



Linda S. Adams  
Secretary for  
Environmental Protection

**California Regional Water Quality Control Board  
North Coast Region  
John W. Corbett, Chairman**

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Arnold  
Schwarzenegger  
Governor

August 7, 2007

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In the Matter of  
**Water Quality Certification**

for the  
**VAST OAK PROPERTIES PROJECT,  
WDID NO. 1B03040WNSO**

APPLICANT: Brookfield Homes Bay Area, Inc.  
RECEIVING WATER: Laguna de Santa Rosa Sub Area No.114.21  
HYDROLOGIC AREA: Russian River Hydrologic Area No. 114.00  
COUNTY: Sonoma County  
FILE NAME: Vast Oak Properties

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BY THE EXECUTIVE OFFICER:

1. On August 27, 2004, Mr. Kevin Pohlson, on behalf of Brookfield Homes Bay Area, Inc. (Applicant) filed an application for water quality certification under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with the Vast Oak Properties Project (Project). A fee in the amount of \$40,000.00 was received on August 27, 2004. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on June 18, 2007, and posted information describing the Project on the Regional Water Board's website. No comments were received.
2. The Project is located adjacent to the Sphere of Influence of the City of Rohnert Park. The Project is bounded on the south by Rohnert Park Expressway, on the west by existing development in the City of Rohnert Park, on the north by Keiser Avenue, and on the east by the Petaluma Hill Road, Sonoma County, California. The latitude and longitude of the approximate center of the project is 38.35091°N and -122.67269°W. The Project area is approximately 224.41 acres, and

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occupies approximately 75% of the University District Specific Plan Area in the City of Rohnert Park. The Project will result in a wide range of development uses, including a variety of housing types, a mixed use commercial retail center, a linear park and plaza, office and professional office type uses. The area is currently zoned DA-20 diverse agriculture with a 20-acre minimum lot size. The site now consists of several fields used to produce annual agricultural crops.

3. The purpose of the Project is to construct approximately 1,147 residential units. Higher-density housing will be located close to Rohnert Park Expressway, the parks and trails, and the mixed-use commercial center. Low and medium-density housing will surround these activity areas. A linear park will be located in the heart of the Project site. Recreational amenities include parks that will be scattered throughout the residential neighborhoods, and a public trail system that will link the Sonoma State University campus and residences, to the Project site. Approximately 30 acres of open space will be along the westerly edge of Petaluma Hill Road to the edge of the Project (Scenic Corridor). Wetland mitigation is proposed in this area. The Project will be developed in six phases, with the majority of grading and wetland filling being done in the first two phases. All six phases of the Project are scheduled to be complete by the end of 2014. There are approximately 24.95 acres of total wetlands on the Project. Hinebaugh Creek crosses the Project site from east to west and flows into the Laguna de Santa Rosa. There will be an 80-100 foot buffer from the top of bank of Hinebaugh Creek to any development within the Project. The Project will also include construction of one bridge across Hinebaugh Creek.
4. The Project will permanently fill approximately 23.75 acres of Waters of the State and United States (6.22 acres Waters of the State, 17.53 acres waters of the United States).
5. Compensatory mitigation for the loss of wetlands will be satisfied by purchasing 6.5 acres of wetland mitigation credit from the Hazel Mitigation Bank (located at on Arlington Road in Rohnert Park. The service area for the Hazel Mitigation Bank includes the area that incorporates the Project). Additional mitigation includes the creation of 17.3 acres of wetland; 9.4 acres on-site, within the Scenic Corridor along Petaluma Hill Road, and 7.9 acres off-site, easterly across Petaluma Hill Road, on the Anderson 48 Mitigation Area. The credits and created wetlands will be purchased or constructed before corresponding wetlands on the Project are filled. Total mitigation wetland area will be 23.80 acres. Since the mitigation for the Project has been or will be done before the fill of wetlands occurs, there is minimal temporal loss, and the wetland mitigation ratio is 1:1 along with other out-of-kind mitigation as detailed below . This wetland mitigation ratio is dependent on the proper functioning of the necessary mitigation areas. If function is not adequate, as determined by the U.S. Army Corps of Engineers and the Regional Water Board, then additional purchase of mitigation credits will be necessary.

