



Central Valley Regional Water Quality Control Board

7 September 2017

Jason Belles
Winn Communities
3001 I Street, Suite 300
Sacramento, CA 95816

CERTIFIED MAIL
91 7199 9991 7035 8419 7752

ORDER AMENDING CLEAN WATER ACT SECTION 401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION; WINN COMMUNITIES, MURPHY GLEN ESTATES PROJECT (WDID#5B34CR00061A1), SACRAMENTO COUNTY

This Order responds to the 8 March 2017 request for an amendment of the Murphy Glen Estates Project Section 401 Water Quality Certification (WDID#5B34CR00061). The original Water Quality Certification (Certification) was issued on 24 October 2014. The requested amendment is hereby approved. The original Certification is therefore amended as described below. Please attach this document to the original Certification.

AMENDMENT:

This amendment revises the Certification to correspond to the revised impacts and compensatory mitigation for the Project negotiated between Winn Communities and the United States Army Corps of Engineers.

Compensatory mitigation will be accomplished through combination of creation and preservation credits purchased from a United States Army Corps of Engineers approved mitigation bank or in-lieu fee program.

The Certification is amended as shown in underline/strikeout format in Attachment A.

APPLICATION FEE RECEIVED:

Fees in the amount of \$200.00 were submitted for this amendment. Total fees of \$34,291.00 for the original Certification were submitted to the Central Valley Regional Water Quality Control Board as required by Section 3833(b)(3)(A) and by Section 2200(a)(3) of the California Code of Regulations.

CENTRAL VALLEY WATER BOARD CONTACT:

Stephanie Tadlock, Environmental Scientist
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-8114
Stephanie.Tadlock@waterboards.ca.gov
(916)464-4644

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

The County of Sacramento signed a final Notice of Determination approving an Environmental Impact Report on 12 August 1998 in compliance with Section 21108 or 21152 or the Public Resources Code, stating the project will have a significant impact on the environment. Mitigation measures were made a condition of approval. A mitigation reporting or monitoring plan was adopted for this project and a Statement of Overriding Considerations was adopted for this project. Findings were made pursuant to the provisions of CEQA (State Clearinghouse Number 1996032057).

WATER QUALITY CERTIFICATION:

I hereby issue an Order amending the existing Clean Water Act, Section 401 Technically Conditioned Water Quality Certification for the Murphy Glen Estates Project (WDID#5B34CR00061A1). All other conditions and provisions of the original Water Quality Certification and any previously approved amendments remain in full force and effect, except as modified based on the conditions of this Order. Failure to comply with the terms and conditions of the original Water Quality Certification, previously approved amendments, or of this Order may result in suspension or revocation of the Water Quality Certification.

Original Signed By Adam Laputz for:

Pamela C. Creedon
Executive Officer

Enclosure: Attachment A

cc: Distribution List, page 3

DISTRIBUTION LIST

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Central Valley Regional Water Quality Control Board

28 October 2014

ATTACHMENT A

Mr. Jason Belles
Winn Communities
3001 I Street, Suite 300
Sacramento, CA 95816

CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE MURPHY GLEN ESTATES PROJECT (WDID#5834CR00061), FLORIN, SACRAMENTO COUNTY

ACTION:

1. Order for Standard Certification
2. Order for Technically-conditioned Certification
3. Order for Denial of Certification

WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and §3867 of Title 23 of the California Code of Regulations (23 CCR).
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 23 CCR subsection 3855(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 of any non-denial certification action shall be conditioned upon total payment of the full fee required under 23 CCR §3833, unless otherwise stated in writing by the certifying agency.
4. Certification is valid for the duration of the described project. Winn Communities shall notify the Central Valley Water Board in writing within 7 days of project completion.

