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Central Valley Regional Water Quality Control Board

13 September 2018

Viking RV Storage
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CERTIFIED MAIL
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**CLEAN WATER ACT SECTION 401
“AFTER-THE-FACT” NOTICE OF APPLICABILITY
FOR
VIKING RV STORAGE
BARNETT BUSINESS PARK PARCEL 22 PROJECT
(WDID#5A09CR00175)
EL DORADO COUNTY**

Please read this letter carefully.

On 11 August 2017, Viking RV Storage (Discharger) submitted a Notice of Intent (NOI) requesting coverage under the 17 March 2017 State Water Resources Control Board Clean Water Act Section 401 General Water Quality Certification and Order of the United States Army Corps of Engineers 2017 Nationwide Permits (General Certification Order) to the Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) for the Barnett Business Park Parcel 22 Project (Project) (WDID#5A09CR00175). The NOI was submitted to the Central Valley Water Board based on a federal permit application submitted to the United States Army Corps of Engineers (USACOE) for the Project. This letter serves as an “after-the-fact” Notice of Applicability (NOA).

This “after-the-fact” NOA serves the sole purpose to enroll this Project under the General Certification Order, which certifies the USACOE Nationwide Permit (NWP) #32 (Completed Enforcement Actions), subject to the conditions and the notification requirements described in the Nationwide Permit (“Special Conditions”) under the General Certification Order pursuant to Section 3838 of the California Code of Regulations. This NOA does not certify that the Discharger obtained coverage under a Water Quality Certification in accordance with Clean Water Act Section 401, submitted the appropriate Report of Waste Discharge under the California Water Code prior to project implementation, or proceeded with the subject Project in accordance with the California Environmental Quality Act (CEQA).

BACKGROUND

Construction of the Barnett Business Park Parcel 22 Project was involved the placement of fill into the wetlands located on site (4481 Business Drive, Assessor's Parcel Number 109-480-22, Latitude 38.64470° N, Longitude 120.95447° W), in El Dorado County. For the purpose of grading, approximately 1,097 cubic yards of fill was discharged into the on-site wetlands resulting in 0.34 acre of impacts. On 4 June 2003, KFRD Investments, Inc. (KFRD) enrolled the Project under the Construction Storm Water General Permit (WDID#5S09C321919). A Notice of Termination under that permit was issued on 17 June 2009. The Discharger requested an after-the-fact permit from the USACOE in April 2013 after the Project had been completed.

In February 2006, Z Loan & Investment, Inc. (ZLI) brokered a loan to KFRD to pay off a land development loan and complete infrastructure improvements within Barnett Business Park. In November 2009, following completion of on-site grading, the lenders foreclosed their lien on the property for non-payment and took possession of the property. In August 2010, one of the onsite parcels (lot 22) was sold to the Discharger.

On 31 October 2016, the USACOE issued an after-the-fact NWP #32 to the Discharger for the loss of approximately 0.34 acres of waters of the United States. However, the authorization was denied without prejudice until water quality certification under Section 401 of the Clean Water Act is issued.

On 11 August 2017, Central Valley Water Board staff was made aware of the Project being completed without a proper permit when the Discharger submitted a Notice of Intent to the Central Valley Water Board for coverage under the General Certification Order, which certifies of the USACOE after-the-fact NWP #32 under Section 401 of the Clean Water Act.

Prior to implementation of the Project, an environmental document (i.e. a Categorical Exemption, Negative Declaration or Environmental Impact Report), was not prepared by the Discharger or a designated representative, and thus there was no subsequent approval by a Lead Agency, a violation of CEQA.

Compensatory Mitigation

The USACOE is requiring the purchase of 0.34 credits of wetland habitat at the Cosumnes Floodplain Mitigation Bank or an USACOE approved in lieu fee program in order to mitigate for the loss of approximately 0.34 acres of water of the United States.

REQUIRED RESPONSE

In response to this after-the-fact NOA, the Discharger is required to complete the following tasks by **16 November 2018**:

1. The Discharger shall provide evidence of the Cosumnes Flood Plain Mitigation Bank or approved in lieu fee program purchase to compensate for the loss of 0.34 acre of wetland habitat (waters of the United States) as required by the USACOE.

Failure to comply with the directions contained herein, may expose the Discharger to further enforcement action(s). The Central Valley Water Board, may impose civil liability for violations of the Clean Water Act pursuant to Water Code section 13385, which authorizes liability of up to ten thousand dollars (\$10,000) per violation, per day. The Central Valley Water Board reserves the right to take any enforcement actions authorized by law.