Additionally, approximately 11 acres of the riparian area along Hinebaugh Creek will be restored and enhanced with plantings of native trees, shrubs and vines, and wetland herbaceous plants; and by removal of invasive exotic plants and accumulated sediment. The Scenic Corridor mitigation wetlands will be dedicated fee simple to the City of Rohnert Park or to the Vast Oak Home Owners Association which is planned to be created when the City of Rohnert Park approves the Project. A conservation easement will be placed over the Scenic Corridor to be held by the California Department of Fish and Game, or other acceptable third-party entity. Applicant will establish an endowment fund for the long-term maintenance and management of the Scenic Corridor wetland mitigation. Long-term management of the site will be the responsibility of an acceptable third-party entity that is accepted by the Regional Water Board and U.S. Army Corps of Engineers and other agencies, such as the Sotoyome Resource Conservation District or similar organization and be paid for through the management endowment. Applicant will be responsible for maintenance and monitoring for the first five years, or longer if the wetlands do not meet the performance criteria. The riparian corridor, which includes the Hinebaugh Creek channel and the riparian habitat, will be dedicated fee simple to either the City of Rohnert Park or the Sonoma County Water Agency. A maintenance annuity fund will be established and funded by Applicant for the long-term maintenance and management of the riparian corridor. Ground disturbing activities within the riparian corridor will be limited to periodic maintenance to clear Hinebaugh Creek channel of debris. Applicant will be responsible for maintenance and monitoring for the first five years, or longer if the riparian plantings do not meet the performance criteria. Once the performance criteria have been met (as per Army Corps of Engineers and/or Regional Water Board), the long-term maintenance will be funded from the maintenance annuity fund under the direction of either the City of Rohnert Park or Sonoma County Water Agency. All agreements discussed above shall be submitted to the Regional Water Board, for final review and approval, and shall comply with conditions within this Order, the Clean Water Act and the Water Quality Control Plan for the North Coast Basin (Basin Plan).

6. The treatment of post construction storm water for the Project will consist of the installation of a water quality pond/detention basin to remove contaminants from storm water runoff before it enters surface water streams and to store and detain the peak storm flow. Storm water will exit the water quality pond/detention basin through a metering structure which will attenuate the peak storm water runoff from the newly added impervious area of the Project draining to storm drains. After treatment, the storm water will be conveyed to a storm drain that flows to an existing hardscape outfall in Hinebaugh Creek, a tributary to Laguna de Santa Rosa, and the Russian River. The water quality pond/detention basin will be constructed and maintained as described in the Water Quality Management Plan submitted within the application for water quality certification. Additional water quality Best Management Practices (BMPs) to be integrated into the Project include: public education to property owners to increase native and drought

tolerant landscape cover, decreasing irrigation and associated runoff, minimization of hardscaping and impervious cover, and frequent street sweeping of streets and parking areas. The water quality pond/detention basin will be dedicated fee simple to the City of Rohnert Park. Applicant will fund the long-term maintenance of the water quality pond/detention basin through a maintenance annuity fund that it will establish for the benefit of the City of Rohnert Park.

7. Non-compensatory mitigation during construction will be achieved through the use of BMPs as described in the Storm Water Pollution Prevention Plan, submitted on December 4, 2006.
8. The City of Rohnert Park, as the lead California Environmental Quality Act (CEQA) agency, adopted the Final Environmental Impact Report for the University District Specific Plan, SCH# 2003122014, on May 23, 2006, City of Rohnert Park Resolution No. 2006-141, per CEQA guidelines. 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.
9. The applicant has applied for a California Department of Fish and Game (DFG) Lake and Streambed Alteration Agreement.
10. A federal Individual Section 404 Permit from the U.S. Army Corps of Engineers has been applied for, file number 21263N.

