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By Email to [mnapolitano@waterboards.ca.gov](mailto:mnapolitano@waterboards.ca.gov)

Mike Napolitano  
San Francisco Bay Water Quality Board  
1515 Clay Street, 14th Floor  
Oakland, CA 94612

**Re: Comments on Draft EIR for General Waste Discharge Requirements for  
Vineyard Discharges in the Napa River and Sonoma Creek Watersheds**

Dear Mr. Napolitano:

This office represents Living Rivers Council (LRC), a non-profit association, with respect to the General Waste Discharge Requirements for Vineyard Discharges in the Napa River and Sonoma Creek Watershed (GWDR). I write on LRC's behalf to submit comments on the Draft Environmental Impact Report (DEIR) for this project and to object to approval of the GWDR Order.

**1. The DEIR's Analysis of the Extent to Which the GWDR's and the Napa River Sediment TMDL's Means of Compliance with Surface Erosion Standards May Increase Runoff and Runoff Related Sedimentation of the Napa River is Informationally Deficient.**

The DEIR assumes that the Draft GWDR Order's runoff performance standards will ensure that the runoff and runoff related sedimentation impacts of using engineered drainage facilities to comply with the GWDR's surface erosion standards are less than significant. (DEIR, pp. 245-247.) This assumption reflects multiple failures to proceed in the manner required by law, including unlawfully deferring the development of mitigation measures and conflating project components and mitigation measures. In addition, this assumption is not supported by substantial evidence.

The Board must evaluate the environmental effects of the "means of compliance," including "reasonably foreseeable means of compliance" specified in any TMDL, including performance standards. (*City of Arcadia, supra*, 135 Cal.App.4th at pp. 1424-25; 23 Cal. Code Regs. § 3777(b)(4)(A) & (B).) Where, as here, the impacts of the means of compliance may be significant, the environmental review must be "EIR level." (*City of Arcadia, supra*, 135 Cal.App.4th at p. 1424.)

The Napa River Sediment TMDL includes a performance standard for controlling surface erosion stating: "Control excessive rates of sediment delivery to channels resulting from vineyards." (Exhibit 1, TMDL, p. 19, Table 4.1.)

As discussed in LRC's previous comments on the Napa River Sediment TMDL and on numerous Erosion Control Plans approved by Napa County for vineyard conversion projects, the installation of engineered drainage facilities to reduce surface erosion often lead to increases in runoff and stream sedimentation by efficiently channeling and directing surface and subsurface flows to downstream channels.<sup>1</sup> This is a primary vector causing channel incision, channel instability, bank failures, and increases in sediment transport to low gradient reaches of Napa River tributary streams and to the Napa River. Thus, landowners' attempts to comply with the Napa River Sediment TMDL's performance standard for controlling surface erosion lead directly to increases in runoff and sedimentation.

In its appeal brief filed in the litigation *Living Rivers Council vs. State Water Resources Control Board*, Appellate No. A137082, the Board conceded that efforts to control surface erosion to comply with the Napa River Sediment TMDL can increase runoff, which can lead to increased sedimentation of the Napa River. (Exhibit 7, Respondents Brief, pp. 29-30.) The Board also conceded that the TMDL's runoff standard is a mitigation measure that it adopted to reduce the TMDL's significant sedimentation impact caused by efforts to comply with the TMDL's surface erosion standard. (Exhibit 7, Respondents Brief, pp. 29-30.) Yet the DEIR treats the GWDR's runoff standards as if they are project components only, not mitigation measures. This is unlawful under CEQA, because, an EIR cannot incorporate "the proposed mitigation measures into its description of the project and then conclude[] that any potential impacts from the project will be less than significant." (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 655-57 (*Lotus*)). The EIR's failure to discuss the runoff standards as mitigation measures rather than as part of the project "precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences." (*Lotus, supra*, 223 Cal.App.4th 655-57.) CEQA does not allow the EIR to avoid analysis of the relative effectiveness of the runoff standards to mitigate runoff related sedimentation impacts in comparison with other mitigation strategies.

