



North Coast Regional Water Quality Control Board

April 3, 2020

Mr. Matthew Jansen
City Ventures Homebuilding Inc.
3121 Michelson Drive, Suite 150
Irvine, CA 92612
matt@cityventures.com

Certified Mail No. 7016 2710 0000 2653 4309

Dear Mr. Jansen:

Subject: Notice of Violation for Failure to Submit all Technical and Monitoring Reports Pertaining to Discharges from Fox Hollow, as Required by California Water Code Section 13267 Investigative Order R1-2019-0056

File: Fox Hollow, 1615 Fulton Road, City of Santa Rosa, Sonoma County (Site) WDID Nos. 149C377076 and 1B026WNSO

This letter is to notify you that City Ventures Inc. is in violation for not completing the directives listed in the California Water Code Section 13267 Investigative Order R1-2019-0056, issued on November 8, 2019, as follows:

- Directive A; Bypass Reports
- Directive D.1.C; Reporting
- Directive E; Stormwater Discharge Volume and Cost Estimates

This letter directs you to carefully review the California Water Code Section 13267 Investigative Order R1-2019-0056 directives and submit all current and applicable information to the Regional Water Board as soon as possible. This Notice of Violation in no way extends the original and amended due dates.

Submit the technical reports electronically to:

North Coast Regional Water Quality Control Board at NorthCoast@waterboards.ca.gov, and upload the same into the Stormwater Multiple Application and Report Tracking System (SMARTS), within two business days of submitting them to the Regional Water Board.

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

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

Background

On November 8, 2019, the Regional Water Board issued the California Water Code Section 13267 Investigative Order R1-2019-0056 (13267 Order) to Fox Hollow Inc. On November 13, 2019, City Ventures Inc. representative Gary J. Grimm requested an extension to the deadlines associated with Directives A and E of the 13267 Order.

On November 25, 2019, the Regional Water Board amended the 13267 Order, extending the deadlines for submission of technical information as requested by the Discharger. Specifically, the Regional Water Board extended the deadline for reports due under Directive A from November 22, 2019 to December 3, 2019, and the Regional Water Board extended the deadline for reports due under Directive E from December 9, 2019 to December 18, 2019.

On December 4, 2019, a representative of the Discharger uploaded to the Fox Hollow SMARTs account a document entitled "NOV Response – Fox Hollow 12-03-2019," characterizing the document as being an "NOV Response Letter – Water Board 13267 Investigative Order – Bypass Technical Report" (now referred to in this document as the 13267 Response Letter). Since the submission of the 13267 Response Letter, the Discharger has continued to submit to SMARTs documents identified as "Fox Hollow Discharge Sampling Report[s]" (now referred to in this document as Weekly Discharge Sampling Reports) for weeks that correlate with precipitation occurring onsite.

Alleged Violations

Regional Water Board staff have reviewed City Ventures Inc.'s 13267 Response Letter and Weekly Discharge Sampling Reports Report(s) and have determined that you have failed to comply with Directives A, D, and E of the 13267 Order. Specifically:

- Directive A Bypass Reports: Requires, in part, that by December 3, 2019, the Discharger shall submit a technical report describing the events leading to bypassing the advanced treatment system (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 13267 Response Letter submitted by Matthew Jansen, the Legally Responsible Party (LRP) representative for City Ventures Inc., indicates that the discharges were not intentional and that the ATS was designed as per the requirements of Attachment F of the Construction General Permit Order No. 2009-0009-DWQ (CGP) and all subsequent amendments. The February 21, 2019 report of the February 13, 2019 bypass event, submitted by the Discharger's consultants Kaz and Associates, contradicts this claim.

Requirement C.6. of Attachment F of the CGP states that the “ATS shall be designed to capture and treat (within a 72-hour period) a volume equivalent to the runoff from a 10-year, 24-hour storm event using a watershed runoff coefficient of 1.0.”

On February 21, 2019, Pat Murphey of Kaz and Associates, submitted an Incident report to SMARTS, entitled Fox Hollow Incident Report 02-13-19 (Incident Report), indicating in part that “[d]ue to heavy rain, the pump system to ATS reached its capacity and runoff from the manhole overflowed into the pond, causing the overflow for few hours from pond into the creek.” As seen in Attachment A – NOAA PRCP Data, available precipitation records from the National Oceanic & Atmospheric Administration (NOAA) for the period leading up to February 13, 2019, indicate that the storm event leading to the Incident report was somewhere between a 2-year and 5-year, 24-hour storm event. The Incident Report and NOAA precipitation data show that the amount of precipitation received by the ATS, was less than the required 10-year, 24-hour ATS treatment capacity defined in Attachment F of the CGP.

Clearly the ATS was not designed to meet the requirements of Attachment F of the CGP and, to date, you have failed to provide the information required under Directive A of the 13267 Order for Bypass Reports.

- Directive D.1.C; Reporting: Requires, in part, that the Discharger shall submit weekly reports to SMARTs containing all monitoring results and lab reports.

Regional Water Board staff reviewed the Weekly Discharge Sampling Reports submitted in SMARTs and discovered several deficiencies and inconsistencies. For example, the reports uploaded on January 21, 2020 and January 31, 2020 both include analytical results for samples collected January 16, 2020, but each report provides different results for samples collected that day. Further, the report uploaded January 21, 2020, covering the sampling period of January 11 to 17, 2020, makes reference to TSS results from a January 1, 2020 sampling event, but Regional Water Board staff could not locate a Weekly Discharge Sampling Report for the first week of January. These inconsistencies raise questions about the overall quality and reliability of the information you and/or your consultants are including in the weekly reports.

- Directive E; Storm Water Discharge Volumes and Cost Estimates: Requires, in part, that the Discharger include in the report, due by December 9 (extended to December 18), 2019, volumes of storm water treated by and bypassing the ATS; calculations, models, methods and assumptions used to calculate all volume estimates; and total and monthly costs for various aspects associated with installation and operation of the ATS. Your 13267 Response Letter did not include these elements, and to date, you have failed to provide information sufficient to fulfill the requirements of Directive E of the 13267 Order.

Additional Potential Liabilities

Regional Water Board staff are presently reviewing progressive enforcement options. We encourage you to take steps to correct the violations as soon as possible by submitting the required technical reports, and will take into consideration your timeliness in correcting the identified deficiencies. The Regional Water Board and the State Water Board reserve their rights to take any enforcement action authorized by law. Furthermore, violations associated with failure to comply with the directives of the 13267 Order are wholly distinct from violations associated with the discharges themselves.

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 or may be referred to the Office of Attorney General for enforcement.

If you have any questions regarding this matter, please contact Joshua Luders at Joshua.Luders@waterboards.ca.gov or by telephone at (707) 576-2551. You may also contact me at Heaven.Moore@Waterboards.ca.gov or by telephone at (707) 576-2753.

Sincerely,

Heaven Moore, P.E.
NPDES Unit

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Attachments: Attachment A - NOAA PRCP Data

Certified – Return Receipt requested

cc: North Coast Regional Water Quality Control Board
Josh Luders, Josh.Luders@waterboards.ca.gov
Heaven Moore, Heaven.Moore@waterboards.ca.gov

City of Santa Rosa
Nick Sudano, Sudano@srcity.org