
North Coast Regional Water Quality Control Board

August 7, 2013

In the Matter of

Water Quality Certification

for

**Blackstone Homes, Inc.
Meadow Park II Subdivision
WDID No. 1B07018WNSO**

APPLICANT: Blackstone Homes, Inc.
RECEIVING WATER: Santa Rosa Creek
HYDROLOGIC UNIT: Laguna Hydrologic Sub-Area No. 114.21,
Russian River Hydrologic Area 114.00
COUNTY: Sonoma
FILE NAME: Meadow Park 2

BY THE EXECUTIVE OFFICER:

1. On May 9, 2013, Blackstone Homes, Inc. (Applicant) filed an application 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 the construction of 29 single family homes (Project). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on June 6, 2013, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on the Project. The Project is located at 2028 Piner Road, in Santa Rosa, Sonoma County, latitude 38.467111 °N, and longitude 122.752185°W. The Project will cause disturbances to waters of the United States associated with seasonal wetlands, in the Russian River Hydrologic Unit, Laguna Hydrologic Sub-Area No. 114.21. Total permanent impact to wetlands is 0.42 acres.

DAVID M. NOREN, CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

5550 Skylane Blvd., Suite A, Santa Rosa, CA 95403 | www.waterboards.ca.gov/northcoast

2. On March 2, 2007, the Regional Water Board received an application from Carco Investments, requesting Federal Clean Water Act, section 401, Water Quality Certification for this Project. On April 12, 2007, the Regional Water Board sent Carco Investments a letter of "Incomplete Application for Water Quality Certification", that included a list of items that needed to be submitted in order to make the application complete. The Regional Water Board did not receive a response to the April 12, 2007, letter and therefore issued a "Denial, without prejudice, of request for Federal Clean Water Act Section 401 Water Quality Certification", on April 28, 2008.
3. On February 13, 2013, the Regional Water Board was informed that fill of wetlands and grading had occurred at the Project site without a Federal Clean Water Act, section 401, Water Quality Certification and that the property was now owned by Mr. Greg Lucas, President of Blackstone Homes, Inc. Blackstone Homes, Inc. purchased the property on December 12, 2012. The fill of wetlands occurred before Mr. Greg Lucas purchased the property.
4. The Project includes the completion of 29 single family homes on standard city lots. The Project includes the following actions:
 - a. Building a house on each of the 29 lots;
 - b. Installing Rain Gardens on 24 of the 29 lots;
 - c. Replacing an average of a few hundred square feet of each lot impervious surface area with pervious surface; and
 - d. Installing bio-retention beds adjacent to the majority of the lots.
5. On April 12, 2013, the Applicant requested that work on 8 of the housing unit lots begin prior to the issuance of this Federal Clean Water Act, section 401, Water Quality Certification. Regional water Board staff approved this request on May 23, 2013, with the conditions that the work on all 8 lots incorporate the approved Low Impact Development (LID) treatment of storm water.
6. The project is planned to commence in spring/summer 2013. Work that would adversely impact water quality may not be done past October 15, without written permission from the Regional Water Board.
7. Mitigation includes purchase of 0.45 acres of wetland creation credits at Horn Avenue Mitigation Bank and wetland preservation credits at Hale Mitigation Bank. This mitigation has already been purchased on April 1, 2007.
8. Project implementation will result in an increase of approximately 4.03 acres (175,524 square feet) of impervious surface. On July 9, 2013, the Regional Water

Board received the Applicant's LID treatment plan, "*Final Storm Water Mitigation Plan for Meadow Park 2*". This plan includes the installation of rain gardens in 24 of the lots and replacement of an average of a few hundred square feet of each lot's impervious surface area with pervious surfaces to treat storm water runoff from 0.53 acres (23,281 square feet) of impervious surface from all the lots. Bio-retention beds will be installed within the public right-of-way adjacent to the some of the lots to provide treatment and volume capture of storm water runoff from 0.13 acres (5662.8 square feet) of impervious surface from the public streets. In addition to the LID treatment plan, the Applicant shall also contribute \$10,000 to a local municipality storm water or water quality improvement project approved by the Regional Water Board, to compensate for the 2.42 acres (105 415.2 square feet) of impervious surface area that will remain untreated.

9. The Applicant has applied to the California Department of Fish and Wildlife for a Lake and Streambed Alteration Agreement. The Applicant has received an US Army Corps of Engineers, Clean Water Act Section 404 Nationwide Permit 39 for Commercial and Institutional Developments on July 19, 2006.
10. On August 19, 2002, the City of Santa Rosa, acting as lead agency, certified a Mitigated Negative Declaration for the proposed Project in order to comply with the California Environmental Quality Act (State Clearing House No. 2002082061).
11. 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.
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Receiving Water: Laguna Subarea No. 114.21,
Russian River Hydrologic Area 114.00

Filled or Excavated Area: Permanent impact to wetlands:
0.42 acres

Latitude/Longitude: 38.467111 °N, 122.752185°W

Expiration: August 7, 2018

Accordingly, based on its independent review of the record, the Regional Water Board certifies that Blackstone Homes, Inc., Meadow Park II Subdivision Project (WDID No. 1B07018WNSO), 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:

All conditions of this order apply to the Applicant (and all their employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the project as related to this Water Quality Certification.