The Napa River Sediment TMDL's performance standard for controlling increases in runoff is "Effectively attenuate significant increases in storm runoff, so that the runoff from vineyards shall not cause or contribute to downstream increases in rates of bank or bed erosion." (Exhibit 1, TMDL, 10, Table 4.1.) The TMDL, however, provides no guidance as to how landowners or the Board would model or measure compliance with this standard. Instead, the TMDL deferred the development of the specifics of this mitigation measure to the adoption of a Report of Waste Discharge (WDR) waiver policy or general permit. (See Exhibit 2, TMDL, p. 19, Table 4.1, Actions; note 4.) The Board's response to this concern in the TMDL process was that "The details of the SF Bay Water Board's analytical approach will be developed in consultation with a Technical Advisory Committee that has been formed to assist SF Bay Water Board with technical issues related to

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<sup>1</sup>See LRC comments letters referenced in Appendix.

development of the WDR waiver.” (Exhibit 5, TMDL AR 1760-61.)<sup>2</sup>

The DEIR for the proposed GWDR, however, fails to develop sufficient guidance as to how landowners or the Board would model or measure compliance with the TMDL’s runoff standard for a number of reasons discussed in the following sections. Therefore, the GWDR DEIR unlawfully defers the development of this mitigation measure.

LRC’s scoping comments on the GWDR EIR requested that the EIR analyze the extent to which measures implemented to control surface erosion to comply with the GWDR and the Sediment TMDL may increase runoff and lead to increased sedimentation of the Napa River. Unfortunately, the DEIR’s discussion of this topic is insufficient due to legal errors and because its conclusions are not supported by substantial evidence.

In Sections 1.0, 8.7 (Impact 8.2), and 10.2.5, the Draft EIR acknowledges the fact and importance of this type of impact. But instead of assessing the nature and extent of the impact, the DEIR assumes it will not occur because the goal of the TMDL is to reduce sediment loading a by 50% compared to existing conditions. (See e.g. DEIR, Impact 8.1, p. 244: “As described in the discussion of Impact 6.1a, road sediment discharge, and land-use related erosion of headwater channels, gullies, and landslides will all be reduced substantially (on average by 50 percent) within the Vineyard Properties enrolled in the permit”; Impact 8.2, p. 245: “The General Permit requires actions to control sediment discharges and attenuate storm runoff increases that occur as a result of development and management of farms and roads, and also to control pesticide and nutrient discharges from farms (See Section 1.0, Introduction). Actions to control (attenuate) storm runoff increases *by definition* also enhance groundwater recharge.” (emphasis added); Impact 8.2, p. 245.)

The DEIR also relies on the achievement of two performance standards to avoid significant runoff/sedimentation impacts from efforts to control surface erosion, as follows:

- d) Storm Runoff from an existing Hillslope Vineyard: shall not cause or contribute to downstream increases in bed and/or bank erosion (see below, Bed and Bank Erosion).

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<sup>2</sup>For a CEQA lead agency to defer the development and adoption of specific mitigation measures until after project approval, the EIR must specify a performance standard and meet several additional requirements, including: (1) practical considerations prohibit devising such measures early in the planning process; (2) there be evidence that achieving the performance standard is feasible; (3) the agency commits itself to devising measures that will satisfy the performance criteria (*Gentry v. City of Murrieta* (*Gentry*) (1995) 36 Cal.App.4th 1359, 1393-1396); (4) there be evidence that meeting the performance standard is effective in reducing significant impacts; and (5) there be objective criteria for measuring success.” (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93, 95 (CBE).)

e) Storm runoff from a new Hillslope Vineyard: a) peak storm runoff in 2-, 10-, 50-, and 100-year (24-hour duration) rainfall events following vineyard development shall not be greater than pre-development peak storm runoff; and b) shall not cause or contribute to downstream increases in bed and/or bank erosion (see below, Bed and Bank Erosion)

(DEIR, pp. 245-47, Impact 8.2; Draft Order, Attachment A, p. 3.)

