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## North Coast Regional Water Quality Control Board

**California Regional Water Quality Control Board  
North Coast Region  
Water Code Section 13267 Investigative Order No. R1-2022-0053**

**Directing City Ventures Homebuilding Inc.  
to Submit Sampling and Monitoring Reports  
Pertaining to Discharges from the Grove Village Project**

**Sonoma County**

**FINDINGS**

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

1. City Ventures Homebuilding, Inc. is the owner/ operator of the Grove Village Project site (Site) located at 2872 Stony Point Road, in 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 Dischargers Associated with Construction and Land Disturbance Activities, State Water Resources Control Board Order No. 2009-0009-DWQ as amended by Orders No. 2010-0014-DWQ and 2012-0006-DWQ (Construction General Permit)<sup>1</sup>.
3. On February 26, 2021, the Discharger filed a Notice of Intent to enroll the Site for coverage under the Construction General Permit as a Risk Level 2 site with total disturbed area of 18.57 acres, due to a combination of a “medium” sediment risk factor and a “high” receiving water factor. Risk Level 2 sites are subject both to the standard requirements of the Construction General Permit, as well as the additional site-specific requirements defined in the Permit’s Attachment D.
4. The Discharger also currently holds a Clean Water Act section 401 (33 U.S.C. 1341), Water Quality Certification (401 Certification) WDID No. 1B180058WNSO for the Site.

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<sup>1</sup> General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit) available online: [Construction General Permit \(ca.gov\)](https://www.waterboards.ca.gov/construction-general-permit)

5. The Discharger is required to comply with all the conditions of the Construction General Permit and 401 Certification. Any noncompliance constitutes a violation of the Clean Water Act and may subject the Discharger to administrative civil liability pursuant to California Water Code section 13385, subdivision (c).
6. The Discharger has violated the requirements of the Construction General Permit and Water Quality Certification No. 1B180058WNSO. Violations include, but are not limited to, the Discharger's failure to implement adequate Best Management Practices (BMPs) and its unauthorized discharges of waste to receiving waters.
7. Discharges from the Site enter the City of Santa Rosa storm drain system at Stony Point Road, then travel south to Colgan Creek, then onward to the Laguna de Santa Rosa, and thence into the Russian River, a water of the United States. The entire Russian River watershed is listed as impaired for sediment and temperature under Clean Water Act section 303(d).
8. On October 23, 2021, Regional Water Board staff (Staff) conducted a drive-by inspection from the public right of way prior to the large rain event forecasted by NOAA.<sup>2</sup> Staff observed very few BMPs at the Site. Staff inspected three more times on October 24, 25, and 29, 2021.<sup>3</sup> During each visit, Staff observed that the Site had nearly 20 acres of disturbed soil, but none of the required minimum sediment and erosion control BMPs needed to control discharges from the Site during wet weather conditions.
9. On October 24, 2021, Staff drove by the Site and saw turbid stormwater ponded over the majority of the Site, and turbid runoff leaving the Site, flowing down Stony Point Road, and into Santa Rosa's storm drain system.
10. On October 25, 2021, Staff reinspected the Site from the public right of way and observed that the large pond of turbid stormwater which was observed the prior day had significantly diminished in quantity, exposing rough graded road subgrade and building pads.
11. Later the same day, Discharger representatives, including their qualified stormwater pollution prevention plan (SWPPP) practitioner (QSP), joined Staff for an onsite inspection. Staff observed that the storm drain system and portions of the sewer system were already installed onsite within the road subgrade. While the ponded turbid stormwater that had been observed within the road subgrade during the October 24, 2021 inspection had significantly diminished overnight, both the Discharger's representatives and the QSP present stated

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<sup>2</sup> NOAA record available online:

<https://www.ncdc.noaa.gov/cdo-web/datasets/LCD/stations/WBAN:23213/detail>

<sup>3</sup> Inspection Report available online: [Report of Oct 23-29, 2021 \(ca.gov\)](https://www.ca.gov/Report-of-Oct-23-29-2021)

that assured Staff that the storm drain system could not discharge from the Site to the City of Santa Rosa storm drain system because of plugs in the onsite storm drain system designed to prevent discharges. However, Staff saw the storm drain system was nearly empty and there was mud within it, indicating that there had been a discharge from the Site to the City of Santa Rosa storm drain system.

