
North Coast Regional Water Quality Control Board

May 25, 2022

City Ventures Homebuilding Inc.
Attn: Gregory Clisby
3121 Michelson Drive, Suite 150
Irvine, CA 92612
gclisby@cityventures.com

Certified Mail 7021 0950 0001 6499 7459

Dear Mr. Clisby:

Subject: Notice of Violation of Water Quality Certification for the Grove Village Project, Santa Rosa, Sonoma County

Files: Grove Village Project; ECM PIN CW-848000; WDID 1B180058WNSO

You are hereby notified that Santa Rosa 5 INV, LLC doing business as City Ventures Homebuilding Inc. (Discharger) is in violation of the Clean Water Act section 401 water quality certification (401 Certification) for the Grove Village Project, located at 2872 Stony Point Road, Santa Rosa, Sonoma County (Project). 401 Certification violations include failure to 1) submit a Stormwater Pollution Prevention Plan and Wet Season Soil Disturbance Plan for Regional Water Board review and approval, 2) stabilize disturbed soils before the onset of rain, 3) keep pollutants from leaving the Project site, and 4) provide annual reports.

A. Background

The Project area comprises 18.57 acres in the City of Santa Rosa (City) and is owned by the Discharger. The purpose of the project is to construct a 136-unit subdivision with associated infrastructure. According to the Construction General Permit Notice of Intent, project grading will occur on 100 percent of the Site, and construction activities are expected to take place between July 15, 2019, and October 14, 2022.

On November 5, 2018, the Discharger received a 401 Certification for the Project¹ from the North Coast Regional Water Quality Control Board. The 401 Certification provides 36 Project conditions that must be met for the Project to comply with state water quality standards.

¹ The 401 Certification for the project is available here:
https://www.waterboards.ca.gov/northcoast/board_decisions/water_quality_certification/pdf/2018/181105_KRK_er_Grove%20Village%20401.pdf

On October 23, 24, 25, and 29, 2021, Regional Water Board staff inspected the Project. During each visit, staff observed that the Grove Village Site had nearly 20 acres of disturbed soil, but no evidence of the minimum sediment and erosion control BMPs needed to control discharges from the Site during wet weather conditions.

City staff inspected the Project on several occasions between September 2021 and April 2022. City inspections routinely noted deficiencies and staff issued a stop work order on November 2, 2021.

B. Alleged Violations

The Discharger violated the following 401 Certification requirements:

1) Certification condition no. 5:

All project disturbed soil areas shall be fully stabilized on or before October 31, for each year of the Project. If the applicant wishes to disturb soils or work in disturbed areas between October 31 and May 1, of a specific year, then a Wet Season Soil Disturbance Plan (WSSDP) shall be provided for Regional Water Board Executive Officer review and acceptance. The WSSDP shall include:

- a. A proposed week-by-week schedule of work including a description of activities, the amount of soil disturbed, and the amount of soil stabilized. The work schedule and order of operations shall be prepared to ensure the amount of open disturbed soil area is kept to the minimum amount necessary;*
- b. A description of methods that will be used to calculate the area of disturbed soil;*
- c. A site map showing the proposed area(s) of disturbed soils; and*
- d. A detailed description of pollution prevention best management practices that would be implemented to control pollutants from the project site.*

Any soil disturbance or presence of unstabilized soils after October 31, for each year of the Project, shall be prohibited until a WSSDP has been found acceptable by the Regional Water Board Executive Officer. Upon approval by the Regional Water Board Executive Officer, the Applicant shall implement the WSSDP, and any deviations from the accepted plan shall be subject to the prior review and approval of Regional Water Board staff. Failure to implement or deviation from the WSSDP shall be a violation of this certification and subject to enforcement actions. This certification is not valid for any construction activity not performed in accordance with the approved WSSDP.

Project disturbed areas were not fully stabilized on or before October 31, 2021. Inspection reports and photographs from the City of Santa Rosa construction site inspections indicate that the Project included disturbed soil area after

October 31, 2021.² The Discharger did not submit a WSSDP to the Regional Water Board Executive Officer for review and acceptance.