ADDITIONAL TECHNICALLY CONDITIONED CERTIFICATION CONDITIONS:

In addition to the four standard conditions, Winn Communities shall satisfy the following:

1. Winn Communities shall notify the Central Valley Water Board in writing 7 days in advance of the start of any in-water activities.
2. Except for activities permitted by the U.S. Army Corps under §404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. All areas disturbed by project activities shall be protected from washout or erosion.
4. Winn Communities shall maintain a copy of this Certification and supporting documentation (Project Information Sheet) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors) performing work on the proposed project shall be adequately informed and trained regarding the conditions of this Certification.
5. An effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working during all phases of construction.
6. All temporarily affected areas upon completion of construction activities.
7. Winn Communities shall perform surface water sampling¹: 1) When performing any in-water work; 2) IN the event that project activities result in any materials reaching surface waters or; 3) When any activities result in the creation of a visible plume in surface waters. The following monitoring shall be conducted immediately upstream out of the influence of the project and 300 feet down stream of the active work area. Sampling results shall be submitted to this office within two weeks of initiation of sampling and every two weeks thereafter. The sampling frequency may be modified for certain project with written permission from the Central Valley Water Board.

Parameter	Unit	Type of Sample	Frequency of Sample
Turbidity	NTU	Grab	Every 4 hours during in water work
Settleable Material	ml/l	Grab	Same as above.
Visible construction related pollutants	Observations	Visible Inspections	Continuous throughout the construction

¹ Sampling is not required in wetlands, where the entire wetland is being filled; provided there is no outflow connecting the wetlands to surface waters.

8. Activities shall not cause turbidity increases in surface water to exceed:
- (a) where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTU;
 - (b) where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
 - (c) where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
 - (d) where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
 - (e) where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTU over background turbidity as measured in surface waters 300 feet downstream from the working area. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected. Averaging periods may only be assessed by prior permission of the Central Valley Water Board.

9. Activities shall not cause settleable matter to exceed 0.1 ml/l in surface waters as measured in surface waters 300 feet downstream from the project.
10. The discharge of petroleum products or other excavated materials to surface water is prohibited. Activities shall not cause visible oil, grease, or foam in the work area or downstream. Winn Communities shall notify the Central Valley Water Board immediately of any spill of petroleum products or other organic or earthen materials.
11. Winn Communities shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter, oil/grease, or foam are exceeded.
12. Winn Communities shall comply with all Department of Fish and Wildlife 1600 requirements for the project.
13. Winn Communities must obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities issued by the State Water Resources Control Board for any project disturbing an area of 1 acre or greater.
14. The Conditions in this water quality certification are based on the information in the attached "Project Information." If the information in the attached Project Information is modified or the project changes, this water quality certification is no longer valid until amended by the Central Valley Water Board.

15. 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 State law and section 401 (d) of the federal 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 ensure compliance into this Order.
 - a. If Winn Communities or a duly authorized representative of the project fails or refuses to furnish technical or monitoring reports, as required under this Order, or falsifies any information provided in the monitoring reports, the applicant is subject to civil monetary liabilities, for each day of violation, or criminal liability.
 - b. In response to a suspected violation of any condition of this Order, the Central Valley Water Board may require Winn Communities to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
 - c. Winn Communities shall allow the staff(s) of the Central Valley Water Board, or an authorized representative(s), upon the presentation of credentials and other documents, as may be required by law, to enter the project premises for inspection, including taking photographs and securing copies of project-related records, for the purpose of assuring compliance with this certification and determining the ecological success of the project.