12. On October 28, 2021, an inspector from the City of Santa Rosa inspected the Site and concluded that the Site storm drain system was not plugged, had not been plugged during the rain event, and the Site had discharged to the City of Santa Rosa storm drain system. This observation explains why the ponding in the road subgrade had significantly receded from October 24 to October 25, 2021, why mud was observed in the system, and is indicative that sediment-laden stormwater discharged from the Site.
13. On November 2, 2021, the City of Santa Rosa issued a Stop Work order due to the Discharger's failure to implement minimum BMPs and comply with the stormwater requirements. The Stop Work Order was lifted on November 21, 2021.
14. On December 17, 2021, the Regional Water Board issued a Notice of Violation (NOV) to City Ventures Homebuilding, Inc. for violations of the Construction General Permit at the Site for the violations observed on October 23-29, 2021.<sup>4</sup> The NOV directed the Discharger to address the conditions of noncompliance and provide a written plan and schedule for how they were to comply with the Permit.
15. On December 31, 2021, Staff re-inspected the Site and saw that the Discharger had addressed the violations cited in the NOV by implementing additional sediment and erosion control BMPs on the Site, consistent with requirements of the Construction General Permit.
16. On January 16, 2022, the Discharger provided a written response to the December 17, 2021, NOV including their intentions, plan, and schedule for compliance with the Construction General Permit.
17. On February 17, 2022, the Discharger provided a memo produced by EKI Environment and Water who were serving as the QSP and QSD for the Site calculating the volume of discharge from the Site between October 23 and October 26, 2021.

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<sup>4</sup> December 17, 2021 NOV available online:  
[Notice of Violation, Oct 23-29, 2021, City Ventures, Grove Village \(ca.gov\)](#)

18. On March 7, 2022, Staff provided the Discharger written comments on the provided volume estimates. In their comments, Staff requested information to resolve questions about the assumptions used in the estimates and identified technical errors that Staff determined resulted in an underestimate of the volume discharged.
19. On March 17, 2022, the Discharger provided a written response to the comments on the volume calculations and additional discussion of assumptions used. The volume calculations provided were unchanged.
20. On May 25, 2022, the Regional Water Board issued a second NOV<sup>5</sup> to City Ventures Homebuilding, Inc. for failure to comply with multiple conditions of the 401 Certification, issued on November 5, 2018.<sup>6</sup> The Discharger failed to meet the following certification conditions: stabilization of the Site on or before October 31, 2021 (condition no. 5), submission of weekly wet season construction reports (condition no. 6), stabilization of disturbed soil prior to a rain event (condition no. 7), compliance with Construction General Permit requirements (condition no. 9), submission of annual status reports (condition no. 11), implementation of BMPs (condition no. 20), and failure to prevent unauthorized discharges (condition no. 21).
21. On June 30, 2022, the Discharger submitted a written response via email to the NOV related to the conditions of the 401 Certification.
22. On September 4, 2022, the Discharger submitted a Wet Season Soil Disturbance Plan for Staff approval, which was required by the 401 Certification and submitted over a year past due.
23. On September 12, 2022, Staff re-inspected the Site with City of Santa Rosa representatives and found that additional minimum BMPs were necessary to comply with the CGP.
24. On September 22, 2022, Staff met virtually with the Discharger to discuss the current condition of the site.
25. On September 26, 2022, Staff provided written comments to the Discharger on the Wet Season Soil Disturbance Plan indicating that it did not match observed field conditions and needed revision. Staff conditioned to work with the Discharger to revise the Wet Season Soil Disturbance Plan. Conditional approval was provided by Staff via email on October 31, 2022.

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<sup>5</sup> May 25, 2022 NOV available online:

[Notice of Violation of Water Quality Certification for the Grove Village Project \(ca.gov\)](#)

<sup>6</sup> 401 Water Quality Certification available online:

[401 Certification for Grove Village Project \(ca.gov\)](#)

26. On December 7, 2022, the Discharger began weekly Wet Season Soil Disturbance Plan submittals as required by the 401 Certification.
27. On December 8, 2022, Staff conducted a joint Site inspection with the City of Santa Rosa. Minimum BMP conditions were greatly improved.

