

**California Regional Water Quality Control Board
North Coast Region
Water Code Section 13267 Investigative Order No. R1-2023-0018**

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

Sonoma County

FINDINGS

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

1. City Ventures Homebuilding, Inc. (Discharger) is the owner/operator of the Round Barn Village project (Site) located at the confluence of Round Barn Boulevard and Unocal Place in Santa Rosa, Sonoma County.
2. The 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 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).¹
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 3 site due to a combination of a “high” sediment risk factor and a “high” receiving water factor. The total disturbed area reported in the Stormwater Multiple Application and Report Tracking System (SMARTS) is approximately 28 acres. Risk Level 3 sites are subject both to the standard requirements of the Construction General Permit, as well as the additional site-specific requirements defined in Attachment E of the permit.
4. The Discharger is required to comply with all the conditions of the Construction General Permit. Any permit noncompliance constitutes a violation of the Clean Water Act and may subject the Discharger to administrative civil liability pursuant to California Water Code (Water Code) section 13385, subdivision (c).
5. The Discharger is alleged to have violated the requirements of the Construction General Permit. Alleged violations include, but are not limited to, the

¹ General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit) online at: [Construction General Permit \(ca.gov\)](https://www.waterboards.ca.gov/construction/permitting/ConstructionGeneralPermit/ca.gov)

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

6. Discharges from the Site ultimately reach the Russian River, a water of the United States. Discharges from the eastern portion of the Site either enter the City of Santa Rosa storm drain system or directly drain to the headwaters of Nagasawa Creek, which then discharge to Piner Creek to the west, then onward to Santa Rosa Creek, to the Laguna de Santa Rosa, and thence into the Russian River. Discharges from the western portion of the Site enter the City of Santa Rosa storm drain system and flow as runoff across Highway 101 through the CalTrans storm drain system into the City of Santa Rosa storm drain system, then discharges to Indian Creek, then to Russell Creek, then onward to Piner Creek, then to Santa Rosa Creek, to the Laguna de Santa Rosa, and finally into the Russian River. The entire Russian River watershed is listed as impaired for sediment and temperature under Clean Water Act section 303(d).²
7. On October 24, 2021, Regional Water Board staff (Staff) received an email from Pat Murphy, a Qualified Stormwater Pollution Prevention Plan (SWPPP) Practitioner (QSP) with Kaz and Associates, consultant for the Discharger, regarding Site conditions during a large rain event.³ Mr. Murphey reported that there was an "emergency situation" at the Site, as a "storm drain plug that was installed to contain all run off for testing before discharge . . . failed due to heavy rain."
8. In response to Mr. Murphey's notification, Staff inspected the property on October 24, 2021. During the inspection, Staff observed turbid storm water flowing off-site onto the public roadways. As Staff entered the Site, they observed turbid storm water flowing down the on-site roadway system into storm drains and into Post-Construction Low Impact Development (LID) features. Staff also observed that the source of the on-site and off-site turbid runoff was a large open disturbed area with no observable sediment and erosion controls on the steep cut side slopes. In addition, Staff observed three solid waste containers left uncovered during the rain event.
9. On October 25, 2021, Staff re-inspected the Site and was joined by Andrew Thomas, a construction manager with City Ventures. Mr. Thomas told Staff that

² State Water Resources Control Board 2018 Integrated Report is available online: [2018 Integrated Report for Clean Water Act Sections 305\(b\) and 303\(d\) \(ca.gov\)](#).

³ National Oceanic & Atmospheric Administration (NOAA) Local Climatological Date for October 2021 is available online: [Quick Data View: LCD - WBAN:23213; 10/1/2021 | Climate Data Online \(CDO\) | National Centers for Environmental Information \(NCEI\) \(noaa.gov\)](#).

the storm drain system on the Site had been plugged to prevent discharges, but there was not enough capacity to retain all stormwater on-site, so the plugs were removed to allow discharge to occur. During the inspection, Staff observed the large disturbed area again, including an earthen impoundment created by the City Ventures project team to contain storm water on-site. Mr. Thomas confirmed that the earthen impoundment failed during the previous day's rain event, and Staff observed the earthen berm was indeed eroded down to grade. Additionally, Staff observed construction related debris on the on-site roadway and near storm drain inlets. The waste containers observed on the previous day were still uncovered.