ADDITIONAL STORM WATER QUALITY CONDITIONS:

Winn Communities shall also satisfy the following additional storm water quality conditions:

1. During the construction phase, Winn Communities must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. There strategies must include the following:
 - (a) the Storm Water Pollution Prevention Plan (SWPPP) must be prepared during the project planning and design phases and before construction;
 - (b) an effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working prior to the rainy season and during all phases of construction.
2. Winn Communities must minimize the short and long-term impacts on receiving water quality from the Murphy Glen Estates Project by implementing the following post-construction storm water management practices:
 - (a) minimize the amount of impervious surface;
 - (b) reduce peak runoff flows;
 - (c) provide treatment BMPs to reduce pollutants in runoff;

- (d) ensure existing waters of the State (e.g., wetlands, vernal pools, or creeks) are not used as pollutant source controls and/or treatment controls;
 - (e) preserve and, where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, and buffer zones;
 - (f) limit disturbances in natural water bodies and natural drainage systems caused by development (including development of roads, highways, and bridges);
 - (g) use existing drainage masters plans or studies to estimate increases in pollutant loads and flows resulting from projected future development and require incorporation of structural and non-structural BMPs to mitigate the projected pollutant load increase in surface water runoff.
 - (h) identify and avoid development in areas that are particularly susceptible to erosion and sediment loss, or establish development guidance that protects areas from erosion/sediment loss;
 - (i) control post-development peak storm water run-off discharge rates and velocities to prevent or reduce downstream erosion, and to protect stream habitat.
3. Winn Communities must ensure that all development within the project provides verification of maintenance provisions for post-construction structural treatment control BMPs. Verification shall include on or more of the following, as applicable:
- (a) The developer's signed statement accepting responsibility for maintenance until the maintenance responsibility is legally transferred to another party; or
 - (b) (b) written conditions in the sales or lease agreement that required the recipient to assume responsibility for maintenance; or
 - (c) Written text in project conditions, covenants and restrictions for residential properties assigning maintenance responsibilities to a home owner's association, or other appropriate group, for maintenance of structural and treatment control BMPs; or
 - (d) Any other legally enforceable agreement that assigns responsibility for the storm water BMP maintenance.
4. Staff of the Central Valley Water Board has prepared total maximum daily load (TMDL) allocations that, once approved, would limit methylmercury in storm water discharges to the Sacramento-San Joaquin Delta. The Central Valley Water Board has scheduled these proposed allocations to be considered for adoption. When the Central Valley Water Board adopts the RMDL and once approved by the Environmental Protection Agency, the discharge of methylmercury may be limited from the proposed project. The purpose of this condition is to provide notice to Winn Communities that methylmercury discharge limitations and monitoring requirements may apply to this project in the future and also to provide notice of the Central Valley Water Board's TMDL process and that elements of the planned construction may be subject to a TMDL allocation.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

~~George D. Day, P.E., Redding Branch Office, 364 Knollcrest Drive, Suite 205,~~

Redding, California 96002, (530) 224-4845
Stephanie Tadlock, Environmental Scientist
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-8114
Stephanie.Tadlock@waterboards.ca.gov
(916) 464-4644

WATER QUALITY CERTIFICATION:

I hereby issue an Order certifying that any discharge from the Winn Communities, Murphy Glen Estates Project (WDID#5B34CR000061) will comply with the applicable provisions of Section 301 ("Effluent Limitations"), Section 302 ("Water Quality Related Effluent Limitations"), Section 303 ("Water Quality Standards and Implementation Plans"), Section 306 ("National Standards of Performance"), and Section 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. Through this Order, this discharge is also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)".

Except insofar 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 compliance with the conditions of this Certification, Winn Communities' application package, and the attached Project Information Sheet; and b) compliance with all applicable requirements of the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised ~~October 2014~~ April 2016.

Any person aggrieved by this action may petition the State Water Resources Control Board to review the action in accordance with California Water Code Section 13320 and California Code of Regulations, Title 23, Section 2050 and following. The State Water Resources Control Board must receive the petition by 5:00 p.m., 30 days after the date of this action, except that if the thirtieth day following the date of this action falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Resources Control Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:
http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

Original Signed by George Day for:

PAMELA C. CREEDON
Executive Officer

GDD:lmw

Enclosure: Water Quality Order No. 2003-0017 DWQ

Cc w/o enclosures: Ms. Lisa Gibson, U.S. Army Corps of Engineers, Sacramento
Department of Fish and Wildlife, Region 2, Rancho Cordova
U.S. Fish and Wildlife Service, Sacramento
Mr. Bill Jennings, CALSPA, Stockton
Mr. Brian Mayerle, ECORP Consulting, Inc., Rocklin