The first performance standard for new vineyards (i.e., peak storm runoff in 2-, 10-, 50-, and 100-year (24-hour duration) rainfall events following vineyard development shall not be greater than pre-development peak storm runoff) is excellent in concept, but is too uncertain and unspecified to reliably predict its achievement.

For example, as discussed by Mr. Kamman (Exhibit 1), the modeling needed to conduct a pre-project assessment of increases in runoff from new vineyards must include the runoff increase effects of using engineered drainage facilities to reduce surface erosion. This performance standard fails to include this element.

In another example discussed by Mr. Kamman (Exhibit 1), the modeling must include an appropriate sized and located geographic area to disclose runoff increase effects where they may cause environmental harm. This performance standard fails to provide guidance on this critical variable.

The performance standard for existing vineyards and the second performance standard for new vineyards (i.e., shall not cause or contribute to downstream increases in bed and/or bank erosion) is too uncertain and unspecified to reliably predict its achievement. For example, as discussed by Mr. Kamman (Exhibit 1), this standard is entirely dependent on monitoring and comparison to undisturbed sites to disclose whether changes in infiltration rate is causing or has caused increases in runoff, but this method omits other critical factors, such as the use of engineered drainage facilities installed to reduce surface erosion. As a result, the monitoring described under “Bed and Bank Erosion” (See Draft Order, Attachment A, p. 4-5) and in the monitoring protocol (See Draft Order, Attachment E) may disclose whether bed/bank erosion is occurring but will not disclose whether a vineyard is causing or contributing to such increases.

Further, the DEIR’s analysis of the runoff/sedimentation impacts of the GWDR’s surface erosion standard assumes that the TMDL’s and GWDR’s means of compliance will actually work to achieve the TMDL’s and GWDR’s goal of reducing sedimentation of the Napa River. This assumption is based on the DEIR’s unlawful deferral of mitigation measures and is not supported by substantial evidence.

As discussed in section 4 below, this assumption is doubly problematic, because—as it proposed when this project was a WDR waiver policy—the Board proposes to defer the hard work of assessing and mitigating increases in runoff to a later, post-approval process. This time, the

GWDR delegates this task to regulated landowners and their retained, private, third party Farm Plan certifiers.

**2. The DEIR Fails to Assess Increases in Runoff and Runoff Related Sedimentation from Increases in Subsurface Flow.**

As explained by Dennis Jackson in his comment letter on the Mitigated Negative Declaration for the proposed WDR Waiver Policy (Exhibit 4a), and by Mr. Kamman (Exhibit 1), the GWDR will cause vineyard owners to infiltrate precipitation runoff into the ground by using runoff detention basins, but the EIR does not evaluate the extent to which this will lead to channel incision and downstream sedimentation as a result of concentrating and increasing subsurface flows. As explained by Mr. Jackson and Mr. Kamman, this runoff mechanism is likely to cause environmental harm.

**3. The DEIR's Analysis of the GWDR's Impacts on Groundwater is Informationally Deficient.**

The DEIR concludes that impacts on groundwater are less-than-significant, based entirely on the DEIR's assumption that the GWDR will not increase runoff. As discussed in sections 1 and 2 above, this assumption reflects multiple failures to proceed in the manner required by law and is not supported by substantial evidence.

**4. The DEIR's Project Description Is Incomplete and its Analysis of the GWDR's Environmental Impacts Is Unlawfully Segmented.**

The Draft EIR's project description is incomplete because it fails to describe the Farm Plans that are critical components of the regulatory program the EIR is intended to evaluate for environmental impact.

The GWDR is a "program" of environmental regulation as described in CEQA Guideline 15168(a). The program includes Farm Plans as described in Appendix A to the Draft Waste Discharge Requirements for Vineyard Properties Order (Draft Order). These farm plans are or relate to "individual activities" which implement the program, as described in paragraph 4 of subdivision (a) of Guideline 15168.

