



# California Regional Water Quality Control Board North Coast Region

William R. Massey, Chairman

Linda S. Adams  
Secretary for  
Environmental Protection

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Arnold  
Schwarzenegger  
Governor

January 25, 2007

Mr. Bijan Madjlessi  
Sundance Village LLC  
1100 Larkspur Landing Circle, Suite 300  
Larkspur, CA 94939

Dear Mr. Madjlessi:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Smith Village Subdivision Project, Sonoma County

File: Smith Village Project  
Sonoma County, WDID No. 1B006158WNSO

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 October 10, 2006, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mr. Greg Hurd of Carlenzoli and Associates (Consultant) on behalf of Sundance Village LLC (Applicant) requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the Smith Village Subdivision Project (Project) in Sonoma County. A previous application had been received for this project on September 22, 2003. Regional Water Board staff issued a Denial without Prejudice for the original application on October 19, 2004. Information describing the proposed project was noticed for public comment for a 21-day period on the Regional Water Board's website beginning on November 8, 2006. No comments were received. The project will impact Waters of the United States associated with wetlands that drain to the Russian River and the associated Hydrologic Unit No.114.20.

Project Description: The proposed project is located at 3665 Sebastopol Road, Santa Rosa, Sonoma County (APNs 035-085-001 through 035-085-059) between State Highway 12 and Sebastopol Road situated approximately 400 feet east of Fresno Avenue. The purpose of the project is to develop approximately 8.9 acres into a subdivision providing 59 homes.

**California Environmental Protection Agency**

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The project consists of the construction of homes and the associated infrastructure. Construction activities will include grading and excavation for lot development and infrastructure construction.

The construction drawings include the design for typical site improvements associated with a shallow sloping residential subdivision. Improvements include the required grading and drainage improvements for sewer, water, storm drain and dry utilities. Grading will be necessary for the construction of the public streets and driveways.

It is anticipated that heavy construction equipment will be used to grade the site in preparation for the residential subdivision as described above. The applicant anticipates that typical equipment will be used to grade the subdivision, including scrapers, motor graders, hydraulic excavators, bulldozers, backhoes, loaders and dump trucks. Methods utilized will be in accordance with the local standard of care.

Receiving Water:	Seasonal wetland habitat and the Santa Rosa Hydrologic Unit No. 114.20
Federal Permit:	U.S. Army Corps of Engineers Nationwide Permit 39 (Pending).
State and Local Approvals:	Not applicable
Filled or Excavated Area:	<u>Total Area Impacted: 0.35 acres of wetland habitat</u> Area Temporarily Impacted: 0.00 acres Area Permanently Impacted: 0.35 acres
Compensatory Mitigation Overview:	<u>Total Mitigation Area: 22.45 acres</u> Wetland Creation: 0.35 acres Wetland Preservation: 0.35 acre California Tiger Salamander Habitat: 21.75 acre
Compensatory Mitigation:	The project will result in impacts to 0.35-acres of wetland habitat which will be permanently filled. There will be additional impacts to 7.25-acres of California Tiger Salamander (CTS) upland estivation habitat. 0.35-acres of wetland creation have been purchased from the Hazel Preserve mitigation bank. 0.30 acres wetland preservation credits have been purchased from the Engle Mitigation bank

and 0.05 acres of wetland preservation credits have been purchased from the Davis preserve mitigation bank.

For impacts to CTS, mitigation shall be at a 3:1 ratio, totaling 21.75- acres of upland estivation habitat mitigation. Credits have been purchased at the following mitigation banks in the following amounts. Engle Mitigation Bank: 0.6-acres, Hazel Mitigation Preserve: 5.2-acres, and the Davis Preserve, LLC: 15.95-acres.

Non-compensatory  
Mitigation:

Non-compensatory mitigation measures have been incorporated into the project to reduce the potential impacts to water quality from the project. Erosion control measures will include the use of straw wattles and gravel filters in key areas to minimize sediment intrusion to the stormwater system. Bare areas will be landscaped or seeded to minimize erosion from post-construction stormwater.

