
North Coast Regional Water Quality Control Board

December 1, 2016

Steve Strombeck
P.O. Box 37
Eureka, CA 95502

Dear Mr. Strombeck:

Subject: **Notice of Violation** of Clean Water Act Section 401 Water Quality Certification for the Campbell Creek Apartments; Arcata, Humboldt County

Files: Campbell Creek Apartments, WDID No. 1B11088WNHU, ECM PIN: CW-767317

The North Coast Regional Water Quality Control Board (Regional Water Board) has found that you are in violation of the Clean Water Act section 401 water quality certification (certification)¹ issued to you on September 15, 2011, for the Campbell Creek Apartments Project (Project). This Notice of Violation (NOV) summarizes the violations and provides instructions at the end that may be followed to help you come into compliance.

Violation No. 1—Failure to Provide Mitigation Monitoring Reports as Required by Certification Condition No. 9

Certification number 9 requires:

The Applicant shall implement the October 2010 Restoration Plan for Campbell Creek Apartments (Plan) prepared by Winzler and Kelly. Annual monitoring reports shall be provided to the Regional Water Board each year. Annual monitoring reports shall contain photos of the wetland enhancement areas as described in the Plan. The first wetland mitigation monitoring report shall be submitted to this office within one year of beginning ground disturbing activities on the project. A final wetland mitigation monitoring report shall be submitted which clearly demonstrates the existing 1.64 acres of three-parameter wetlands remain onsite as well as the successful enhancement of all wetlands and the associated setback/buffer area. Wetland enhancement success criteria shall be 75 percent absolute cover of native wetland and riparian plants by year three with no more than 5 percent cover by target invasive plants. If success criteria are not accomplished by the end of the three

¹ A copy of the certification may be found on the Regional Water Board website at:
http://www.waterboards.ca.gov/northcoast/board_decisions/water_quality_certification/pdf/2011/110915_rb1_campbellcrk_401.pdf

year monitoring period the monitoring program shall be extended to five years with remedial actions in place to enhance the probability of meeting the success criteria.

Based upon historical Google imagery, it appears that project construction was completed either in 2012 or 2013. As of the date of this letter, the Regional Water Board has not received any mitigation monitoring reports for the Project and does not know whether the mitigation work was completed or is a success as required in the certification.

Violation No. 2—Failure to Notify the Regional Water Board of a Change in Project Ownership as Required by Certification Condition No. 18

Certification number 18 requires:

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.

Regional Water Board staff contacted Mr. Curtis Santsche, Senior Project Manager at Strombeck Properties by telephone on November 16, 2016, to ask about the status of the mitigation and monitoring reports. While he did not know the status of the mitigation and monitoring reports, he noted that the property was sold in approximately May 2015. As of the date of this letter, the Regional Water Board has not received any correspondence related to the change in control of the Project ownership.

Required Actions

To help the Regional Water Board determine the status of the certification requirements, please provide:

- 1) The date Project construction, including mitigation activities, was completed;
- 2) Confirmation that the Project was constructed consistent with the Project certification application and certification. If the Project was constructed inconsistent with the certification application or certification, provide a description of the inconsistencies;
- 3) Dates of wetland mitigation monitoring events, if any. If monitoring was not performed, provide a statement that monitoring was not performed;
- 4) Dates of wetland maintenance events, if any. If wetland maintenance was not performed, provide a statement that wetland maintenance was not performed;

- 5) All completed mitigation and monitoring reports, if any. If mitigation reports were not performed, provide a statement that mitigation and monitoring reports were not produced. If wetland mitigation and monitoring reports were prepared and submitted to the Regional Water Board, provide the date(s) the reports were submitted;
- 6) Information related to sale of the Campbell Creek Apartments property, including:
 - a. Effective date of ownership change;
 - b. Purchasing entity's full legal name;
 - c. The state of incorporation of the purchasing entity, if a corporation;
 - d. Property sale documentation related to the onsite wetland mitigation area. Requested information includes, but is not limited to, any deed restriction or other similar legal mechanism to protect the onsite mitigation area and maintain compliance with Project permits issued by the Regional Water Board and United States Army Corps of Engineers.

The Regional Water Board requests the above information no later than December 15, 2016. Please be aware that the Regional Water Board may take enforcement actions for violation of conditions of the certification, but not limited to assessment of civil liabilities of up to \$10,000 per day per violation.

Please contact Mr. Stephen Bargsten at Stephen.Bargsten@waterboards.ca.gov or (707) 576-2653.

Sincerely,

Fred Blatt
Division Chief
Nonpoint Source & Surface Water Protection Division

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Certified Return Receipt Requested

cc: Holly Costa, Army Corps of Engineers, Holly.N.Costa@usace.army.mil
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