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. The validity this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by the Applicant.
4. The Regional Water Board shall be notified annually and 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.
5. The federal antidegradation policy requires that state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. This Order is consistent with applicable federal and State antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased volumes of treated wastewater.

6. Work in flowing or standing surface waters, unless otherwise proposed in the Project description and approved by the Regional Water Board, is prohibited. If construction dewatering of groundwater is found to be necessary, the Applicant shall use a method of water disposal other than disposal to the storm drain system (such as land disposal or pumping to a tank or other conveyance) or the Applicant shall apply for coverage under the Low Threat Discharge Permit or an individual National Pollutant Discharge Elimination System Permit and receive notification of coverage to discharge to surface waters, prior to the discharge.
7. Concrete shall be cured for at least 30 days, or shall be sealed with an appropriate concrete sealer, so that contact water from the concrete area will be of the same pH as the receiving water. Appropriate sampling and analysis shall be performed. The Project shall implement best management practices (BMPs) and techniques to avoid detrimental impacts to water quality, including sediment and turbidity control, and pH control.
8. The Applicant shall use wildlife-friendly 100% biodegradable erosion control products/BMPs. For purposes of this Order, photodegradable synthetic products are not considered biodegradable. The Applicant shall not use or allow the use of erosion control products, that contain synthetic (e.g., plastic or nylon) netting or materials for permanent erosion control (i.e., erosion control materials to be left in place for two years or after the completion date of the Project). If the Applicant finds that erosion control netting or products have entrapped or harmed wildlife, the Applicant shall remove the netting or product and replace it with wildlife-friendly biodegradable products. The Applicant shall remove any remaining synthetic netting or materials remaining at the end of two years, or sooner.
9. BMPs shall be implemented as proposed in the application materials. 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. Severe and unseasonal rain events are becoming more frequent due to the effects of climate change. Therefore, BMPs shall be immediately available for deployment at all times to prevent discharges to waters of the state.
10. The Applicant shall construct the project as described in the 401 application approved by the Regional Water Board on May 23, 2013 and the LID treatment plan, "*Meadow Park 2 LID SUSMP*" approved by the Regional Water Board on July 15, 2013.
11. Herbicides and pesticides shall not be used within the Project. If the Applicant has a compelling case as to why herbicides and pesticides should be used, a proposal for their use shall first be submitted to the Executive Officer of the Regional Water Board

for review and consideration. The proposal shall include a strategy for BMP implementation to prevent discharge of pesticides to State waters.

12. 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.
13. 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.
14. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.
15. If, at any time, an unauthorized discharge to surface water (including wetlands, lakes, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented including stopping work. 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.
16. The Applicant shall provide analysis and verification that placing non-hazardous waste or inert materials (which may include discarded product or recycled materials) will not result in degradation of water quality, human health, or the environment. All project generated waste shall be handled, transported, and disposed in strict compliance with all applicable State and Federal laws and regulations. When operations are complete, any excess material or debris shall be removed from the work area and disposed of properly. In accordance with State and Federal laws and regulations, the Applicant is liable and responsible for the proper disposal of waste generated by their Project.
17. 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. 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 action(s).
18. 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.

19. The Applicant shall provide a copy of this Order and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ to any contractor(s), subcontractor(s), and utility company(ies) conducting work on the Project, and shall require that copies remain in their possession at the work site. The Applicant shall be responsible for ensuring that all work conducted by its contractor(s), subcontractor(s), and utility companies is performed in accordance with the information provided by the Applicant to the Regional Water Board.
20. The Applicant shall implement the Project in accordance with the Project described in the application and the findings above, and shall comply with all applicable water quality standards as detailed in the Basin Plan.
21. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the Project.
22. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or threatened discharge to any waters of the State including dry portions of the shoreline. At no time shall the Applicant or its contractors allow use of any vehicle or equipment, which leaks any substance that may impact water quality.
23. 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.
24. In the event of any violation or threatened violation of the conditions of this Order, 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 for the violation or threatened violation 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 certification, the State 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 State 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.

25. 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. 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).

26. The authorization of this certification for any dredge and fill activities expires on August 7, 2018. Conditions outlined in this Order 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 Stephen Bargsten at (707) 576-2653.

Matthias St. John
Executive Officer

130807_Meadow_Park_2_401

Weblink: 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 can be found at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Original to: Mr. Greg Lucas, Blackstone Homes, Inc., 1741 4th Street, Santa Rosa, CA
95404

Copy to: Mr. Charles A. Patterson, 1806 Ivanhoe Ave., Lafayette, CA 94549

Mr. Bryan Matsumoto, U.S. Army Corps of Engineers, 1455 Market Street, 16th
Floor, San Francisco, CA 94103-1398