



California Regional Water Quality Control Board
North Coast Region
Beverly Wasson, Chairperson



**Arnold
Schwarzenegger**
Governor

Alan C. Lloyd, Ph.D.
Agency Secretary

<http://www.waterboards.ca.gov/northcoast>
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: 1 (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135

June 6, 2005

Mr. Chris Peterson
Rivendale Homes
1160 North Dutton Avenue, Suite 240
Santa Rosa, CA 95401

Dear Mr. Peterson:

Subject: Amendment to the Clean Water Act Section 401 Certification (Water Quality Certification) for the Woodbridge Residential Subdivision Project (Previously named Rivendale Homes), 2290 Fulton Road, Santa Rosa, Sonoma County

File: Woodbridge Residential Subdivision Project (Previously named Rivendale Homes) 2290 Fulton Road, Santa Rosa, Sonoma County (WDID No. 1B00187WNSO)

This Amended Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341), and amends the *Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Woodbridge Residential Subdivision Project (Previously named Rivendale Homes), 2290 Fulton Road, Santa Rosa, Sonoma County, May 11, 2005*. This amendment was necessary to update the wetland impact and mitigation acreages, which were updated by Mr. Laurence P. Stromberg since the issuance of the May 11, 2005 Order, and therefore were not reflected in the May 11, 2005 Order. This Amended Order supersedes the May 11, 2005 Order.

On November 20, 2000, Mr. Laurence P. Stromberg, representing Mr. Chris Peterson of Rivendale Homes, applied for a Clean Water Act (CWA) Section 401 Water Quality Certification (Certification) for the proposed development on two parcels (A.P. Nos. 034-030-072 and 034-030-081) with a combined area of 29.46 acres. The purpose of the proposed project was for constructing a residential development, and was to involve the filling of 3.12 acres of seasonal wetlands on the site. The parcels are located at 2290 Fulton Road between San Miguel and Francisco Avenues, Santa Rosa. On April 3, 2001, the Regional Water Board issued a Denial without Prejudice (DWOP) for the proposed project due to a lack of a final wetland mitigation plan, and final California Environmental Quality Act (CEQA) documents.

California Environmental Protection Agency

Recycled Paper

On May 19, 2004 the Regional Water Board received a second application from Mr. Laurence P. Stromberg, representing Mr. Chris Peterson of Rivendale Homes, requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the Woodbridge Residential Subdivision Project, previously referred to as the Rivendale Homes 2290 Fulton Road Project. In addition to all the required documentation, the revised application contained a copy of the Final Environmental Impact Report (EIR) for the proposed project, and an updated and finalized mitigation plan, as requested in the April 3, 2001 DWOP.

Information describing the proposed project was noticed for public comment for a 21-day period on the Regional Water Board's website on December 22, 2004. No comments were received. The proposed project causes disturbances to seasonal wetland habitat associated with the Mark West Hydrologic Subarea Unit No. 114.23 and the Russian River Hydrologic Unit No. 144.20.

Project Description:

The proposed project is located at 2290 Fulton Road, Santa Rosa, Sonoma County (APNs 034-030-072 and 034-030-081), within the Northwest Santa Rosa 3-97 Annexation Area, currently comprised of a rural-residential area of mixed ranchettes and small farms outside the Santa Rosa city limits, but within the City of Santa Rosa's urban growth boundary. The purpose of the project is for constructing a residential development.

The proposed project consists of the construction of up to 149 residences single-family homes and infrastructure on 16.3 acres of the site. The homes would range in size from 1,200 to 2,066 square feet, and the net density would be approximately 10.7 units per acre. Access to the project will be from Fulton Road at a single entry point, and Fulton Road would be widened and improved to the City of Santa Rosa's specifications along the western perimeter of the site.