**Legal and Regulatory Authority:**

28. 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 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, that includes beneficial uses, water quality objectives, and implementation plans.
29. Construction General Permit section XV., subdivision (D), allows the Regional Water Boards to require additional Monitoring and Reporting Program Requirements, including sampling and analysis of discharges to sediment-impaired water bodies. This Order adds to monitoring requirements contained in the Construction General Permit.
30. 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 Board, in investigating, may require a discharger to furnish, under penalty of perjury, technical or monitoring program reports. As explained above, the Site conditions indicated it discharged untreated sediment-laden stormwater into the City of Santa Rosa storm drain system, which then outfalls to Colgan creek, tributary to the Russian River, a Clean Water Act section 303(d)-listed as impaired by sediment. The reports required by this Order, are necessary to understand the impacts of these discharges to the Russian River, and to ensure that any threat to water quality created by activities at the Site are properly assessed, and controlled, and future unauthorized discharges are prevented as much as possible.
31. The burden to provide the required reports, including the costs, must bear a reasonable relationship to the need for the reports and their benefits. This Investigative Order requires notifications, copies of reports, engineering reports, monitoring reports, and cost reporting. Staff estimate the costs of the reports to be between approximately \$10,500 and \$30,500<sup>7</sup>.

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<sup>7</sup> Estimates based on the CalTrans “Estimating Guidance for CGP” dated September 2010, which can be found here: [Estimating Guidance for CGP \(ca.gov\)](https://www.caltrans.ca.gov/estimating-guidance-for-cgp)

- a. Notification Requirement: This required reporting requires an email and phone call for each event. Estimated between \$250 and \$1,000.
- b. Copies of all Inspection Reports, Reports Rain Event Action Plans (REAPs), Inspection Reports, and Monitoring/ Reporting Results: The Discharger is already required to produce these reports pursuant to the Construction General Permit. The added expense is from uploading them to the Stormwater Multiple Application and Report Tracking System (SMARTS) and/or emailing them to staff. Estimated between \$250 and \$1,000.
- c. Stormwater Volume Estimate Report: Estimated to be between \$2,000 and \$3,000.
- d. Precipitation Based Monitoring
  - i. Precipitation Based Monitoring effort: Estimated be between \$2,500 and \$10,000.
  - ii. Precipitation Based Monitoring Reports: Estimated be between \$1,250 and \$5,000.
- e. Monitoring Impounded Stormwater
  - i. Impounded Stormwater Monitoring effort: Estimated be between \$1,500 and \$5,000
  - ii. Impounded Stormwater Monitoring Reports: Estimated be between \$750 and \$2,500.
- f. Cost of Compliance Report: Estimated be between \$2,000 and \$3,000.

### **REQUIRED ACTIONS**

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

- A. **Notification Requirement:** The Discharger shall notify the Regional Water Board as soon as possible, and at least two business days prior to, any planned or anticipated discharge (including any impounded water that originated as storm water). The Discharger shall notify the Regional Water Board within 24 hours after any discharge in excess of the applicable Numeric Action Level (NAL). All notifications must be made by email and telephone to [NorthCoast@Waterboards.ca.gov](mailto:NorthCoast@Waterboards.ca.gov) and [Heaven.Moore@Waterboards.ca.gov](mailto:Heaven.Moore@Waterboards.ca.gov), and telephone at (707) 576-2753.

**B. Copies of All Rain Event Action Plans (REAPs), Inspection Reports, and Monitoring/ Reporting Results:** The Discharger shall provide copies of each report required by Construction General Permit Attachment D, Section G. Inspection, Maintenance and Repair, Section H. Rain Event Action Plan, and Section I. Risk Level 2 Monitoring and Reporting Requirements.

1. All reports, as well as all supporting documentation such as monitoring results, pictures, and inspection notes for the Site from the date of enrollment of the Site under the Construction General Permit until December 23 2022 is due by January 30, 2023. The Discharger shall upload the reports to SMARTS.
2. All future reports required by Attachment D, Sections G through I, shall be provided within two days to the Regional Water Board via email and uploaded to SMARTS.

**C. Storm Water Discharge Volume Estimate Report:** By January 30, 2023, submit a report to [NorthCoast@Waterboards.ca.gov](mailto:NorthCoast@Waterboards.ca.gov) and [Heaven.Moore@Waterboards.ca.gov](mailto:Heaven.Moore@Waterboards.ca.gov), that calculates the volume of stormwater discharged from the Site to the City of Santa Rosa storm drain system between September 10, 2021 and November 19, 2021 using the TR-55 or an equivalent volume calculation method approved by the Regional Water Board for each day of discharge from the Site from the start of soil disturbing activities to date of receipt of this Investigative Order. Include in the report the following:

1. A site map or maps reflecting site conditions at the time of each discharge which clearly shows drainage flow pathways, tributary areas, any stormwater ponds, storage or impoundments, all BMPs, the installed drainage system, any run-on, and all discharge points from the Site.
2. Calculations of volume of discharge, per day of discharge, from each discharge point from the Site.
3. Specific calculation of any volume stored or retained and prevented from discharging, and a narrative description of when, where, and how this impounded stormwater was disposed of (i.e., the plugged on-site storm drain system, Baker tanks, or other impoundment). Design, capacity, and estimated efficiency of any impoundment, including an explanation of whether such structures are designed according to the methods contained in the California Stormwater Quality Association's (CASQA's) construction BMP Guidance Handbook.<sup>8</sup>

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<sup>8</sup> For example, see Construction General Permit Attachment D, Section E. Sediment Controls, subsection 2.