2) Certification condition no. 6:

If working during the wet season pursuant to an approved WSSDP, the applicant shall provide weekly wet season construction reports that include the following descriptions of activities from the prior work week (starting on Monday, ending on Sunday):

- a. A description of activities performed;*
- b. Area of soil disturbed;*
- c. Area of soil stabilized and method of soil stabilization;*
- d. Copies of all inspection reports prepared pursuant to CGP [Construction General Permit] requirements during the work week, including photographs;*
- e. Copies of all monitoring data gathered during the work week;*
- f. Identification of all CGP numeric action level exceedances, a description of the reasons for all CGP numeric action level exceedances, and a description of response actions implemented to control pollutants; and*
- g. A description of any deviations from the approved WSSDP.*

The weekly reports shall be submitted to Regional Water Board staff no later than 4:00 p.m. on the Monday following the respective work week. If a timely report is not submitted, then all Project activity shall cease until a complete report is submitted.

The Discharger failed to submit the required weekly reports and, after failing to timely submit the weekly reports did not cease Project activities.

3) Certification condition no. 7:

All disturbed areas shall be fully stabilized prior to the onset of a rain event that could result in a storm water discharge from the site.

As detailed in the Notice of Violation³ (NOV) issued to the Discharger by the Regional Water Board on December 10, 2021, and documented in the City of Santa Rosa's inspection reports, disturbed soil areas were not fully stabilized prior to the onset of rain events and stormwater was discharged from the Project site.

² City inspectors observed and documented disturbed soil conditions on November 1, December 10, January 19, February 16, and March. Additionally, photo documentation from the City shows disturbed soil conditions at the Project site on January 26, March 3, and April 6.

³ The NOV is available here:

https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2021/grove_novoct2021.pdf

4) Certification condition no. 9:

The applicant shall adhere to all CGP requirements.

As detailed in the December 10, 2021 NOV, the Regional Water Board documented nine violations of the CGP at the Project site.

5) Certification condition no. 11:

The applicant shall report to the Regional Water Board on the status of the project and implementation of storm water control measures by January 31 annually.

The Discharger did not annually report the status of the project and implementation of storm water control measures.

6) Certification condition no. 21:

The applicant is prohibited from discharging waste to waters of the state, unless explicitly authorized by this certification. For example, no debris, soil, silt, sand, bar, slash, sawdust, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this Certification, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the state. When operations are completed, any excess material or debris shall be removed from the work area.

As detailed in the December 10, 2021 NOV, construction site waste from disturbed soils was discharged to waters of the state.

7) Certification condition no. 20:

Best management practices (BMPs) shall be implemented according to the submitted application and the conditions in this certification. BMPs for erosion, sediment, and turbidity control shall be implemented and in place at commencement of, during, and after any ground clearing activities or any other project activities that could result in erosion or sediment discharges to surface water. BMPs shall be immediately available for deployment at all times to prevent discharges to waters of the state

As detailed in the December 10, 2021 NOV, and documented in the City of Santa Rosa's inspection reports, BMPs were not sufficiently implemented to prevent discharges of waste to waters of the state as prohibited by the 401 Certification.

C. Potential Liabilities

The Regional Water Board is considering whether the observed/confirmed violations warrant further enforcement.

Correcting the conditions of non-compliance at the Site does not preclude enforcement for the violations alleged in this notice. The Discharger may be subject to administrative civil liabilities of up to \$10,000 for each violation each day it occurs, and up to \$10 per gallon of waste discharged minus the first 1,000 gallons not cleaned up pursuant to Water Code section 13385, subdivisions (a) and (c). The Regional Water Board reserves its right to take any enforcement action authorized by law including issuing a cleanup and abatement order or time schedule order, and/or referring the matter to the California Attorney General for enforcement.

D. Required Actions

The Discharger must immediately comply with all conditions of the 401 Certification and maintain compliance for the Project duration. Within 10 days of the date of this letter, please provide a written response indicating your intentions, plan, and schedule to comply with the 401 Certification. Response must be provided via email to both North.Coast@Waterboards.ca.gov and Heaven.Moore@Waterboards.ca.gov.

Future correspondence regarding this matter will be sent to you as the Discharger's contact at this address unless an alternate address and/or additional contacts are provided to the Regional Water Board. Failure to accept mail from the Regional Water Board is not a valid excuse for non-compliance with any future enforcement orders, and a failure to respond or otherwise appear at a future enforcement proceeding could subject you to a default order and the imposition of administrative civil liability.

If you have any questions regarding this matter, please contact Brendan Thompson via email, Brendan.Thompson@Waterboards.ca.gov or by phone at (707) 576-6795. Additionally, we are available to meet with you if you wish to discuss this letter, the 401 Certification, or our waste discharge regulatory programs in further detail.

Sincerely,

Claudia Villacorta, P.E.
Assistant Executive Officer

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Certified – Return Receipt requested

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