The proposed project will result in the loss of 2.39 acres of the approximately 6.15 acres of jurisdictional wetland habitat present on the site, due to permanent filling of the wetland habitat. According to the May 19, 2004 application, surveys for endangered plant species have been conducted on the site following the protocol established by the Department of Fish and Game (DFG) and the U.S. Fish and Wildlife Service (FWS), and results have been negative.

Approximately 8-10 years ago Mr. Charlie Patterson conducted surveys of the site and observed both Sonoma sunshine (*Blennosperma bakeri*) and Burke's goldfields (*Lasthenia burkei*) on the site. According to the FWS approximately 1.2 acres of

habitat for the above two listed plant species would be permanently lost as a result of the proposed project. In addition, the FWS estimates that approximately 3.74 acres of seasonal wetland habitat will be temporarily impacted by restoration activities in the proposed on-site preserve.

Since the original application submittal (November 20, 2000), the Sonoma County California tiger salamander (*Ambystoma californiense*) (CTS) was listed as an endangered species, and subsequently down-listed to threatened, pursuant to the Endangered Species Act (ESA). Rivendale Homes conducted adult and juvenile surveys for CTS, and requested that the U.S. Army Corps of Engineers (ACOE) initiate formal consultation with the FWS, pursuant to Section 7 of the ESA. During the process of negotiation with the FWS, the project was reduced and the total impact on wetland habitat was reduced to 2.39 acres (originally 3.12 acres were proposed to be filled). The FWS issued a no-jeopardy Biological Opinion (BO) that established the required mitigation for wetlands, endangered plant species habitat, and the CTS. CTS were not detected during these surveys and according to the applicant; the FWS determined that no mitigation was required for CTS.

Receiving Water: Seasonal wetland habitat and the Mark West Hydrologic Subarea Unit No. 114.23 and the Russian River Hydrologic Unit No. 144.20.

Filled or

Excavated Area: Total Area Impacted: 4.23 acres of wetland habitat
 Area Temporarily Impacted: 1.84 acres
 Area Permanently Impacted: 2.39 acres

Total Linear Impacts: 0.0 linear feet impacted
 Length Temporarily Impacted (Restored): 0.000 feet
 Length Permanently Impacted (Not Restored): 0.000 feet

Compensatory

Mitigation Overview: Total Mitigation Area: 13.0 acres (6.22 acres of wetland)
 Wetland Created/Restored: 3.58 acres
 Wetland Enhanced: 1.84 acres
 Wetland Existing (Avoided): 0.80 acre

Stream Restored: 0.00 acre

Stream enhanced: 0.00 acre

Federal Permit:

The applicant has applied for a U.S. Army Corps of Engineers (ACOE) Clean Water Act Section 404 permit (File Number 25602N). On March 24, 2005, the ACOE initiated formal Section 7 consultation with the USFWS pursuant to 50 CFR 402.13 of the Endangered Species Act (1973, as amended) concerning the federally listed California tiger salamander (*Ambystoma californiense*) (CTS), many-flowered navarretia (*Navarretia leucocephala* ssp. *Plieantha*), Sonoma sunshine (*Blennosperma bakeri*), Sebastopol meadowfoam (*Limnanthes vinculans*) and Burke's goldfields (*Lasthenia burkei*) for the above mentioned project.

The USFWS issued correspondence on March 3, 2005 indicating that the USFWS has determined that the construction of the project will not affect or result in "take" of the CTS. Therefore, the ACOE is initiating consultation on the above listed plants, and not the CTS.

State and Local Approvals:

Due to the absence of streams on-site, the California Department of Fish and Game will not require a Lake and Streambed Alteration Agreement for the proposed project.

Compensatory Mitigation:

According to the final wetland mitigation plan prepared by Mr. Stromberg, compensatory mitigation for the loss of 2.39 acres of jurisdictional wetlands, including 1.2 acres of habitat potential suitable for endangered plant species, Rivendale Homes will create, restore and enhance 5.42 acres of vernal pools and swales within approximately 13.0 acres of land preserved on the eastern portion of the project site. About 0.8 acre of the existing swale along the northern boundary of the project site would be avoided and protected within the proposed on-site preserve. The FWS estimates that approximately 3.74 acres of seasonal wetland habitat will be temporarily impacted by restoration activities in the proposed on-site preserve.

