



North Coast Regional Water Quality Control Board

May 20, 2016

Mr. Will Oswald
Kawana Meadows Development Corporation
2 Fifer Avenue, Suite 110
Corte Madera, CA 94925

Dear Mr. Will Oswald:

Subject: INVESTIGATIVE ORDER TO SUBMIT A TECHNICAL REPORT PURSUANT TO SECTION 13267 OF THE CALIFORNIA WATER CODE
"Required Response Date Corrected"

File: Kawana Meadows Subdivision Unit 1, Petaluma Hill Road and Yolanda Road,
City of Santa Rosa, CA 95404 WDID No. 1 49C374058

The North Coast Regional Water Control Board (Regional Water Board) is issuing this 13267 Order to Kawana Meadows Development Corporation, previously Kawana Meadows Development, LLC, for unauthorized fill and excavation of wetlands at the Kawana Meadows Subdivision Unit 1. You are receiving this because you are the legally responsible party for the Kawana Meadows Subdivision.

REQUIREMENT TO SUBMIT A TECHNICAL REPORT PURSUANT TO SECTION 13267 OF THE CALIFORNIA WATER CODE

Pursuant to the requirements of section 13267 of the California Water Code (Water Code), you are required to submit a technical report addressing the unpermitted activities by June 20, 2016.

WATER CODE SECTION 13267 ORDER

The technical report required by this Order must address all the issue areas outlined below. The information contained in the technical report required by this Order is needed to enable the Regional Water Board to effectively evaluate the nature, circumstances, extent, and gravity of the unpermitted activities. The subdivision was built in and around wetlands without the proper water quality certification. Site conditions were documented in the Regional Water Board's March 25, 2016 Notice of Violation. The project activities

likely caused harmful or irreversible environmental harm to this area. This investigation is necessary to understand the extent of water quality impacts. Based on the nature and potential impacts of the construction and grading, the burden of providing the required reports, including the costs, bears a reasonable relationship to the need for the reports, and the benefits to be obtained from the reports.

The Kawana Meadows Development Corporation is hereby required to submit the following information for the Kawana Meadows Subdivision development:

1. A detailed discussion of the company's efforts to date to obtain the necessary permits, develop mitigation plans, and restore any environmental impacts as a result of construction and grading. This discussion shall include any correspondence or applications submitted to the Water Boards and other local and federal agencies.
2. Grading plans used for all grading activities at Kawana Meadows Subdivision development.

An assessment of the potential temporary (including estimated timeframe) and permanent impacts of construction and grading on wetlands and waters of the state, animal and plant communities (including sensitive and/or endangered species), and on the overall ecosystem within the construction project area. The assessment must include:

- a. A summary of all threatened and endangered species located within the construction project area.
- b. A complete wetland and waters of the state delineation shall be submitted if it was completed prior to construction. If no such delineation was conducted (which is a requirement of a Clean Water Act section 401 Water Quality Certification application), then conduct a delineation forensically to determine the extent and types of pre-grading and currently existing wetlands and other waters of the state. This delineation shall be conducted physically using the USACE 1987 delineation manual and appropriate supplemental guidelines as well as through forensic historical ecology of the Site, by a wetland professional. The delineation shall also include all waters that meet the definition of waters of the state of California. In addition to the delineation, estimate the volume of fill within the area of the delineation.
- c. A description of all observations and sampling activities conducted by or on behalf of Kawana Meadows Development Corporation associated with potential temporary and permanent impacts to site hydrology, vegetation, wetlands, and wildlife from the construction and grading activities and an evaluation of these impacts. This assessment must be prepared by a technical professional qualified to evaluate the temporary and permanent

impacts of the construction and grading activities on ecological receptors and the waters of the state and the United States.

3. Submit a workplan for restoration and mitigation to address all unpermitted impacts to waters of the state and United States, with the goal of restoration of all acreage, linear feet and functions of the waters of the state and United States, and mitigation of temporal loss of functions. This workplan shall include monitoring and reporting as well as measurable success criteria to ensure functions are fully restored and or adequately mitigated.
4. A detailed description of the methods used to remove, grade, or disturb soil and vegetation at the construction site including specific equipment and/or machinery.
5. Any written plans or project descriptions pertaining to any alteration to the waters of the state and the United States.
6. A description of what measures, if any, were taken to prevent or mitigate and/or monitor sediment releases from construction and grading activities.
7. Any other pertinent information that will assist the evaluation of the nature, circumstances, extent and gravity of the violations.

STANDARD PROVISIONS

1. Use of Registered Professionals: Kawana Meadows Development Corporation shall provide documentation that its technical report was prepared under the direction of appropriately qualified professionals. In preparing the technical report required by this Order, any engineering or geologic evaluations and judgments must be performed by or under the direction of registered professionals. A statement of qualifications and registration numbers of the responsible lead professional shall be included in the report. The lead professional shall sign and affix his or her registration stamp to the report.
2. Use of Qualified Technical Professionals: Kawana Meadows Development Corporation shall ensure that plans and reports required under this Order are prepared under the direction of technical professionals who are appropriately qualified to evaluate short-and long-term effects to ecological receptors and the waters of the state and the United States.
3. Signatory Requirements: The technical report shall be signed and certified by either a principal or someone of similar ranking. Additional reports submitted in support of the technical report must be signed by the principal author.
4. Certification Statement: Any person signing a document under this provision shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

5. Report Submittal: The report required under this Order shall be submitted electronically to:
Julia Hooten
Special Investigations Unit
Office of Enforcement, State Water Resources Control Board
Julia.Hooten@waterboards.ca.gov

NOTIFICATIONS

1. Enforcement Discretion: State Water Board reserves its right to take any enforcement action authorized by law for violations of the terms and conditions of this Order. Furthermore, compliance with this Order is wholly distinct from any possible enforcement that may follow from the discharges themselves, pursuant to violations of the California Water Code or other orders issued by the State Water Resources Control Board.
2. Enforcement Notification: Water Code section 13268(a)(1) provides that any person failing or refusing to furnish technical or monitoring report information as required by Water Code section 13267(b), or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly for an administered imposed liability of up to \$1,000 per day for each day in which the violation occurs. Please see the attached Fact Sheet for additional information.
3. Cost recovery: Pursuant to Water Code section 13304, and consistent with other statutory and regulatory requirement, the State Water Board may seek reimbursement for all reasonable costs actually incurred to investigate illegal discharges of wastes and to oversee cleanup of such wastes, abatement of the effects thereof, or other necessary enforcement actions.
4. Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth

day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

Failure to submit this technical report may subject Kawana Meadows Development Corporation to further enforcement action by the Regional Water Board, including the imposition of administrative civil liability, adoption of a cease and desist order or time schedule order, issuance of a cleanup and abatement order, or referral of the matter to the District Attorney or State Attorney General.

If you have any questions, please contact Julia Hooten, Environmental Scientist, State Water Resources Control Board, Office of Enforcement, at (916) 322-6010 or email her at Julia.Hooten@waterboards.ca.gov.

Sincerely,

Shin-Roei Lee
Assistant Executive Officer

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Certified Return Receipt Requested

Attachment: 13267 Fact Sheet

cc: Matthew Buffleben, Matthew.Buffleben@waterboards.ca.gov
Vanessa Young, Vanessa.Young@waterboards.ca.gov
Julia Hooten, Julia.Hooten@waterboards.ca.gov
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