
North Coast Regional Water Quality Control Board

California Regional Water Quality Control Board

North Coast Region

California Water Code Section 13267 Investigative Order R1-2019-0056

**Directing City Ventures Homebuilding, Inc.
Doing business as City Ventures Homebuilding, LLC**

**To Submit Technical and Monitoring Reports
Pertaining to Discharges from Fox Hollow Subdivision**

WDID No. 1 49C377076

Sonoma County

Findings

The California Regional Water Quality Control Board, North Coast Region (Regional Water Board) finds that:

1. City Ventures Homebuilding, Inc. is the owner/operator of the Fox Hollow Subdivision (Site) located at 1615 Fulton Road, Santa Rosa, Sonoma County.
2. City Ventures Homebuilding Inc. (Discharger) is currently building a residential subdivision at the Site. The construction project at the Site is enrolled for coverage under the General Permit for Storm Water Discharges Associated with Construction Activities, State Water Resources Control Board Order No. 2009-0009-DWQ as amended by Order Nos. 2010-0014-DWQ and 2012-0006-DWQ (Construction General Permit).
3. The Regional Water Board issued a Notice of Violation and a Requirement for Information 13267 Order on March 7, 2017, to the Discharger, due to its failure to comply with the Construction General Permit, Water Quality Control Plan for the North Coast (Basin Plan), and Clean Water Act section 401 (33 U.S.C. 1341), Water Quality Certification WDID No. 1B16026WNSO.
4. The Site has continued to violate the requirements of the Construction General Permit, the Basin Plan and Water Quality Certification WDID No. 1B16026WNSO. Non-compliance includes, but is not limited to, the Discharger's

VALERIE L. QUINTO, CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

failure to implement adequate Best Management Practices (BMPs) and its unauthorized discharges of waste to receiving waters.

5. The Revised Erosion and Sediment Control Plan dated February 5, 2018, included an Advanced Treatment System (ATS) for the Site, to treat construction-related storm water flows. Per the Discharger's submittal titled "ATS Sample Monitoring provided by WSA Compliance - Feb 2018," the ATS was in operation by February 28, 2018.
6. On February 13, 2019 the Discharger bypassed the ATS and directed sediment-laden stormwater from the rain gardens directly into Peterson Creek without treatment.
7. On February 15, 2019, the Discharger's consultant on site told North Coast Regional Water Quality Control Board (Regional Water Board) staff that the ATS did not have sufficient capacity to treat the storm water runoff from the Site during a rain event on February 13, 2019.
8. On February 26, 2019, Regional Water Board staff inspected the Site. During the inspection, the Discharger's onsite representatives overseeing the operation of the ATS told Regional Water Board staff that they were planning to bypass the ATS again that day and discharge untreated construction-related sediment-laden storm water flows from the collection ponds directly into Peterson Creek.
9. Per the Construction General Permit, Attachment F, subsection C.6., an ATS shall be designed to capture and treat within 72 hours up to the volume equivalent to the runoff from a 10-year, 24-hour rain event. Based on publicly available data from the National Oceanic and Atmospheric Administration, neither the February 13, 2019, nor the February 26, 2019, rain event reached a 10-year, 24-hour rain event, see [NOAA Website \(https://www.ncdc.noaa.gov/cdo-web/quickdata\)](https://www.ncdc.noaa.gov/cdo-web/quickdata)

Legal and Regulatory Authority

10. This Water Code section 13267 Investigative Order (Order) conforms to and implements policies and requirements of the Porter-Cologne Water Quality Control Act (Division 7, commencing with California Water Code section 13000), including section 13267, and the Water Quality Control Plan for the North Coast Region (Basin Plan) adopted by the Regional Water Board, including beneficial uses, water quality objectives, and implementation plans.
11. Water Code section 13267, subdivision (a), provides that the Regional Water Board may investigate the quality of any waters of the state within its region in connection with any action relating to the Basin Plan. Water Code section

13267, subdivision (b) provides that the Regional Water Board, in conducting an investigation, may require a discharger to furnish, under penalty of perjury, technical or monitoring program reports. The reports required by this Order, pursuant to Water Code section 13267, are necessary to understand the impacts of these discharges to Peterson Creek, and to ensure that any threat to water quality created by activities at the Site are properly assessed and controlled. Peterson Creek is tributary to the Russian River, which is Clean Water Act section 303(d)-listed as impaired by sediment. Untreated storm water discharges from the Site contained sediment. The costs associated with developing the requested reports and workplans bear a reasonable relationship to the benefits that will be obtained from having the necessary information for the Regional Water Board to properly evaluate and monitor the Site.