After creation, restoration, and enhancement work is completed, the preserve will contain approximately 6.22 acres of seasonal wetlands. The restored vernal pools in the on-site preserve would be connected hydrologically to the adjacent Jacobson and

Stipinovich properties to the south and east, respectively, and to the North Village site to the north of the project site. All on-site restoration work would be initiated either one year prior to development or during the year in which the earthwork is done within the development envelope.

All 5.42 acres of created, restored and enhanced wetland habitat will be used as mitigation for the loss of the 2.39 acres of wetland habitat on the site, which results in a mitigation ratio of 2.26:1. If the work is not completed in advance of the earthwork within the development envelope and associated impacts, Rivendale Homes will acquire credits from an approved mitigation bank on the Santa Rosa Plain to bring the mitigation ratio to at least 1.5:1, consistent with the Programmatic Consultation for the Santa Rosa Plain. Rivendale Homes plan to begin earthwork for the restoration and construction effort during the summer of 2005.

Vegetation establishment in the restored wetlands would be enhanced by the application of salvaged seed and topsoil from the existing wetlands onsite. Salvage of seed would occur in two ways:

- The upper 0.1 foot of topsoil from selected wetlands within the proposed development area would be collected and used for inoculation in the restored on-site wetlands (preference would be given to wetlands supporting high native species diversity); and;
- Seed would be collected from wetlands on-site, and possibly adjacent wetlands, with endemic vernal pool/swale species and/or native/naturalized non-invasive species. Soil or seed would not be collected from individual wetlands documented to support federally listed plants.

An agreement requested by the FWS has been reached with the DFG (Carl Wilcox, and Gene Cooley) on which vernal pools on the Alton Lane and Porter Mitigation site are acceptable donor sites and what methods of collection should be employed.

Following construction of wetland habitat within the preserve, monitoring and maintenance would occur through adaptive management as required by the Regional Water Board, FWS, ACOE and the DFG, and as necessary to improve the hydrologic

function of restored and constructed wetlands, supplemental seed collection and inoculation, repair or modification of structures and facilities (i.e., culverts at property lines, fences), control of exotic or weedy species, and construction of additional wetlands to replace those found not to be Performance criteria for the restored wetlands would be based on hydrology and vegetation (except for listed plants) as follows:

- Hydrologic success of the restored wetlands would be contingent upon ponding or saturation of soils and root zone of the dominant plant species for at least 30 consecutive days during the growing season.
- Vegetative success would be determined as follows:
 - a. The vegetative would be dominated by hydrophytic vegetation based on 50 percent of the total cover of all species present.
 - b. The number of vernal pool/swale species is 80 percent or greater of the number of vernal pool/swale species in the source or reference pools.
 - c. Total percent canopy cover of vernal pool plant species is no less than 50 percent of the average cover of species in source or reference pools.
 - d. Total canopy cover of vernal pool/swale species shows no significant declines during the monitoring period (unless declines are observed in source or reference pools).

According to the application, hydrology and vegetation (except for listed plants) within the restored wetlands would be monitored for five years. If a pool/swale does not function adequately or is likely to fail, monitoring will be extended and remediation measures may be implemented as required by the Regional Water Board, ACOE, FWS, and the DFG. Funding of any contingency measures would be the responsibility of the applicant or designated successors. Any and all remedial work or acquisition of wetland mitigation bank credits necessary to satisfy mitigation requirements would also be the sole responsibility of the applicant or its designated successors.

Rivendale Homes also proposes to establish populations of Burke's goldfields and Sonoma sunshine within the wetlands constructed and restored in the on-site preserve as mitigation for impacts at the project site and at the nearby Montage I and II project sites. The total number of plants that would be established and maintained in the on-site preserve is 3,000 plants to compensate for impacts at all three project sites. A minimum of 750 plants of each species would be established with the remaining plants being of the other species.

