



Linda S. Adams
Secretary for
Environmental Protection

**California Regional Water Quality Control Board
North Coast Region
Bob Anderson, Chairman**

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Arnold
Schwarzenegger
Governor

January 30, 2008

In the Matter of

Water Quality Certification

for the

**HIDDEN CREEK APARTMENTS, JIM BARNTS, CRESCENT CITY
WDID NO. 1A07142WNDN**

APPLICANT: Jim Barnts
RECEIVING WATER: Wetlands and Unnamed Tributaries to Elk Creek
HYDROLOGIC UNIT: Smith River Plain Hydrologic Subarea No. 103.11
COUNTY: Del Norte
FILE NAME: Hidden Creek Apartments, Jim Barnts, Crescent City

BY THE EXECUTIVE OFFICER:

1. On August 24, 2007, Mr. Ward Stover of Stover Engineering (Authorized Agent) filed an application on behalf of Mr. Jim Barnts (Applicant) for water quality certification (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 construction of Hidden Creek Apartments Project, Del Norte County. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on January 4, 2008, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
2. The project involves construction of a multi-family residential complex on approximately 6.3 acres of an 18.54 acre undeveloped parcel (41.775333 N/124.187756 W), bisected by an unnamed drainage. The entire project site is located outside of the California Coastal Zone. Access to the north of the parcel is via rural roads connected to Blackwell Lane and Cummins Road; the Washington Boulevard off ramp from Highway 101 is located to the east of the parcel. A creek is located along the west side of the parcel. The proposed project is scheduled to begin in April 2008 and to be completed by October 30, 2009. The applicant proposes to conduct grading activities during the period between May 1 and October 30 of each year.

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3. The applicant will construct a 40-foot wide access road with a 5-foot wide pedestrian walkway along the property's north boundary near Summer Lane, within a 60-foot right-of-way. There is an existing pond north of the property line with a 24-inch culvert which outfalls approximately 25 feet past the property line. The proposed activities include extending the existing 24-inch culvert with a 30-inch culvert approximately 35 feet to the south within the property boundary. Fill will be retained behind a welded wire retaining wall and constrained by headwalls on both sides of the road to a width of 60 feet.
4. Construction of the access road and other roadway structures requires filling of approximately 4160 square feet (.0955 acres) of existing wetlands that are subject to the U. S. Army Corps of Engineers jurisdiction. The wetland area is located approximately 5 feet south of the northern property line. The applicant proposes to mitigate the proposed permanent impacts to these wetlands by creating 10,400 square feet (a 2.5:1 ratio) of wetlands. Mitigation activities will occur in two areas on the property; the first mitigation area is located in an upland area adjacent to the existing wetlands and the second mitigation area is located downstream and on the east side of the stream. There are no temporary impacts associated with this project. California Department of Fish and Game has required the applicant to maintain a 50 foot buffer around the stream. Post-construction storm water runoff will be collected in a detention basin that is approximately 5000 square feet, and sized to accommodate stormwater flows from the estimated 3.0 acres of impervious surface that will be constructed.
5. The Applicant has applied to the California Department of Fish and Game for a Lake or Streambed Alteration Agreement for the project (Notification No R1-07-0021).
6. The Applicant has applied to the United States Army Corps of Engineers to perform the project under an individual permit (File No. 400310N), pursuant to Clean Water Act, section 404.
7. On January 4, 2007, the Del Norte County Planning Department adopted a mitigated negative declaration (SCH No. 2006112150) 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. The mitigated negative declaration indicates that the construction the multi-family housing project will result in unavoidable permanent and temporary impacts to portions of wetlands. The CEQA document finds the following impacts to be less than significant with mitigation: 1) adverse impacts to riparian vegetation will be mitigated through inclusion of a 50-foot buffer, measured from the top of bank, in which development or vegetation removal will not be allowed, with the exception of installation of a rock energy dissipation pad and a road crossing; 2) adverse impacts to federally protected wetlands will be mitigated through creation of in-kind wetlands on site.
8. The Applicant will mitigate increased volumes of stormwater runoff through use of a stormwater detention basin sized to accommodate stormwater flows from the estimated 3.0 acres of new impervious surface that will be constructed. Prior to construction, the Applicant must provide to the Regional Water Board a finalized Grading and Erosion Control Plan and a Storm Water Pollution Prevention Plan for the project. Both documents shall be submitted to and approved by the Regional

Water Board prior to commencement of construction. Implementation of a compensatory mitigation plan is required and is expected to reduce these impacts to less-than-significant levels.

9. Compensatory mitigation is required. Compensatory mitigation involves creation of 10,400 square feet of wetlands at two locations on site, the upland area adjacent the existing wetlands and the second mitigation site in an area downstream on the east side of the stream. Noncompensatory mitigation includes the use of BMPs for heavy equipment operation near a waterway and for sediment and erosion control.

Receiving Water: Wetlands and unnamed tributaries to Elk Creek in the Smith River Plain Hydrologic Subarea 103.11

Filled or Excavated Area: Area Temporarily Impacted: None
Area Permanently Impacted: 0.955 acres of wetland

Dredge Volume: None

Latitude/Longitude: 41.775333 N/124.187756 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Hidden Creek Apartments Project (WDID No. 1A07142WNDN), 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 the 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 title 23, California Code of Regulations, section 2200, and owed by the Applicant.
4. The Regional Water Board shall receive the finalized Grading and Erosion Control Plan and a Storm Water Pollution Prevention Plan prior to commencement of construction of the multi-family apartment complex.
5. The Regional Water Board shall be notified in writing at least five working days (working days are Monday – Friday) prior to the commencement of ground disturbing activities, with details regarding the construction schedule, in order to

allow staff to be present onsite during construction, and to answer any public inquiries that may arise regarding the project.

6. Compensatory mitigation shall consist of creation of 0.0955 acres of wetlands on an upland area adjacent to the existing wetlands and at an area located downstream on the east side of the stream. The Applicant shall submit a Final Compensatory Mitigation Plan (CMP) at least 60 days prior to the start of any ground disturbing activities. The Applicant shall not initiate any ground disturbing activities prior to receiving Regional Water Board staff's written approval of the CMP or until 60 days have passed from the date the CMP was received in this office.
7. Prior to construction, the Applicant shall provide to the Regional Water Board a finalized Grading and Erosion Control Plan and a final Storm Water Pollution Prevention Plan for the project. Both documents shall be submitted to and approved by the Regional Water Board prior to commencement of construction.
8. 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.
9. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities or any other project activities that could result in erosion or sediment discharges to surface water.
10. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
11. A copy of this Order and the application documents submitted by the Applicant for this certification shall be provided to all contractors and subcontractors conducting the work, and shall be in their possession at the work site.
12. 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.
13. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
14. 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.

15. 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.
16. 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.
17. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
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 certification. In response to a suspected violation of any condition of this certification, the Regional Water Board may require the holder of any federal permit or license subject to this certification 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 certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
19. 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, and the 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.

20. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited to and all proposed mitigation being completed in strict compliance with the Applicant's project description, and b)

compliance with all applicable requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan).

21. The authorization of this certification for any dredge and fill activities expires on January 29, 2013. 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.

If you have any questions or comments please call Diana Henriouille at (707) 576-2350.

Robert R. Klamt
Interim Executive Officer

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