Directives

THEREFORE, IT IS HEREBY ORDERED that, pursuant to Water Code section 13267, the Discharger shall provide the following information:

- A. **Bypass Reports:** By **November 22, 2019** the Discharger shall submit a technical report describing the events leading to bypassing the ATS on February 13 and 26, 2019 and for any other event when the ATS system was bypassed, either actively or passively. The report shall include alternative corrective actions the Discharger considered to prevent discharging untreated stormwater to Peterson Creek, explain why the Discharger bypassed the ATS instead of taking alternative corrective actions. The report shall address how future bypass of the ATS will be prevented. Any necessary changes to the system configuration or sizing shall be reflected in the current version of the SWPPP to be uploaded to SMARTS.
- B. **Notification Requirement:** The Discharger is hereby directed to comply with NAL Exceedance Report requirements per the Construction General Permit Attachment D, section 15 a-d.
 1. In addition, the Discharger shall notify the Regional Water Board as soon as possible and at least two business days prior to any planned discharge. The Discharger shall notify the Regional Water Board within 24 hours after any unauthorized discharge or unplanned discharge or water quality problem. All notifications must be made by email and telephone. Issues which must be reported includes, but is not limited to the following:
 - a. Discharges of sediment and/or sediment-laden storm water, or any other unauthorized discharges to waters of the state;

- b. Any exceedance of the Basin Plan section 3.3.17 turbidity objective for receiving waters (“[t]urbidity shall not be increased more than 20 percent above naturally occurring background levels.”). In addition to stormwater sampling requirements for Risk Level 2 sites in the Construction General Permit, the Discharger shall collect instream water quality samples for turbidity analyses. The Discharger shall collect samples from locations upstream and downstream of locations where the Site discharges into Peterson Creek. The Discharger shall collect all samples during qualifying rain events for water quality sampling, as defined in and consistent with the Construction General Permit; and
 - c. Any exceedance of the Basin Plan section 3, Table 3-1, Specific Water Quality Objectives for the North Coast Region, Hydrogen Ion (pH) for the Russian River hydrologic unit (<6.5 or >8.5). See Basin Plan pages 3-6 and 3-11. The Discharger shall collect pH instream water quality samples in receiving waters. In addition to the current sampling locations, the Discharger shall collect samples from locations upstream and downstream of all locations where the Site discharges into Peterson Creek. The Discharger shall collect all samples during qualifying rain events, as defined in and consistent with the Construction General Permit.
- C. **Monitoring:** The Discharger shall perform precipitation-based receiving water monitoring for all rain events of 0.1 inches or more that produce storm water discharge to leave the site. The monitoring shall include photographic documentation of the storm water discharges and sampling activities. All samples shall be collected by personnel trained by a Qualified Industrial Storm Water Practitioner (QISP) and submitted to a state of California Environmental Laboratory Accreditation Program (ELAP)-certified laboratory for chemical analysis.
1. The Discharger shall monitor daily during daylight hours seven days a week. The Discharger shall continue the precipitation-based receiving water monitoring described below until this Order is rescinded in writing by the Regional Water Board Assistant Executive Officer.
 2. Samples shall be collected at all points where discharge leaves the site.
 3. Receiving water samples shall be collected in Peterson Creek upstream of any point of discharge from the site and immediately downstream of each outfall discharging from the site into Peterson Creek.
 4. All samples shall be analyzed for turbidity and pH using calibrated field meters and the data recorded on field sampling sheets.

5. Samples shall be submitted to a certified laboratory for chemical analysis of suspended sediment concentration (SSC), and total suspended solids (TSS).

D. **Reporting:** The Discharger is hereby directed to comply with NAL Exceedance Report requirements per the Construction General Permit Attachment D, section 15 a-d, and sections A and B above.

1. In addition, the Discharger shall submit weekly reports to SMARTS for any conditions described in part B. Weekly reports shall include, at a minimum, the following:
 - a. Description of discharge, cause, location, current condition of the site, BMPs implemented, weather condition at the time of discharge, and impacted receiving water;
 - b. Estimate of volume of discharge;
 - c. All monitoring results and lab reports;
 - d. Description of all immediate corrective actions taken;
 - e. Description of continued or planned corrective actions and/or BMPs the Discharger is implementing or planning to implement to ensure adequate stormwater runoff control, and to prevent the recurrence of unauthorized discharges and water quality problems.
2. Weekly reports are due by 5pm Friday of each week starting on the first Friday that is at least 7 days from the date of this letter.