The Farm Plans represent a critical step in the Board's regulation of vineyard discharges. The Farm Plans are the regulatory mechanism by which the GWDR attempts to ensure that enrolled vineyards achieve the performance standards for surface erosion, runoff, and stream bed and bank erosion. These performance standards are intended to achieve both the sediment control objectives of the Napa River TMDL, the Clean Water Act and the Porter Cologne Water Quality Act and the impact reduction objectives of the EIR's mitigation measures for surface erosion, runoff, and stream bed and bank erosion.

Therefore, the Farm Plans are components of the “project description” and must be subject to public environmental review under CEQA. Instead, the GWDR establishes a system whereby the Farm Plans will be prepared after approval of the GWDR and certified by private third parties if such third parties “conclude that upon its [Farm Plan’s] full implementation, the Vineyard Property would achieve all applicable performance standards for discharge.” (Draft Order, 43.) In essence, the Draft Order attempts to create a “CEQA shelter” by which vineyard owners may shield critical components of their vineyards’ environmental analyses and mitigation measures from public scrutiny under CEQA.

Because the GWDR is a “program” under CEQA, it may be permissible to defer the development of the Farm Plans to a later time, after approval of the GWDR—if appropriate performance standards are provided. But it is not permissible for the Board to shield these project/program components from public environmental review under CEQA.

Because this approach out-sources a large share of the burden of regulating vineyard compliance with the Basin Plan to regulated vineyard owners and private non-governmental entities, it also represents an unconstitutional delegation of governmental authority to the regulated community. (*Bayside Timber Co. v. Board of Supervisors* (1971) 20 Cal. App. 3d 1.)

## **5. The DEIR’s Discussion of All Discharge Performance Standards Is Not Supported by Substantial Evidence.**

Under the Clean Water Act, states are responsible for developing water quality standards and regulating nonpoint<sup>3</sup> sources of water pollution. (*City of Arcadia, supra*, 135 Cal.App.4th at pp. 1403-1404.) Additionally, states must implement a “water-quality based” program for cleaning up polluted rivers, streams or smaller water segments that regulation of point source pollution (the NPDES permit system) has not adequately addressed. (*Id.* at p. 1404; 33 U.S.C. § 1313(d)(1)(A); 40 C.F.R. § 130.7(b) (2003).) Specifically, states must (1) make a list of polluted water bodies (referred to as a “303(d) list”); (2) rank them in order of priority; and (3) determine the maximum amount of a pollutant, from all sources, that may be discharged or “loaded” into each impaired water body. *City of Arcadia*, 135 Cal.App.4th at pp. 1403.

The maximum amount of permissible pollution is called a “total maximum daily load” or “TMDL” and “must be ‘established at a level necessary to implement the applicable water quality

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<sup>3</sup> “Nonpoint” sources are those which do not discharge from a “discernable, confined and discrete conveyance” or “point source.” (*City of Arcadia, supra*, 135 Cal.App.4th at p. 1403, citing *Defenders of Wildlife v. EPA* (10th Cir.2005) 415 F.3d 1121, 1123-1124.) Nonpoint pollution sources recognized by the Environmental Protection Agency include sediment from improperly managed construction sites, crop and forest land, and eroding stream banks. (*Id.* at fn 3.)

standards’.” (*Ibid.*) A TMDL assigns a waste load allocation to each point source, and once developed, effluent limitations in NPDES permits must be consistent with the TMDL’s waste load allocation. (*Ibid.*) The EPA has authorized California to adopt and administer the NPDES permit program for the state. (*Id.* at p. 1405, citing 54 Fed. Reg. 40664 (Oct. 3, 1989).)

