



**California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman**



Dan Skopec
Acting Secretary

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**Arnold
Schwarzenegger**
Governor

May 19, 2006

Mr. Harvey Rich
Dutton Village Partners, LLC
3360 Bon Air Center, Box 314
Greenbrae, CA 94904

Dear Mr. Rich:

Subject: Issuance of a Conditioned Clean Water Act Section 401 Certification (Water Quality Certification) for the Dutton Meadows Parks Project, Sonoma County

File: Dutton Meadows Parks Project (APN 043-200-004), Sonoma County;
WDID No. 1B06043WNSO

This 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). On September 9, 2005, the Regional Water Board received an application and \$15,055.50 processing fee from Mr. Garrett Hinds, on behalf of Trumark Companies requesting Clean Water Act Section 401 Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for a combination of five properties (Lechmanski, Peletz, Nelson, Minoia, and DM Associates, LLC) collectively referred to as the Dutton Meadows Project, located on 56.88 acres in Santa Rosa, Sonoma County.

On April 14, 2006, the Regional Water Board received a separate application from Mr. Harvey Rich, on behalf of Dutton Village Partners, LLC (Applicant), for the Dutton Meadows Parks Project component within the Dutton Meadows Project. This Order exclusively applies to the parcels designated as the Dutton Meadows Parks Project that are located within the northwestern corner and eastern border of the Peletz property adjacent to Colgan Creek (APN 043-200-004). The remainder of the Peletz property is proposed for development at a future date and will require issuance of separate Clean Water Act Section 401 Certification (Water Quality Certification). This Order does not cover construction activities, grading, installation of infrastructure, installation of access roads, or filling of seasonal wetland habitat on the remaining Peletz property parcel that is not designated as the two park parcels.

Information describing the proposed project was noticed for public comment for a 21-day period on the Regional Water Board's website. No comments were received. The proposed project causes permanent impacts to isolated seasonal wetlands associated with Colgan Creek and the Russian River Hydrologic Unit No. 114.00.

California Environmental Protection Agency

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Project Description: The Dutton Meadows Parks Project (Project) is located in the southwestern section of Santa Rosa, Sonoma County, southeast of the intersection of Hearn Avenue and Dutton Meadows Avenue (formerly Dutton Avenue), directly across from Meadow View Elementary School (Santa Rosa 7.5 Quad, 38 24' 40.00" N; 122 43' 38.86"). The purpose of this project is to create a 4.0-acre recreational park for use by residents occupying areas within the City of Santa Rosa's Approved Southwest Santa Rosa Area Plan.

The project includes the development of two park parcels, one of which lies in the northwestern corner of APN 043-200-004, the other which lies directly adjacent to Colgan Creek on the eastern Peletz property boundary. The development of the project will begin in Spring 2006, simultaneous with the development of the Dutton Meadows Project.

Pre-construction Best Management Practices (BMPs) will be incorporated into the final project plans in order to reduce and control soil erosion. In the event that construction activities take place during the wet season months of October 15th through June 15th, additional winterization BMPs will be implemented in order to stabilize all bare soils. Post-construction storm water treatment controls will be incorporated into the project in order to decrease potential detrimental impacts associated with storm water runoff from the developed site.

Receiving Water: Colgan Creek, Laguna Hydrologic Sub Area No. 114.21, Russian River Hydrologic Unit No. 114.00

Federal Permit: Pending U.S. Army Corps of Engineers Individual 404 Permit (File Number 26342N)

State and Local Approvals: Not Applicable

Filled or Excavated Area: Total Area Impacted: 0.63 acres of seasonal wetland habitat
 Area Temporarily Impacted: 0.00 acres
 Area Permanently Impacted (Federal Jurisdiction): 0.03 acres
 Area Permanently Impacted (Isolated, State Jurisdiction): 0.60 acres

Compensatory Mitigation Overview: Total Mitigation Area: 0.79 acres
 Wetland Created/Restored: 0.00 acres
 Wetland Enhanced (Off-site): 0.79 acre
 Wetland Existing (Avoided): 0.00 acre

Compensatory
Mitigation:

Compensatory mitigation for permanent impacts to 0.63 acres of seasonal wetland habitat, and for impacts to 4.0 acres of suitable habitat for federally listed plant species and California tiger salamander (*Ambystoma californiense*) (CTS), will be achieved in combination with the mitigation proposed for the entire Dutton Meadows Projects as outlined in *Wetland and Endangered Species Mitigation Plan Gobbi Preserve No. 2* dated November 30, 2004. Mitigation for the Dutton Meadows Projects included the creation of 1.66 acres and the restoration of 4.0 acres of wetland habitat for a final mitigation ratio of 1.25:1, in addition to the establishment of the 108.8 acre Gobbi Preserve No. 2. Construction of the wetlands and establishment of the preserve has already been approved and began in Fall 2005 (Gobbi Preserve No. 2 Mitigation Site Project, WDID No. 1B04163WNSO). The Preserve is located between Stony Point and Llano Roads, south of Todd Road, and just outside the limits of the City of Santa Rosa.