E. **Storm Water Discharge Volume and Cost Estimates:** By December 9, 2019, submit in a report that provides the following related to the operation and bypass of the ATS (using TR-55 or an equivalent volume calculation method).

1. The report must include at the following information:
 - a. A current site map clearly showing drainage flow pathways, tributary areas, any storm water ponds, BMPs, the installed permanent drainage systems and all outfalls to surface waters;
 - b. All engineering calculations, diagrams, models, methods and assumptions used to calculate all volume estimates;
 - c. The date of ATS installation, all dates of operation, all dates of discharge where the ATS was not operated, all dates where the ATS was bypassed, all dates where the ATS was partially operated or not fully operated as designed, and the date the ATS was decommissioned;
 - d. Total cost to install and operate the ATS including monthly cost breakdown as follows:
 - i. Monthly cost for mobilization, installation, fuel, filter replacement, and sludge cleanup and disposal;
 - ii. Monthly cost for operation and maintenance (including monitoring and lab costs);

- iii. Monthly cost for chemical treatment (coagulants/flocculants);
- iv. Total cost to install and operate ATS based on length of operation.

For each date where the ATS was not fully operational, bypassed, or not fully operated as designed, and a discharge occurred, the Discharger shall provide the following information at a minimum:

- a. The volume of storm water treated by the ATS and the volume of storm water which bypassed the ATS;
- b. The cause of the bypass and whether the bypassed flow was actively bypassed (such as pumped or piped) or passively bypassed (such as breaching the bioretention);
- c. The status of the ATS at the time of the bypass;
- d. Where the discharge was discharged;

Provisions

1. **Use of Registered Professionals:** The Discharger shall provide documentation that technical reports submitted per this Order are prepared under the direction of appropriately qualified professionals. In preparing the technical reports, any engineering or geologic evaluations and judgments shall be performed by or under the direction of registered professionals pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. Reports submitted by or on behalf of the Discharger shall include a statement of qualifications and registration numbers of the responsible lead professional. The lead professional shall sign and affix his or her registration stamp to the report.
2. **Qualified Professionals:** The Discharger's reliance on qualified professionals promotes proper planning, implementation, and long-term cost-effectiveness of investigation, and cleanup and abatement activities. Professionals shall be qualified, licensed, where applicable, and competent and proficient in the fields pertinent to the required activities.
3. **Signatory Requirements:** The technical reports shall be signed and certified by either a principal executive officer, ranking elected official, or the person with overall responsibility for environmental matters for the Discharger. Additional reports submitted in support of the technical report shall be signed by the principal author.
4. **Certification Statement:** Any report submitted in response to this Order shall include the following perjury statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

5. **Report Submittal:** The technical reports shall be submitted electronically to:

North Coast Regional Water Quality Control Board

NorthCoast@waterboards.ca.gov

and uploaded within two business days of their submittal to the State Water Resources Control Board Stormwater Multiple Application and Report Tracking System (SMARTS).

Notifications

1. **Enforcement Discretion:** The Regional Water Board and the State Water Board reserve their rights to take any enforcement action authorized by law. Furthermore, compliance with this Order is wholly distinct from any possible enforcement that may follow from the discharges themselves, pursuant to violations of the California Water Code or other orders issued by the Regional Water Board or State Water Board.
2. **Enforcement Notification:** Pursuant to California Water Code section 13268, failure to submit the required technical reports as required by Water Code section 13267(b), or falsifying any information provided therein, may result in the imposition of administrative civil liability up to \$1,000 per violation per day. Any actual unauthorized discharge to waters of the United States may subject the Discharger to up to \$10,000 for each day of discharge, and \$10 for each gallon over 1,000 gallons not cleaned up pursuant to Water Code section 13385.
3. **California Environmental Quality Act Compliance:** The issuance of this Order is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations, section 15306. The submission of technical information does not constitute a project with environmental impacts.
4. **Appeal Notification:** Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00

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p.m., 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 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.

It is hereby ordered.

Claudia E. Villacorta, P.E
Assistant Executive Officer

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