4. All engineering calculations, plans, diagrams, models, methods, and assumptions used to calculate all volume estimates.

**D. Precipitation-Based Monitoring Reports:** The Discharger shall monitor and report on stormwater discharges from the Site for all rain events of 0.1 inches or more during daylight hours seven days a week. The monitoring shall include photographic documentation of the storm water discharges and sampling activities. All samples shall be collected by personnel trained by a QSP and the sample results submitted to SMARTS within two business days of collection with all supporting documentation.

1. Samples shall be collected at all points where stormwater discharge leaves the Site. A minimum of three samples shall be collected from each discharge point per day of discharge.
2. All samples shall be analyzed for turbidity and pH using calibrated field meters. The data recorded on field sampling sheets and all supporting calibration records shall be in the reports.
3. Any result that exceeds the range of the field meter must further be analyzed by a certified laboratory to determine an actual value in the sample. All supporting documentation including but not limited to chain of custody, laboratory reports, and field notes shall be provided.
4. Include National Oceanic and Atmospheric Administration (NOAA) sourced precipitation data. Site specific and/or other rain gage data may be provided to supplement the NOAA data. Reference information, including data source, must be provided with any supplemental data submitted.
5. If a rain event does not generate runoff from the Site, or if a required sample was not successfully collected or analyzed, the Discharger must identify the discharge point(s) where samples were not collected and describe the conditions and/or reason that the sampling event was unsuccessful in the monitoring report.

**E. Monitoring of Impounded Stormwater Discharge Reports:** The Discharger shall monitor any discharge of impounded stormwater at the time of discharge. The monitoring shall include photographs documenting the storm water discharges and sampling activities. All samples shall be collected by personnel trained by a QSP and submitted to SMARTS within two business days of collection with all supporting documentation.

1. Samples shall be collected at the beginning of discharge, and at 30-minute intervals over the course of discharge.

2. Samples shall be collected at all points where discharge leaves the Site. A minimum of three samples shall be collected from each discharge point per day of discharge.
  3. All samples shall be analyzed for turbidity and pH using calibrated field meters and the data recorded on field sampling sheets. All supporting calibration records must also be provided.
  4. Any result that exceeds the range of the field meter must further be analyzed by a certified laboratory to determine an actual value in the sample. All supporting documentation including but not limited to chain of custody, laboratory reports, and field notes shall be provided.
- F. **Cost of Compliance:** By February 10, 2023, provide an itemized table by date and cost for all BMPs, compliance measures, monitoring, implemented for the CGP and 401 Certification, associated with the Site to date. Include supporting documentation such as invoices, laboratory costs, and contract amounts. Submit to [NorthCoast@Waterboards.ca.gov](mailto:NorthCoast@Waterboards.ca.gov) and [Heaven.Moore@Waterboards.ca.gov](mailto:Heaven.Moore@Waterboards.ca.gov).

## PROVISIONS

1. **Use of Registered Professionals:** The Discharger shall provide technical reports 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 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](mailto: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).

6. **Duration and Modification of Order:** This Order shall remain in full force and effect until it is rescinded in writing by the Regional Board Assistant Executive Officer. Any modifications must be requested in writing as soon as the need is recognized and prior to the compliance date. Any modification, including a compliance date extension, may only be granted by written modification of this Order or by a letter from the Assistant Executive Officer.

## NOTIFICATIONS

1. **Enforcement Discretion:** The Regional Board and the State Water Board reserve their rights to take any enforcement action authorized by law for violations of the terms and conditions of this Order. 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 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. The Regional Board and the State Water Board reserve its rights to take any enforcement action authorized by law.
3. **California Environmental Quality Act Compliance:** The issuance of this Order is an enforcement action taken by a regulatory agency and is categorically

City Ventures Homebuilding, Inc.  
Grove Village Project  
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SMARTS WDID: 1 49C387538

exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations, sections 15306 and 15321(a)(2). 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 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 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](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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