



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



Linda S. Adams
*Secretary for
Environmental Protection*

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**Arnold
Schwarzenegger**
Governor

November 5, 2007

In the Matter of

Water Quality Certification

for the

**Windsor Mill Homes Project
Sonoma County
(WDID# 1B07086WNSO)**

APPLICANT: Windsor Mill Homes LLC, Mr. Andrew Silverman
RECEIVING WATER: Windsor Creek and seasonal wetlands
HYDROLOGIC AREA: Windsor Creek Sub Area No.114.23, Russian River
Hydrologic Unit No.114.00,
COUNTY: Sonoma County
FILE NAME: WINDSOR MILL DEVELOPMENT, 8777 BELL ROAD,
WINDSOR

BY THE EXECUTIVE OFFICER:

1. On June 7, 2007, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Ms. Hope Kingma of Monk & Associates, Inc., on behalf of Windsor Mill Homes LLC, Mr. Andrew Silverman (Applicant), requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the Windsor Mill project (Project) in Sonoma County. A fee in the amount of \$12,974.50 was received on June 7, 2007. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on October 12, 2007, and posted information describing the Project on the Regional Water Board's website. The 21 day public comment period ended November 2, 2007. No comments were received.
2. The Project is located at 8777 Bell Road, in the town of Windsor. The Project includes eight parcels with assessor parcel numbers (APNs): 164-020-005, -006, -007, -008, -041, 066-170-011, -013, and 164-010-020. The latitude of the Project is 38° 32' 38.34" north, and the longitude is -122° 48' 45.1" west. The purpose of the Project is to construct 200 residential units on the 20.5 acre site, and will include

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several common open space areas, a municipal park, and a public access trail and park along Windsor Creek. The Project will be constructed in phases.

3. The impacts to seasonal wetlands will be approximately 12,000 square feet (0.27 acres). Two clear-span bridges (one pedestrian crossing and one vehicular bridge) will be installed across Windsor Creek. Riparian habitat and some native trees will be removed during construction of the two bridges. Mitigation for the loss of riparian habitat will include revegetation of the areas near the bridges and along the length of Windsor Creek adjacent to the Project, per the Creek Revegetation & Enhancement Plan, dated March 8, 2007. Additionally, invasive plant species, specifically *Arundo donax*, will be removed within this reach of Windsor Creek.
4. Compensatory mitigation for the fill of seasonal wetlands will be accomplished by purchase of wetland bank credits. A total of 0.5 acres of wetland mitigation credits have been purchased (0.2 acres of preservation credits and 0.3 acres of creation credits).
5. Post-construction storm water runoff will be treated using a variety of treatment techniques as described in the submitted Post-Construction Storm Water Management Plan, (May 2007 revision), including, but not limited to, vegetated swales, bio-retention/filtration units, media filters, and vegetated buffer strips. Treatment that will occur on private property will be the responsibility of the homeowner to maintain. Treatment that is situated on public property will be funded through a special tax district of the Town of Windsor, and maintenance will be performed by the Town of Windsor. All of the storm water runoff resulting from the two-year 24 hour/85 percentile storms will be treated before being discharged to storm drains, then into Windsor Creek.
6. Non-compensatory mitigation will be achieved through the use of Best Management Practices (BMPs) as described in the submitted Storm Water Pollution Prevention Plan. Additionally, all required BMPs shall be on-site and ready for timely deployment, before start of construction activities.
7. The Applicant applied for a California Department of Fish and Game Lake and Streambed Alteration Agreement in June 2007.
8. The Applicant has consulted with the United States Army Corps of Engineers (USACE), File number 28885N. The Project will not be conducted within USACE jurisdiction, and thus, does not need a permit from USACE.
9. Operations at a former business on a portion of the site is undergoing cleanup of contaminated soil and groundwater due to previous activities at the site. In 1989, Regional Water Board staff responded to a complaint against The Empire Casting facility, located at 8777 Bell Road, in Windsor. Observations documented during several inspections included opened waste oil drums, storage of trichloroethene

(TCE), and stained soil. Subsequently, soil and groundwater sampling has been conducted over the years to determine the impact of identified land use practices from Empire Casting.

Heavy end hydrocarbons (such as diesel and motor oil) were primarily identified in the area west of the former on-site building. Areas identified with heavy petroleum hydrocarbons were excavated, removing obviously impacted soil. Monitoring wells were installed to determine the impact to groundwater quality. Petroleum hydrocarbons have not been reported in groundwater monitoring samples. However, TCE and associated breakdown have been reported in groundwater. Routine monitoring has indicated concentrations of TCE in groundwater has been declining or has met water quality objectives.

Prior to construction in the area, all monitoring wells will need to be abandoned. Future requirements include the installation of four monitoring wells once construction activities have been completed. All newly installed groundwater monitoring wells will then be sampled on a quarterly basis for one year. Once required monitoring is completed, Regional Water Board staff will review the data and determine future site requirements.

10. The Town of Windsor, as the lead California Environmental Quality Act (CEQA) agency, has adopted a Mitigated Negative Declaration, on January 23, 2006, per CEQA guidelines.

Receiving Water:	Windsor Creek Sub Area No.114.23 tributary to the Russian River
Latitude/Longitude:	38° 32' 38.34"N, -122° 48' 45.1"W
Filled or Excavated Area:	Permanent impacts, 0.27 acres
Expiration:	December 31, 2012

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE WINDSOR MILL PROJECT (FACILITY NO. WDID NO. 1B07086WNSO), 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 is identified on the State of California Clean Water Act Section 303(d) list. The Russian River is listed as impaired for sediment and temperature. At present, a total maximum daily load (TMDL) has not been established to address these impairments. If a TMDL and an implementation plan are adopted for the Russian River prior to the expiration date of this Order, the Regional Water Board may revise the provisions of this Order to address actions identified in an action plan.
6. The Applicant shall undertake the Project in accordance with the conditions described in the application and the findings above, and shall comply with all applicable water quality standards.
7. 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.
8. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this Order.
9. The 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. The Applicant shall be responsible for work conducted by its contractor or subcontractors.
10. 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.

11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. All mitigation activities shall be completed as proposed in the application.
17. 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.

18. 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.
19. 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.
20. The authorization of this Order for any dredge and fill activities expires on December 31, 2012. To the extent the conditions and monitoring requirements required by this Order extend beyond December 31, 2012, 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.

Robert R. Klamt
Interim Executive Officer

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Enclosure: SWRCB Order No. 2003-0017-DWQ

Original sent to: Mr. Andrew Silverman, Windsor Mill Homes LLC, 625 2nd Street,
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Mr. Bill Cox, Department of Fish and Game, P.O. Box 47, Yountville,
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