Source and Treatment controlled Best Management Practices (BMPs) are integrated into the project. An approved media filtration unit and an underground detention system will be used as treatment BMPs. The treatment BMPs will be appropriately sized to treat a minimum of 100% of stormwater collected onsite in a 24-hour/85<sup>th</sup> percentile storm event.

CEQA Compliance:

On May 21, 2002, the City of Santa Rosa filed a Notice of Determination (file number MJP00-017) stating that the Smith Village Subdivision is within the scope of the Southwest Santa Rosa Area Plan Environmental Impact Report (State Clearinghouse number 1994107750) for the project in order to comply with CEQA. The Regional Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment. All Hydrology and Water Quality Mitigation measures as well as Vegetation and Wildlife mitigation measures pertaining to vernal pools outlined in the document will be met or exceeded as a condition of this permit.

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 Order, 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, Waters of the State or Waters of the United States.

- 3) BMPs for erosion, 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 Order shall be provided to the contractor and all subcontractors conducting the work, and shall 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) Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project. The disturbed portions of any Waters of the State or Waters of the United States shall be restored to as near their original condition as possible.
- 8) Prior to implementing any change to the project that may have a significant or material effect on the findings, conclusions, or conditions of this Order, the Applicant shall obtain the written approval of the Regional Water Board Executive Officer.
- 9) All project work shall be conducted as described in this Order and in the application submitted by the Applicant. If the Regional Water Board is not notified of a significant alteration to the project, it will be considered a violation of this Order, and the Applicant may be subject to Regional Water Board enforcement actions.

- 10) The Russian River watershed, Santa Rosa Creek, and Laguna de Santa Rosa are identified on the State of California Clean Water Act Section 303(d) list as impaired water bodies. The Russian River is listed as impaired for sediment and temperature and Santa Rosa Creek is listed as impaired for sediment, temperature, and pathogens. Total Maximum Daily Load (TMDL) analyses have not been completed for either the Russian River watershed or Santa Rosa Creek listings; however, the listing has been taken into account during the Projects permitting process. New development with poor erosion control practices can greatly contribute to increases in sediment in a watershed. At present, there are no watershed-specific implementation plans for these TMDLs. If a TMDL implementation plan is adopted for these watersheds prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order to address actions identified in such implementation plan. The Laguna de Santa Rosa is listed as impaired in the categories of sediment, nitrogen, phosphorus, dissolved oxygen, temperature, and mercury. TMDL implementation plans have been adopted for sediment and nitrogen. The implementation plans have been taken into account during the Projects permitting process. TMDLs are being developed for sediment, nitrogen, phosphorus, dissolved oxygen, temperature, and mercury. The listing of these impairments has been considering in the permitting of the Project. If a TMDL implementation plan is adopted for this watershed prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order to address actions identified in such implementation plan.
- 11) The Regional Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted and approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.
- 12) 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 shall send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request shall 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 shall 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.

- 13) 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 Smith Village Project (WDID No. 1B006158WNSO) 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).

This Order may be terminated or modified for cause, including, but not limited to: (a) violation of any condition contained herein; (b) misrepresentation or failure to disclose fully all relevant facts; and (c) change in any condition that requires either a temporary or permanent reduction or elimination of the certified discharge.

Any violation or threatened violation of the conditions in this Order shall be subject to any remedies, penalties, process or sanctions under state law, including civil liability under Water Code section 13385.

Expiration:

The authorization of this certification for any dredge and fill activities expires on October 15, 2009. 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 Stephen Bargsten of our staff at (707) 576-2653 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. Bill Orme, SWRCB, 401 Program Manager (Acting), Clean Water Act Section 401 Certification and Wetlands Unit Program

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. Liam Davis, California Department of Fish and Game, P.O. Box 47, Yountville, CA 94599

Mr. Greg Hurd, Carlenzoni and Associates, 325 Tesconi Circle, Santa Rosa, CA, 95401