“California implements the Clean Water Act through the Porter–Cologne Act (Wat. Code, § 13000 *et seq.*)” (*City of Arcadia, supra*, 135 Cal.App.4th at p. 1405.) Under the Porter–Cologne Act, regional water boards (operating under the purview of the State Water Board) must “formulate and adopt water quality control plans, commonly called basin plans, which designate the beneficial uses to be protected, water quality objectives and a program to meet the objectives.” (*Id.*, citing Wat. Code, §§ 13050, subd. (j), 13240.) “‘Water quality objectives’ means the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.” (*Id.*, quoting Wat. Code, §§ 13050, subd. (j), 13240; § 13050, subd. (h).)

Thus, the Board is required to legally regulate sediment discharges from vineyards to achieve the objectives of the Clean Water Act and the Basin Plan. Therefore, any system of regulation that the Board adopts that fails to achieve these objectives causes environmental harm as compared to Board adoption of a system of regulation that does achieve these objectives.

As discussed above, and in Mr. Kamman’s letter regarding additional performance standards described on page 3 of the Draft Order, the proposed GWDR will not achieve the objectives of the Clean Water Act or Basin Plan. But the DEIR fails to identify this as a significant impact and to discuss feasible alternative regulatory approaches that would achieve these objectives.

## **6. The DEIR’s Discussion of Alternative 3 Is Not Supported by Substantial Evidence.**

The DEIR’s discussion of “Alternative 3: Enroll Vineyards  $\geq$  . 5 acres throughout Project area, except those Upstream of Reservoirs” states:

This alternative would be as effective as the Proposed Project in achieving the fundamental objective because the Napa River sediment impairment is related to elevated amounts of sand in the bed of the Napa River and in tributary reaches that provide potential habitat for anadromous salmonids. Any sand discharged from land areas located upstream of the municipal reservoirs is trapped in the very large reservoirs, and therefore is not discharged into the Napa River, and/or into tributary reaches that provide habitat for anadromous salmonids.

(DEIR, p. 284.)

These assertions are simply false. For example, a recent EIR for the Walt Ranch Vineyard Conversion Project recognizes that reservoirs in the Napa drainage trap coarse sediments, but that fine sediments pass through, stating:

The construction of several large dams between 1924 and 1959 on major tributaries in the eastern Napa River watershed and northern headwater areas of Napa River has affected sediment transport processes into the mainstem Napa River by reducing the delivery of the coarse load sediments to the river. Thirty percent of the Napa River watershed drains into dams, such that ponds and reservoirs behind these dams capture a significant fraction of all coarse sediment input to channels (Napolitano et al., 2009).

Historically, the Napa River system has typically been described as a gravel-bed river; more recently, the Napa River has become increasingly dominated by finer sediments. The sources for these finer sediments include a variety of land uses, infrastructure construction, road runoff, and in-stream erosion sediment sources. Dams that trap coarse sediment in the area have not significantly reduced the degree to which finer sediments are being delivered to the mainstem Napa River and its tributaries. As a result of this fine sedimentation, habitats for steelhead, Chinook salmon, and California freshwater shrimp, which rely on more gravel substrate in the river, have been negatively affected from reduced gravel permeability. (Stillwater Sciences and W. Dietrich, 2002). The San Francisco Bay Regional Water Quality Control Board (RWQCB) has released a technical report that proposes a total maximum daily load (TMDL) for the Napa River that calls for substantial reductions in the amount of fine sediment deposits into the watershed to improve water quality and maintain beneficial uses of the river, including spawning and rearing habitat for salmonid species.

(Exhibit 3, Walt Ranch Final EIR, p. 4.6-8.)

The Regional Water Board's final Staff Report for the TMDL describes the impacts of fine sediment loading, stating:

The limiting factors study documented two adverse impacts of sediment pollution on steelhead and salmon habitat. The first impact is due to a high concentration of fine sediment deposited in the streambed, which adversely affects spawning and rearing habitat for both species. The second impact is due to channel incision, which occurs primarily in the mainstem and lower tributaries and affects Chinook salmon to a much greater extent (because most steelhead spawn further upstream in the tributaries). These sediment-related impacts are discussed below:

- Documentation of low permeability values at potential spawning sites for salmon indicates a high concentration of fine sediment in the streambed. Successful salmon and steelhead reproduction depends on adequate water flow through gravel in order for eggs to hatch and larvae to grow. If fine sediment clogs the gravels, flow is very slow, egg mortality can be very high, and few young fish (fry) may emerge from the streambed. Low gravel permeability is predicted to cause high rates of mortality



between spawning and emergence at potential spawning sites in Napa River and its tributaries.