As part of this total, 1,500 plants are proposed to meet the mitigation requirements for the Woodbridge Project and 1,500 plants for the two Montage projects with the same 25:75 ratio applied to the Woodbridge Project and to the two Montage projects. To accomplish this, Rivendale Homes proposes to inoculate the wetlands in the on-site preserve with plant seed collected at the Alton Lane Preserve and the adjacent Porter Mitigation Site. Rivendale Homes would conduct annual seed counts and check trends on production.

Rivendale Homes proposes to use linear regression to assess the trend in the number of adult plants and seed production for both species. The wetlands and plant populations would be monitored for 10 years to assess trends in the plant populations and seed production. If the combined population size is less than 3,000 plants or a clear declining trend in the on-site preserve combined population and a zero or positive trend is observed in the referenced population(s), Rivendale Homes proposes to meet the mitigation shortfall with additional mitigation commitments. Rivendale Homes proposes to meet the shortfall by:

- Acquiring preservation credits at an approved mitigation bank on the Santa Rosa Plain;
- using credits for the establishment of plants in vernal pools at the Slippery Rock Mitigation Bank, and/or
- acquiring and protecting a site supporting either Burke's goldfields or Sonoma sunshine.

In addition, Rivendale Homes proposes to place a conservation easement over the proposed Preserve Site once the monitoring of

the site has been completed and convey fee title over the 13-acre on-site preserve to the DFG upon conclusion of the monitoring period. An endowment for long-term management would be provided to the DFG. The amount of the endowment will be determined through consultation with DFG but the desired annual capitalization rate (2.2 percent) and management and monitoring items have already been identified and agreed upon by DFG and FWS. Long-term management of the Preserve would ultimately be the responsibility of DFG.

Noncompensatory
Mitigation:

Non-compensatory mitigation measures have been incorporated into the project to reduce the potential impacts to water quality from the project. Mitigation measures include the preparation of a Storm Water Pollution Prevention Plan (SWPPP) and use of construction storm water erosion control Best Management Practices (BMPs).

In addition, the applicant prepared a draft *Proposal for Standard Urban Stormwater Mitigation Plan for Woodbridge Subdivision*, dated May 18, 2004 (Plan), and final plans were submitted March 14, 2005 to address the post-construction storm water treatment requirements of the Regional Water Board. Regional Water Board staff have reviewed the Plan and determined that if implemented as proposed, the BMPs are adequate to treat the storm water runoff from the development.

In addition, to deal with the Regional Water Board's requirement to provide post-construction storm water treatment for the proposed project, Mr. Peterson hired Carlile-Macy Civil Engineers to create Standard Urban Storm Water Mitigation Plan's (SUSMP) for the Woodbridge Residential Subdivision Project completed January 2005. The final plans for post-construction storm water treatment were submitted to the Regional Water Board on March 14, 2005 for review and approval.

The *Standard Urban Storm Water Mitigation Plan - Woodbridge Subdivision, May 18, 2004, with final plans dated January 2005* includes incorporation of bioswales as its primary function for maintaining treatment of storm water runoff from the developed site. In addition, Hollywood driveways and Cluster Unit Development (four homes on a single pad) will be used to help decrease overall impervious surfaces on the development. Storm

water runoff will sheet flow from the site to an underground collection system that will daylight into shallow swales located in planter strips that are typically 80 to 20 feet in length. The total length of these swales is about 2300 feet. The swales will terminate at a gutter collection system. The swales were designed according to calculations used to determine the size needed to treat the runoff from the 85th percentile storm event. In addition, all stormdrain inlets will be labeled with the “no dumping – drains to creek” stencils. As a final treatment feature, a catch basin insert consisting of a fossil filter will be installed at the back-side of the sidewalks.