Cc w/o enclosures U.S. EPA, Region 9, San Francisco
by email: Mr. Bill Orme, SWRCB, Certification Unit, Sacramento

PROJECT INFORMATION

Application Date: 1 August 2014

Application Complete Date: 24 October 2014

Applicant: Winn Communities, Attn: Mr. Jason Belles

Project Name: Murphy Glen Estates Project

Application Number: WDID No. 5B34CR00061

U.S. Army Corps File Number: SPK-2004-00814

Type of Project: Construction of a housing subdivision and associated infrastructure on a 40- acre parcel.

Project Location: Section 04, Township 07 North, Range 06 East, MDB&M.
Latitude: 38°29'16" and Longitude: -121°19'48"

County: Sacramento County

Receiving Water(s) (hydrologic unit): Wetlands, which are tributary to Sacramento River. Valley-American Hydrologic Unit-Florin Hydrologic Subarea No. 519.12

Water Body Type: Wetlands

Designated Beneficial Uses: The Water Quality Control Plan *for the Sacramento River and San Joaquin River*, Fourth Edition, revised ~~September 2009~~ April 2016, has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include: Agricultural Supply (AGR); Groundwater Recharge, Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Spawning, Reproduction, and/or Early Development (SPWN); and Wildlife Habitat (WILD).

Project Description (purpose/goal): The Murphy Glen Estates Project consists of constructing a housing subdivision and associated infrastructure on a 40-acre parcel located in the North Vineyard Station Specific Plan (Plan) Area, in Sacramento County. ~~The Plan area consists of a residential land use plan with supporting commercial, business professional, park, school and open space uses. The proposed project will implement ±40 acres of the residential development component of the Specific Plan, providing approximately 23.7 acres (170 units) of low density single family residential units, as well as approximately 7.6 acres of multi-family residential units, and 9.1 acres of street and landscaped areas in accordance with the Plan. The majority of the homes will be built on a network of residential streets that include convenient connections to~~

~~arterials and thoroughfares, but are not subjected to high traffic volumes and through traffic.~~

The purpose of the project is to create a small, low-density, single-family subdivision as well as a high-density component that is proximate to local and regional job centers and existing infrastructure in a manner that is consistent with Sacramento County's urban growth policies requiring compact urban form.

~~Direct and indirect impacts to Waters of the U.S. United States include 4.546 2.343 acres of wetlands, 2.146 acres of vernal pools, and 0.087 acre of other waters roadside ditch (stream channel), for a total of 4.633 4.576 acres of permanent direct impacts. 2.146 acres of vernal pools, 1.328 acres of seasonal wetlands, 1.072 acres of seasonal wetland swales, and 0.087 acre of ditch will be filled in preparation of mass grading and installation of project infrastructure. Additionally, 2.382 0.630 acres (0.472 acre of vernal pools and 0.158 acre of wetlands) of potentially jurisdictional waters of the United States will be indirectly permanently impacted indirectly by development of the project. All of the direct and indirect impacts will be from mass grading of the Project site in preparation of the development.~~

Table 2: Impacts from Fill and/or Excavation Activities

<u>Aquatic Resource Type</u>	<u>Temporary</u>			<u>Permanent</u>					
				<u>Physical Loss of Area</u>			<u>Degradation of Ecological Condition Only</u>		
	<u>Acres</u>	<u>Cubic-yards</u>	<u>Linear-feet</u>	<u>Acres</u>	<u>Cubic-yards</u>	<u>Linear-feet</u>	<u>Acres</u>	<u>Cubic-yards</u>	<u>Linear-feet</u>
<u>Stream Channel</u>	-	-	-	<u>0.087</u>	-	-	-	-	-
<u>Vernal Pool</u>	-	-	-	<u>2.146</u>	-	-	<u>0.472</u>	-	-
<u>Wetland</u>	-	-	-	<u>2.343</u>	-	-	<u>0.158</u>	-	-
<u>Total Impacts</u>	-	-	-	<u>4.576</u>	-	-	<u>0.630</u>	-	-

Preliminary Water Quality Concerns: Construction activities may impact surface waters with increased turbidity and settleable matter.