- High concentration of fine sediment in the streambed also can cause significant decreases in growth and survival of juvenile salmonids during freshwater rearing by reducing availability of vulnerable prey species and increasing activity level, aggressive behavior, and attacks between juvenile salmonids (Suttle et al., 2004).
- Juvenile steelhead use open spaces between clusters of large cobbles and/or boulders as winter refuges from predators and high flows (Hartman, 1965; Chapman and Bjorn, 1969; and Meyer and Griffith, 1997). As the concentration of fine sediment in streambed increases, quality of winter rearing habitat is significantly diminished with consequent adverse impacts to survival.
- Scour of spawning gravel during commonly occurring peak flows (e.g., bankfull) can be a significant source of mortality to incubating eggs and larvae of salmon and trout species (McNeil, 1966; Montgomery et al., 1996). Human actions that increase rate of sediment supply, and/or cause it to become finer, will cause the streambed to become finer, facilitating an increase in mean depth and/or spatial extent of scour (Carling, 1987).
- Active and rapid channel incision in mainstem Napa River and lower reaches of its major tributaries has greatly reduced quantity of gravel bars, riffles, side channels, and sloughs, and has greatly decreased frequency of inundation of adjacent flood plains. These features and processes provide essential spawning and juvenile rearing habitat for Chinook salmon, which reside primarily in the mainstem Napa River. Therefore, channel incision appears to be a key factor limiting Chinook salmon run size. Channel incision, and associated bank erosion in areas underlain by thick alluvial deposits, also appears to be a significant source of sediment delivery to Napa River. Shallow groundwater stored in the valley floor adjacent to incised channel reaches is more rapidly depleted during the spring and summer, causing spring and summer baseflow persistence to be reduced, and the quantity and quality of cold pools (e.g., those fed by groundwater inputs) to be diminished.

(Exhibit 5, TMDL AR 1590-91 [Final TMDL Staff Report, pp. 8-9].)

As a result, the DEIR's analysis of the comparative impacts and benefits of Alternative 3 is not supported by substantial evidence and the EIR fails to analyze a reasonable range of project alternatives.

## **7. The DEIR Fails to Discuss a Reasonable Range of Alternatives.**

Every single project alternative mentioned in the DEIR, including project alternatives

rejected for detailed discussion and the project alternatives accepted for detailed discussion, involves less regulation. Not one involves tighter regulation. This is patently unreasonable.

The DEIR should discuss alternatives regulatory approaches in which private third party certifiers play no role or in which each “covered” vineyards must submit an individual Report of Waste Discharge application rather than enrolling in a General Permit.

Thank you for your attention to these comments.

Very Truly Yours,



Thomas N. Lippe

#### **APPENDIX**

LRC has been a committed stakeholder at every step of the process leading to the proposed GWDR. LRC’s comment letters relating to the issues raised in this letter include:

1. August 5, 2014, comment letter from Tom Lippe to the Regional Board Re: Scoping Comments re General Waste Discharge Requirements for Vineyard Discharges in the Napa River and Sonoma Creek Watershed.
2. February 1, 2013, comment letter from Tom Lippe to the Regional Board Re: Mitigated Negative Declaration for the proposed “Conditional Waiver of Waste Discharge Requirements For Discharges from Vineyard Properties in the Napa River and Sonoma Creek Watersheds” attached hereto as Exhibit 4.
  - a. Letter from Dennis Jackson to Thomas Lippe dated February 1, 2013, attached hereto as Exhibit 4a.

