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## North Coast Regional Water Quality Control Board

February 23, 2024

Robert and Mardella Vassar  
1123 S Cloverdale Blvd #E415  
Cloverdale, Sonoma, CA 95425  
[mardella@gmail.com](mailto:mardella@gmail.com)

Dear Robert and Mardella Vassar:

**Subject:** Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board Order for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Restoration Projects Statewide Order WQ 2022-0048-DWQ

**File:** Tenmile Creek Vassar Habitat Enhancement & Sediment Control Project CW-888948; WDID No. 1B23091WNME

This letter is to certify coverage of the Tenmile Creek Vassar Habitat Enhancement & Sediment Control Project (Project) under the Order for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Restoration Projects Statewide (Order); Order WQ 2022-0048-DWQ. The Project will minimize erosion and sediment pollution to Tenmile Creek, a critical habitat for Chinook salmon, coho salmon, and steelhead trout.

### Background

On June 15, 2023, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) from Robert and Mardella Vassar's representative, Patrick Higgins of the Eel River Recovery Project (Applicant) to comply with the terms of, and obtain project coverage under, the Order for the Project. On June 16, 2023, the Regional Water Board deemed the NOI incomplete. On January 9, 2024, additional required information was received, and the NOI was deemed complete.

### Public Notice

The Regional Water Board provided 21-day public notice of the application pursuant to the Order on January 30, 2024, and posted information describing the Project on the Regional Water Board's website. No comments were received.

### Project Location

The Property is located west of Highway 101 at the base of the Rattlesnake Grade, along Tenmile Creek Road, approximately 6.75 north of Laytonville in northern

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

Mendocino County, and impacts Tenmile Creek and its unnamed tributaries, within the Eel River Hydrologic Unit 111.33. Coordinates of the Project are approximately latitude 39.775258 ° N and longitude 123.558018 ° W.

### Project Description

The reach of lower Tenmile Creek that runs through the Vassar property is critical habitat for Chinook salmon spawning and rearing of Chinook, coho and steelhead juveniles seasonally. Sediment pollution is recognized as being a limiting factor for salmonid survival in the South Fork Eel River, including Tenmile Creek. The Project purpose is to minimize erosion and sediment pollution to Tenmile Creek four ways: treatments to eroding gullies in the large Vassar meadow and on forested hillslopes, upgrading culverts and reshaping roads, recontouring an old landing with risk of failure, and stabilizing a streamside landslide. The Project will also improve native plant species composition.

The Project includes the following restoration activity categories within the Order: Improvements to stream crossings and culverts (§ A4.1); Restoration and enhancement of off-channel and side-channel habitat (§ A4.4); Bioengineered Bank Stabilization (§ A4.3); Floodplain Restoration (§ A4.6); Establishment, restoration, and enhancement of stream and riparian habitat and upslope watershed sites (§ A.10). These restoration activities will occur on Tenmile Creek Road, Hargus Road, and a grassland complex north of Tenmile Creek Road and west of Hargus Road. The Project is composed of 39 specific incident locations, denoted with “BV” and number, that are comprised of habitats of grasslands, oak savannahs, riparian corridors, mixed conifer/hardwood forest, and streams. The Project will be implemented in accordance with the *Tenmile Creek Vassar Habitat Enhancement and Sediment Control Project Basis of Design Final Report* (BOD) and *Monitoring Plan* submitted by the Applicant in June 2023, and any subsequent revisions approved by the Executive Officer, all information provided in the NOI, and supplemental documents included in the application package. The specific restoration activities for each incident location are detailed within the BOD and application documents.

Gully treatment involves installing permeable, hand-built structures made from locally available woody materials that are designed to trap sediment, build riparian soils, and potentially raise the water table. Native grasses will be planted in sediment deposits above check dams. Gully treatment will be conducted as described in the BOD *Attachment 6 Gully Design Toolbox - Low-Impact Native Material Treatment Diagrams*. The locations receiving gully treatments are within the Grassland Complex north of Tenmile Creek Road and west of Hargus Road.

Work on Upper Hargus Road includes installation of more frequent ditch relief culverts, out-sloping, and the addition of critical dips. On Lower Hargus Road, culverts will be replaced with armored fill crossings. On the Hargus road landing, fill will be removed and stabilized to create a wet meadow environment and restore stream habitat.

On Tenmile Road, the Project involves replacing culverts and armoring inlets and outlets. Pipes will be upgraded to 100-year flood standards and existing gullies adjacent

to crossings will be treated using bioengineering methods. Site BV18 is adjacent to Tenmile Road, within a 400-foot long reach of the mainstem Tenmile Creek. The current alignment of bedrock outcrops at BV18 have resulted in ongoing erosion of the right bank during high flows, which contributes fine sediment to the creek and threatens to wash out the road prism above the channel. The design approach to reduce this sediment source is to realign streamflow towards the left bank, involving four boulders and a log deflection structure to promote sediment deposition, and provide habitat benefits for fish, including cover and velocity refugia. Riparian plantings of willow and ash will be included within this reach. BV18 structures will be conducted as described in *Tenmile Creek Erosion Control Project – Site BV18 Technical Memorandum* prepared by Stillwater Sciences on June 6, 2023. If Tenmile Creek has not lost surface water flow in this reach during the late summer construction, the *Vassar Fish Habitat Enhancement and Sediment Control Project (BV18) Fish Removal and Relocation Plan* shall be enacted, which includes placement of a cofferdam and an on-site trained fisheries biologist to relocate and prevent harm to any fish present within the reach. A report will be prepared and submitted to the Regional Water Board on fish removal and relocation results, if applicable.