CEQA Compliance:

The City of Santa Rosa, as the lead California Environmental Quality Act (CEQA) agency, hired EIP Associates to complete an EIR for this project pursuant to the CEQA. Pursuant to the CEQA requirements, and under contract with the City of Santa Rosa, EIP Associates prepared the *Final Subsequent Environmental Impact Report (SEIR) for the City of Santa Rosa – Northwest Santa Rosa Annexation 3-97, including North Village I and II and Woodbridge Subdivision* (SCH #2003022085), dated December 2003.

Standard Conditions:

Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions: Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) The Regional Water Board shall be notified in writing at least five working days (working days are Monday – Friday) prior to the commencement of grading work, with details regarding the construction schedule, in order to allow staff to be present on-site during construction, and to answer any public inquiries that may arise regarding the project.
- 2) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.
- 3) BMPs for sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment enters surface waters.
- 4) A copy of this permit must be provided to the Contractor and all subcontractors conducting the work, and must be in their possession at the work site.
- 5) If, at any time, a discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and the Regional Water Board shall be notified promptly.
- 6) The overall design and development of the Woodbridge Residential Subdivision shall include the post-construction storm water BMPs outlined in the *Standard Urban Storm Water Mitigation Plan - Woodbridge Subdivision, May 18, 2004, with final plans dated January 2005* that have been prepared by Carlile-Macy Civil Engineers for incorporation into the project to mitigate for storm water discharges

associated with post-development of the site. BMPs shall be implemented into the project, as proposed by the project applicant and Carlile-Macy, and as outlined above in the Non-compensatory mitigation section of this order.

- 7) The project applicant shall implement compensatory mitigation as proposed in the application package and as outlined in the Compensatory Mitigation Section above. Yearly monitoring reports for the required compensatory mitigation shall be provided to the Regional Water Board by July 15 during each calendar year for a total of five years. Reports shall include photo documentation of the on-site mitigation area, and the Slippery Rock Mitigation Site if used to achieve mitigation requirements.
- 8) After five years have passed, the mitigation will be evaluated for successful attainment of the final success criteria, and a decision will be made whether additional mitigation measures are necessary to insure that no net loss of wetland habitat occurs. Reports shall be prepared by a professional consultant with in-depth experience in wetland ecosystem creation and function, as well as wetland mitigation monitoring techniques. Reports shall be submitted to the attention of staff member Andrew Jensen.
- 9) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.
- 10) To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address, and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

- 11) The Applicant shall provide photos of the completed work to the appropriate Regional Water Board staff person, in order to document compliance. The Applicant shall also provide photos of the completed work areas after the first significant rainfall event in order to ensure that erosion control has been successful.

Water Quality
Certification:

I hereby issue an order [23 CCR Subsection 3831(e)] certifying that the authorized discharge from the Woodbridge Residential Subdivision Project, Santa Rosa, Sonoma County, (WDID No. 1B00187WNSO) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341 (a)(1)] , and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification (enclosed). Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration:

The authorization of this certification for any dredge and fill activities expires on October 15, 2010. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Andrew Jensen of my staff at (707) 576-2683 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine E. Kuhlman
Executive Officer

060605_AJJ_tab_051105_ajj_Woodbridge401CertAmmendment_June2005.doc

Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ, General
Waste Discharge Requirements for Dredge and Fill Discharges That Have
Received State Water Quality Certification

cc: Mr. Larry Stromberg, Ph.D., Wetland Consultant, 59 Jewell Street, San Rafael, CA 94901

Ms. Katerina Galacatos, U.S. Army Corps of Engineers, Regulatory Branch,
333 Market Street, San Francisco, CA 94105

Mr. Vincent Griego, Sacramento Field Office, U.S. Fish and Wildlife Service,
2800 Cottage Way, Room 2605, Sacramento, CA 95815

Mr. Blake Hillegas, City of Santa Rosa Department of Community Development,
100 Santa Rosa Avenue, P.O. Box 1678, Santa Rosa, CA 95402-1678