Receiving Water: Hinebaugh Creek, Laguna de Santa Rosa Sub Area No.114.21, Russian River Hydrologic Unit No. 114.00

Latitude/Longitude: 38.35091° North and -122.67269° West

Filled or Excavated Area: permanent impacts, 23.75 acres

Expiration: December 31, 2014

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE VAST OAK PROPERTIES PROJECT (FACILITY NO. 1B03040WNSO), as described in the application will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that Applicant complies with the following terms and conditions:

1. This certification action is subject to modification or revocation upon administrative or judicial review; including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 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 title 23, California Code of Regulations, section 3855, subdivision (b) 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, title 23, California Code of Regulations, and owed by the applicant.
4. 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).
5. The Russian River watershed and the Laguna de Santa Rosa (tributary to the Russian River) are identified on the State of California Clean Water Act Section 303(d) list. The Russian River is listed as impaired for sediment and temperature. The Laguna de Santa Rosa is listed as impaired for sediment, temperature, nitrogen, phosphorus, dissolved oxygen, and mercury. At present, there are no watershed-specific implementation plans for these TMDLs. If TMDL implementation plans are 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 action plans.
6. 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 Basin Plan.
7. Applicant shall construct the Project in accordance with the conditions described in the application and the findings above, and shall comply with all applicable water quality standards.
8. Any change to the operation of the Project that would have a significant or material effect on the findings, conclusions, or conditions of this Order shall be submitted to the Executive Officer of the Regional Water Board for prior review and written approval.
9. Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this Order.

10. Applicant shall provide a copy of this Order and attachments to the contractor and all subcontractors conducting the work, and require that copies remain in their possession at the work site. Applicant shall be responsible for work conducted by its contractor or subcontractors.
11. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated Project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
12. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete 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.
13. If construction dewatering is found to be necessary, the Applicant shall use a method of water disposal other than disposal to surface waters (such as land disposal) or the Applicant shall apply for coverage under the General Construction Dewatering Permit and receive notification of coverage prior to discharge to surface waters.
14. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States and the State. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to any waters of the State or the United States. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality.
15. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities, construction activities, or any other Project activities that could result in erosion or sediment discharges to surface water.
16. All conditions required by this Order shall be included in the Plans and Specifications prepared by the Applicant for the Contractor. In addition, the Applicant shall require compliance with all conditions included in this Order in the bid contract for this Project.
17. All mitigation activities shall be completed as proposed in the application.
18. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state or federal

law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order. In response to a suspected violation of any condition of this Order, the Regional Water Board may require the holder of any federal permit or license subject to this Order to furnish, under penalty of perjury, any technical or monitoring reports the Regional Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.

19. The Regional Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
20. This Order is not transferable. In the event of any change in control of ownership of the Project site 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. The successor-in-interest must send to the Regional Water Board Executive Office a written request for transfer of this Order. The request must contain the following:
  - a. requesting entity's full legal name
  - b. the state of incorporation, if a corporation
  - c. address and phone number of contact person
  - d. description of any changes to the Project or confirmation that the successor-in-interest intends to implement the Project as described in this Order.
21. The authorization of this Order for any dredge and fill activities expires on December 31, 2014. To the extent the conditions and monitoring requirements required by this Order extend beyond December 31, 2014, they do not expire and remain in effect and are enforceable.

Please contact Stephen Bargsten of our staff at (707) 576-2653 if you have any questions or need to report any violation of this Order.

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Catherine E. Kuhlman  
Executive Officer

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Enclosure: SWRCB Order No. 2003-0017-DWQ

Original sent to: Kevin Pohlson, Vast Oak Properties, Brookfield Homes, 500 La Gonda Way, Suite 100, Danville, CA 94526

Copies sent to: Mr. Darren Jenkins, City of Rohnert Park Department of Public Works, 6750 Commerce Blvd., Rohnert Park, CA 94928

Mr. Randy Poole, Sonoma County Water Agency, P.O. Box 11628 Santa Rosa, CA 95406

Mr. Ted P. Winfield, Ph.D., Ted Winfield & Associates, 1455 Wagoner Drive, Livermore, CA 94550

Mr. Bill Orme, SWRCB, Acting 401 Program Manager, Clean Water Act Section 401 Certification and Wetlands Unit Program

Ms. Kimberly Niemeyer, SWRCB, Office of the Chief Counsel

Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 1455 Market Street, San Francisco, CA 94103-1398

Mr. Michael Monroe – WTR-8, USEPA, 75 Hawthorne St., San Francisco, CA 94105

Cay Goude, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room, W-2605, Sacramento, CA 95825