removal of fill material and debris from waters/wetlands #1 and the associated plantings will essentially restore waters/wetlands # 1. On-site restoration of waters/wetlands # 2 is not practicable because it was so impacted by construction and slope stabilization activities that it is not possible to restore it. The only other on-site mitigation work possible was the work done to improve the slope stability above wetlands # 1, stabilization of the headcut in wetlands # 1 and the construction of two sediment retention and detention ponds. No other areas on the property are suitable for creation, restoration or enhancement of waters/wetlands. Accordingly, ARV turned to off-site options.

As off site mitigation ARV has proposed to arrange a donation of \$40,000 in restricted funds to the San Mateo County Parks and Recreation Foundation to support the replacement of the Sequoia Flat Crossing over Pescadero Creek in San Mateo County Memorial Park. ARV also intends to direct \$10,000 to this project as a supplemental environmental project (SEP) pursuant to the Regional Water Quality Control Board Administrative Civil Liability (ACL) complaint in this matter. The existing crossing has long been recognized as detrimental to sediment transport and the longitudinal gradient of the creek. The crossing is also the last major obstruction to steelhead migration in Pescadero Creek, in San Mateo County. These restricted funds would be sufficient

to achieve the planning and administration required to bring together grant funds and administer the completion of the project. The applicant provided the following information on the proposed off site mitigation.

The Sequoia Flat Creek Crossing over Pescadero Creek is located in San Mateo County Memorial Park, approximately 4 miles from the ARV site. The Crossing is a concrete dam constructed in the creek bed approximately 40 years ago. The crossing allows the passage of pedestrian and vehicle traffic during most of the year, but is submerged, by as much as 20 feet of water during the rainy season. The crossing has a culvert system and a “fish ladder.” By all measures the crossing has a serious negative impact on the Pescadero Creek ecosystem. The culverts present a known safety risk to children. The fish ladder is constructed in a manner that is detrimental to the migration of the steelhead. And the obstruction in the creek has had a significant negative impact on sediment transport, and the longitudinal gradient of the creek.

In its Capital Projects Plan, San Mateo County has identified the modification or replacement of this crossing as an “Essential Priority” project to restore habitat and increase public safety. The California Department of Fish and Game has also identified modification of this crossing as a priority project.

In June 1999 San Mateo County Parks Division and San Mateo County Public Works Department conducted some preliminary engineering and cost studies for the replacement of the Sequoia Flat Crossing. The completed bridge project is estimated to cost between \$800,000 and \$1,000,000. John Kenny, Head Ranger for Memorial Park advised ARV that modified culvert solutions had also been evaluated. These solutions were estimated to cost under \$500,000.

#### Funding Status

SB 271 funds for the project are available through the California Department of Fish & Game. Initial contact with Fish & Game suggests that the project would be viewed favorably for funding if the private contributions were sufficient for the planning and design. The Sequoia Flat replacement would score high on this scale. ARV has also spoken with Rebecca Kramer of the National Fish and Wildlife Foundation. The NFWF has grant money available for this type project and has expressed interest. Initial conversations suggest that funds for this project may be available through other state and federal agencies and through private foundations. The San Mateo County Parks Department also has some limited trust funds available for the project. The project has not moved forward to date because of a lack of resources to fund the coordination of grants and the planning and administration of the project. The San Mateo County Parks and Recreation Foundation has been actively, but unsuccessfully, seeking donations to support the planning and design studies that would make modification of the Sequoia Flats crossing possible. Donation of \$40,000 of restricted funds to the San Mateo County Parks Foundation, dedicated to the funding of the modification or replacement of the Crossing, will have a tangible and substantial positive impact on flow and sediment transport in Pescadero Creek, as well as on the habitat of endangered species, including the red-legged frog, Coho salmon and steelhead.

#### Process

The \$40,000 donation to the San Mateo County Parks and Recreation Foundation would be restricted to the development of plans for the replacement of the Sequoia Flat Crossing and the applications for, and administration of, grants from the State Department of Fish and Game, the National Fish and Wildlife Foundation and other organizations that may financially participate in this project. A Cooperative Agreement between the relevant agencies and other parties would be

developed to set forth the administration of this proposal.

The \$10,000 of SEP funds would similarly be processed through the San Mateo County Parks and Recreation Foundation. The San Mateo County Parks and Recreation Foundation and the County of San Mateo have proposed using SEP funds specifically for wildlife and vegetation surveys to be conducted as part of the design, permitting and post-project monitoring of the crossing modification. These studies would include an inventory and description of the condition of terrestrial and in-stream habitat for insects, amphibians, reptiles, birds, fish and mammals. These surveys would provide valuable information about this reach of Pescadero Creek, assist with the permitting phase and result in a superior project design. Utilizing some of the funds for post-project monitoring would allow San Mateo County Parks to assess what corrections, if any, are necessary in the years following the modification. The studies would also provide information that will help the Regional Water Quality Control Board assess the beneficial results from the mitigation.

The structure and processing of this plan would be as follows: The San Mateo County Parks and Recreation Foundation is a 501(c)(3). It will accept funds restricted for specific projects in the San Mateo County Parks. The donation will be recorded as restricted in both the Foundation's financial records and donor database. The Foundation will apply for a \$25,000 grant from NFWF. The Foundation will then make a donation of the funds to the County with the stipulation that the donation will be used for the specific purpose indicated. The funds received will be designated for that purpose and held as a special line item in the Park and Recreation Division or Department of Public Works' budget. The Department of Public Works will be the planning (including permitting), grant proposal and contract administration to complete

the project. The County and the Parks Foundation will:

- Administer the initial funds (develop RFP)
- Apply for Section 271, NFWF and other grant funds
- Administer grant funds
- Act as project manager to secure necessary permits and complete the project
- Work in cooperation with the county to complete the project

3. STATE APPROVALS: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that they have obtained a conditional State water quality certification from the San Francisco Bay Regional Water Quality Board.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, by the close of the comment period of this public notice.

4. ENVIRONMENTAL ASSESSMENT: The Corps of Engineers will assess the environmental impacts of the action proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), and pursuant to Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps of Engineers' Regulations, 33 CFR 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the jurisdiction of the Corps of Engineers. The documents used in the preparation of the

Environmental Assessment will be on file in the Regulatory Branch, Corps of Engineers, 333 Market Street, San Francisco, California.

#### 5. EVALUATION OF ALTERNATIVES:

Evaluation of this activity's impact on the public interest will also 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).

6. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors that become relevant in each particular case. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore 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.

7. 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 of Engineers to determine whether to issue, modify, 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 of the proposed activity.

8. SUBMISSION OF COMMENTS: Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this notice and should be forwarded so as to reach this office within the comment period specified on page one of this notice. Comments should be sent to the Regulatory Branch. It is 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 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 address is indicated in the first paragraph of this notice, or by contacting Bob Smith of our office at telephone 415-977-8450 or E-mail: rsmith@spd.usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided on request.



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