Proposed Mitigation to Address Concerns: Winn Communities will implement Best Management Practices (BMPs) to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities. Winn Communities will conduct turbidity and settleable matter testing during in-water work, stopping work if Basin Plan criteria are exceeded or are observed.

Fill/Excavation Area Project implementation will permanently impact 4.633 4.576 acres of jurisdictional wetland and temporarily impact 2.382 0.630 acres of jurisdictional wetland.

Dredge Volume: Not Applicable

U.S. Army Corps of Engineers Permit Number: Individual Permit

Department of Fish and Wildlife Streambed Alteration Agreement: Winn Communities did not apply for a Streambed Alteration Agreement because there are no features on-site that would require a Lake and Streambed Alteration Agreement from the California Department of Fish and Wildlife.

Possible Listed Species: California tiger salamander, western spadfoot toad, California linderiella, midvalley fairy shrimp, vernal pool fairy shrimp, and vernal pool tadpole shrimp.

Status of CEQA Compliance: The County of Sacramento signed a final Notice of Determination approving an Environmental Impact Report on 12 August 1998 in compliance with Section 21108 or 21152 of the Public Resources Code, stating the project will have a significant effect on the environment. Mitigation measures were made a condition of approval. A mitigation reporting or monitoring plan was adopted for this project and a statement of Overriding Considerations was adopted for this project. Findings were made pursuant to the provisions of CEQA (State Clearinghouse Number 1996032057).

Compensatory Mitigation: Winn Communities will purchase ~~7.050 acre of vernal pool preservation credits; 2.146 acres of vernal pool creation credits; 2.656 acres of seasonal wetland preservation credits; 1.328 acres of seasonal wetland creation credits; 3.288 acres of seasonal wetland swale preservation credits; and 1.072 acres of seasonal wetland swale creation credits~~ 4.386 acres of vernal pool creation credits, 9.368 acres of vernal pool preservation credits, and 0.820 acre of wetland creation credits from an USFWS a United States Fish and Wildlife Service and USACE United States Army Corps of Engineers approved Mitigation Bank or Conservation Agency In-Lieu Fee Program, for the unavoidable impacts to jurisdictional waters of the United States.

Table 3: Compensatory Mitigation for Permanent Physical Loss of Area

<u>Aquatic Resource Type</u>	<u>Comp Mitigation Type</u>			<u>Units</u>		<u>Established</u>	<u>Re-established</u>	<u>Rehabilitated</u>	<u>Enhanced</u>	<u>Preserved</u>	<u>Unknown</u>
	<u>In-Lieu</u>	<u>Mit. Bank</u>	<u>Permittee Responsible</u>	<u>AC (Acres)</u>	<u>LF (Linear Feet)</u>						
<u>Vernal Pool</u>	-	X	-	<u>4.386</u>	-	X	-	-	-	-	-
<u>Vernal Pool</u>	-	X	-	<u>9.368</u>	-	-	-	-	-	X	-
<u>Wetland</u>	-	X	-	<u>0.820</u>	-	X	-	-	-	-	-
<u>TOTAL</u>				<u>14.554</u>							

Application Fee Provided: On 1 August 2014 a certification application fee of \$1,201.00 was submitted as required by 23 CCR §3833(b)(3)(A) and by 23 CCR §2200(e). A remaining certification fee of \$33,090 was received on 20 October 2014 as required by 23 CCR §3833b(2)(A) and by 23 CCR §2200(e).