LRC submitted voluminous comments on the Basin Plan Amendment for the Napa River Sediment Total Maximum Daily Load (“Napa River Sediment TMDL”) which pertain to the issues raised in this letter. These letters are included in the Administrative Record for the Napa River Sediment TMDL lodged in the Superior Court in the action entitled *Living Rivers Council v. State Water Control Board*, Alameda Superior Court Case No. RG11560171 (attached as Exhibit 5); and include the following:

3. August 18, 2010, comment letter from Tom Lippe to the State Board (Exhibit 5, TMDL AR 10349), including:
  - a. Comment letter dated August 5, 2010, from Dennis Jackson (Exhibit 5, TMDL AR

- 10360);
- b. Comment letter dated August 17, 2010, from Patrick Higgins (Exhibit 5, TMDL AR 13077);
4. July 6, 2009, comment letter from my office to the Regional Board (Exhibit 5, TMDL AR 09821), including:
- a. Comment letter dated July 5, 2009, from Dennis Jackson (Exhibit 5, TMDL AR 10188);
- b. Comment letter dated July 2, 2009, from Dennis Jackson (Exhibit 5, TMDL AR 10166);
- c. Comment letter dated July 3, 2009, from Patrick Higgins (Exhibit 5, TMDL AR 10193);
5. October 20, 2008, comment letter from my office to the Regional Board (Exhibit 5, TMDL AR 09592), including:
- a. Comment letter dated October 19, 2008, from Dr. Robert Curry (Exhibit 5, TMDL AR 09748);
- b. Comment letter dated October 17, 2008, from Dennis Jackson (Exhibit 5, TMDL AR 09755);
6. May 7, 2008, comment letter from my office to the State Board (Exhibit 5, TMDL AR 09470), including:
- a. Comment letter dated April 24, 2008, from Dennis Jackson regarding the Napa River Sediment TMDL (Exhibit 5, TMDL AR 09474);
- b. Comment letter dated May 6, 2008, from Patrick Higgins regarding the Napa River Sediment TMDL (Exhibit 5, TMDL AR 09511);
- c. Comment letter dated May 7, 2008, from Dr. Robert Curry regarding the Napa River Sediment TMDL attached hereto as Exhibit 6 (Exhibit 5, TMDL AR 09563).
7. August 15, 2006, comment letter from my office to the Regional Board (Exhibit 5, TMDL AR 08848), including:

- a. Comment letter dated August 11, 2006, from Dr. Robert Curry (Exhibit 5, TMDL AR 08861);
- b. Comment letter dated August 11, 2006, from Dennis Jackson (Exhibit 5, TMDL AR 08876);
- c. Comment letter dated August 12, 2006, from Patrick Higgins (Exhibit 5, TMDL AR 08902).

#### **LIST OF EXHIBITS**

1. Letter from Greg Kamman to Thomas Lippe dated September 14, 2016.
2. Napa River Sediment TMDL, p. 19, Table 4.1.
3. Excerpt of final EIR for Walt Ranch Vineyard Conversion Project, Napa County, p. 4.6-8.
4. February 1, 2013, comment letter from Tom Lippe to the Regional Board Re: MND for “Conditional Waiver of Waste Discharge Requirements For Discharges from Vineyard Properties in the Napa River and Sonoma Creek Watersheds.”
- 4a. Letter from Dennis Jackson to Thomas Lippe dated February 1, 2013.
5. Administrative Record of Proceedings lodged in *Living Rivers Council v. State Water Control Board*, Alameda Superior Court Case No. RG11560171. [on DVD]
6. LRC’s Opening Appeal Brief, filed in *Living Rivers Council v. State Water Control Board*, Appellate No. A137082.
7. Respondents Brief, filed in *Living Rivers Council v. State Water Control Board*, Appellate No. A137082.
8. LRC’s Reply Appeal Brief, filed in *Living Rivers Council v. State Water Control Board*, Appellate No. A137082.