Non-compensatory
Mitigation:

Non-compensatory mitigation measures shall be incorporated into the project to reduce the potential impacts to water quality from the project. Prior to the commencement of construction activities, including grading, a Storm Water Pollution Prevention Plan (SWPPP) for the Dutton Meadows Parks Project shall be submitted to, and approved by, Regional Water Board staff. Failure to submit and implement an approved SWPPP will be considered a violation of this Water Quality Certification, and is subject to Regional Water Board enforcement actions.

Post-Construction
Storm Water Pollution
Prevention:

In order to provide post-construction storm water treatment for the Dutton Meadows Parks Project, the Applicant shall submit a Post-construction Storm Water Management Plan (SWMP) for approval by Regional Water Board staff prior to the commencement of construction activities, including grading. Included in the SWMP shall be post-construction treatment BMPs designed according to the standard calculations used to determine appropriate size requirements to treat the runoff from the 24-hour/85th percentile storm event. Failure to submit and implement an approved SWMP will be considered a violation of this Water Quality Certification, and is subject to Regional Water Board enforcement actions.

CEQA Compliance:

The City of Santa Rosa, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for an

Environmental Impact Report pursuant to CEQA. (SCH# 2002092016; August 2, 2005)

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 article 6 (commencing with section 3867) of Chapter 28, Title 23 of the California Code of Regulations (CCR 23) 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to 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 subsection 3855(b) of Chapter 28, CCR 23 and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3) This certification is conditioned upon total payment of any fee required under Chapter 28, CCR 23 and owed by the applicant.

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) Best Management Practices 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) All fill material used on the site shall be clean and free of contaminants. A characterization report for all imported fill materials shall be provided to the Regional Water Board prior to the commencement of grading work.
- 5) 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.
- 6) 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.
- 7) 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.

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.

- 8) 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.
- 9) This Order applies exclusively to the parcels designated as the Dutton Meadows Parks Project that are located within the northwestern corner and eastern border of the Peletz property adjacent to Colgan Creek (APN 043-200-004) and as identified by the irrevocable offer of dedication of land over the Lands of Judith

Peletz, et. al., as described in Document Number 2001-037605 of Official Records, Sonoma County Records.

- 10) The overall design and development of the Dutton Meadows Parks Project shall include pre- and post-construction storm water BMPs. The Applicant shall submit a Project Description, maps identifying the proposed infrastructure, a Storm Water Pollution Prevention Plan (SWPPP), and a Post-construction Storm Water Management Plan (SWMP), for approval by Regional Water Board staff prior to the commencement of construction activities, including grading and/or filling of seasonal wetland habitat.
- 11) This Order does not cover construction activities, grading, installation of infrastructure, installation of access roads, or filling of seasonal wetland habitat on the Peletz property parcel that is not designated as park parcels. The remainder of the Peletz property is proposed for development at a future date and will require issuance of separate Clean Water Act Section 401 Certification (Water Quality Certification).
- 12) Development of the Dutton Meadows Parks parcels shall not take place within 150 feet from the top of bank of Colgan Creek.
- 13) Development of the Dutton Meadows Parks parcels shall be implemented according to the Project Description, the SWPPP approved by Regional Water Board staff, the SWMP approved by Regional Water Board staff, and other information submitted in the Application. Failure to do so may result in the initiation of formal enforcement proceedings as authorized by provisions of the California Water Code.

Water Quality
Certification:

I hereby issue an order [23 CCR Subsection 3831(e)] certifying that the authorized discharge from Dutton Meadows Parks Project (WDID No. 1B06043WNSO) 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 insofar 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, 2011. 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 John Short at (707) 576-2065 and in writing 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

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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. Oscar Balaguer, SWRCB, 401 Program Manager, Clean Water Act Section 401 Certification and Wetlands Unit Program

Mr. Philip Shannin, 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

City of Santa Rosa Department of Community Development, 100 Santa Rosa Ave., P.O. Box 1678, Santa Rosa, CA 95402-1678

Mr. Kevin Doble, Sonoma County Permit and Resources and Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403

Mr. Jeff Olberding, Olberding Environmental, 3127 Vistamont Drive, Suite 100, San Jose, CA 95118

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