Any person aggrieved by this action may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with California Water Code Section 13320 and California Code of Regulations Section 2050, *et seq.* The State Water Board must receive the petition by 5:00 p.m., thirty (30) days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the laws and regulations applicable to filing petitions may be found on the internet at http://www.waterboards.ca.gov/public_notices/petitions/water_quality, or they will be provided upon request.

If you have any questions regarding this "after-the-fact" NOA, please contact Nicholas White at (916) 464-4856 or Nicholas.White@waterboards.ca.gov.

Original Signed By Andrew Altevogt for:

Patrick Pulupa
Executive Officer

Attachments: Figure 1: Project Location Map

cc: Peck Ha (SPK-2000-00503)
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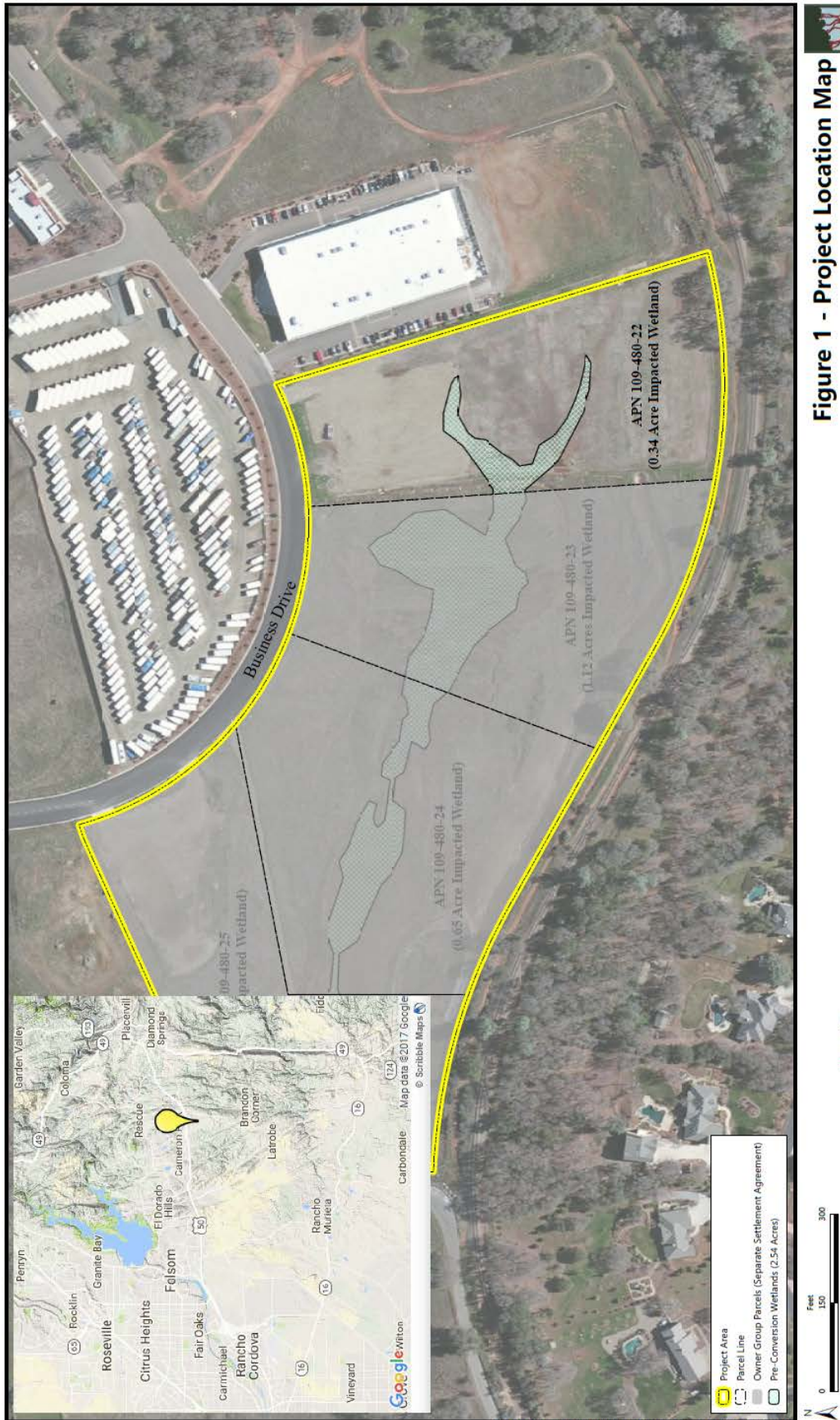


Figure 1 - Project Location Map