All applicable Best Management Practices (BMPs), Order general protection measures, design standards, Program EIR migration measures and BOD guidelines shall be followed.

#### Impacts to Waters of the State

The temporary impacts to waters of the state associated with the Project restoration activities are approximately 1.5 acres, 2380 LF, and 60 cubic yards of stream channel, 1.5 acres, 1800 LF, 1300 cubic yards of riparian areas.

#### Project Associated Discharge

Vegetation of 800 native plantings, including willow and cottonwood, grass plugs, acorns and buckeye, and native transplant saplings, for riparian and upslope revegetation; 100 cubic yards of rock rip rap for anchoring brush and logs, culvert outlet energy dissipation, and bioengineered restoration for channel stabilization; 100 cubic yards of boulders; 150 cubic yards of large woody material; 100 cubic yards of biodegradable erosion control materials; 11 metal culverts among the 39 incident locations and Project impact areas.

#### Project Time Frame

Start date: May 1, 2024

Completion date: February 23, 2029

#### Agency Permits

The Applicant has applied to the U.S. Army Corps of Engineers for a Section 404 Clean Water Act Permit and to the California Department of Fish and Wildlife (CDFW) to obtain a Lake and Streambed Alteration Agreement and an Incidental Take Permit.

#### Notice of Applicability & CEQA Determination

Regional Water Board staff has determined that the proposed activities as described in the NOI may proceed under the Order for Clean Water Act Section 401 Water Quality

Certification and Waste Discharge Requirements for Restoration Projects Statewide; Order WQ 2022-0048-DWQ. As lead agency, the Regional Water Board finds that the project as described in the NOI could have a significant effect on the environment, because all potentially significant effects have been analyzed in the Statewide Restoration Order Program EIR pursuant to applicable standards and will be avoided or mitigated pursuant to this Program EIR, no additional CEQA analysis is required. The Regional Water Board will submit a Notice of Determination to the CEQA Clearinghouse.

Receiving Water: Tenmile Creek, within the Eel River Hydrologic Unit 111.33

Temporary Project Impacts: 1.5 acres, 2380 linear feet, 60 cubic yards channel

1.5 acres, 1800 linear feet, 1300 cubic yards riparian areas

Permanent Project Impacts: None

Latitude/Longitude: 39.775258 ° N / 123.558018 ° W

Expiration Date: **February 23, 2029**

#### Reporting and Notification Requirements

Mitigation and monitoring reports shall be submitted annually for five years following mitigation implementation (Reports). Reports shall be submitted to the Regional Water Board by January 31, detail the monitoring results from the prior calendar year, assess if the performance standards are being met, and whether adaptive management steps should be taken.

In accordance with the Monitoring Plan, monitoring will involve photo points, measurements and data collection as necessary throughout the year, for the entire period of construction and subsequent five-year monitoring period. Monitoring and reporting will be done on the success criteria for gully erosion control, road related erosion control, landing stabilization, fish habitat enhancement and slide stabilization, native plant restoration and any adaptive management actions taken or proposed.

**As required in section XIII.B of the Order, Project proponents with projects authorized under this Order shall follow notification and reporting requirements described in section XIII.B and those found in Attachment D of the Order.** The Order and its associated monitoring and technical reporting provisions are also adopted pursuant to California Water Code sections 13383 and 13267, subdivision (b)(1). The requirements for the content of the reports and notification types required under the Order are detailed in Attachment D, including specifications for photo and map documentation. Written reports and notifications must be submitted using the Reporting and Notification Cover Sheet located in Attachment D, which must be signed by an authorized representative who meets the signatory requirements specified in Attachment E. Please include the project name and WDID number with all future inquiries and document submittals. Document submittals shall be made electronically to [NorthCoast@waterboards.ca.gov](mailto:NorthCoast@waterboards.ca.gov).

An application fee of \$769.00 was received for the Project on June 20, 2023. The project qualified as Category D, Ecological Restoration and Enhancement Projects, in the current fee schedule. This Order will be subject to annual billing while the project is constructed and /or monitored using the current fee schedule at the time of billing: [https://www.waterboards.ca.gov/resources/fees/water\\_quality/docs/dredgefillcalculator.xls](https://www.waterboards.ca.gov/resources/fees/water_quality/docs/dredgefillcalculator.xls). **Annual fees will be automatically invoiced to the Applicant.** Upon completion of all monitoring and reporting requirements the Applicant must request termination of the Order authorization. The Regional Water Board will terminate authorization and billing when all permit requirements have been completed.

The Order for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Restoration Projects Statewide; Order WQ 2022-0048-DWQ can be found at [Order for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Restoration Projects Statewide.](#)

The authorization of this certification for any dredge and fill activities expires on February 23, 2029. Conditions and monitoring requirements outlined in the certification are not subject to the expiration date outlined above and remain in full effect and are enforceable to ensure compliance with water quality objectives adopted or approved under Sections 13170 or 13245 of the CA Water Code.

Please call Emma Tracy at (707) 576-2834 or Gil Falcone at (707) 576-2830 if you have any questions.

Sincerely,

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Valerie Quinto  
Executive Officer

240223\_ET\_TenmileVassarSRGO\_NOA

Copy: State Water Resources Control Board; [Stateboard401@waterboards.ca.gov](mailto:Stateboard401@waterboards.ca.gov)  
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