10. Based on the October 2021 inspections, Staff determined the Discharger did not implement the required minimum housekeeping, sediment control, and erosion control BMPs in preparation for a large, forecasted rain event. Consequently, the failed and/or lack of BMPs allowed sediment-laden storm water to flow from the Site into the City of Santa Rosa's storm drain system, which ultimately discharged to tributaries of the Russian River.
11. On November 9, 2021, the City of Santa Rosa issued a Stop Work Order to the Discharger because the Site was discharging at three different locations and deficiencies, like ineffective BMPs, were not corrected. The Stop Work Order was lifted on November 17, 2021.
12. On January 12, 2022, the Regional Water Board issued a Notice of Violation (NOV) to the Discharger for violations of the Construction General Permit as observed on October 24-25, 2021.⁴ The NOV directed the Discharger to address the conditions of noncompliance and to provide a written plan and schedule to come into compliance with the Construction General Permit.
13. On February 1, 2022, the Discharger provided a written response to the NOV, detailing the corrective actions taken at the Site since the October 2021 inspections, including additional perimeter controls, sediment controls, and other BMPs. In its response, the Discharger maintains that the Site was in compliance before the NOV was issued and discharges from the Site were authorized by the Construction General Permit, but acknowledged that some of the BMPs at the Site were ineffective. Additionally, the Discharger stated in its response that turbid storm water discharged from the Site were likely below Numeric Action Levels (NALs), though no sampling occurred to confirm this statement.

⁴ January 12, 2022 NOV available online: [January 12, 2022 Notice of Violation for Round Barn Village, Santa Rosa \(ca.gov\)](#).

LEGAL AND REGULATORY AUTHORITY

1. 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, including beneficial uses, water quality objectives, and implementation plans.
2. 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.
3. Water Code section 13267, subdivision (a), provides that the Regional 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. As explained above, observed Site conditions indicated discharges of untreated sediment-laden storm water into the headwaters of Nagasawa Creek and/or into the City of Santa Rosa storm drain system which then discharges to Indian Creek. Both Indian Creek and Nagasawa Creek are tributaries to the Russian River. The entire Russian River watershed is listed as impaired for sediment and temperature under the Clean Water Act.
4. The reports required by this Order are necessary to understand the impacts of discharges to the Russian River, to ensure that any threat to water quality created by activities at the Site are properly assessed and controlled, and to prevent unauthorized discharges.
5. 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 Order requires notifications, copies of reports, engineering reports, monitoring reports, and cost reporting. Staff estimate the costs of the reports to be between approximately \$6,250 and \$20,000.⁵ The estimated costs are broken down as follows:
 - a. Notification Requirement: This required reporting requires an email

⁵ Estimates are based on the CalTrans “Estimating Guidance for CGP” dated September 2010, which can be found here: <https://dot.ca.gov/-/media/dot-media/programs/design/documents/estimating-guidance-for-cgp-092010-a11y.pdf>.

and phone call for each event. Estimated between \$250 and \$1,000.

- b. Copies of all Inspection 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 based on the additional task of uploading the reports to SMARTS and/or emailing the reports to staff. Estimated between \$250 and \$1,000.
- c. Discharge Based Monitoring:
 - i. Precipitation Based Monitoring effort: Estimated between \$2,500 and \$10,000.
 - ii. Precipitation Based Monitoring Reports: Estimated between \$1,250 and \$5,000.

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 NAL. All notifications must be made by email and telephone to NorthCoast@Waterboards.ca.gov and Heaven.Moore@Waterboards.ca.gov, and telephone at (707) 576-2753.
- B. **Copies of all Inspection Reports and REAPs:** The Discharger shall provide copies of each report required by Construction General Permit Attachment E, Section G. "Inspection, Maintenance and Repair," Section H. "Rain Event Action Plan," and Section I. "Risk Level 3 Monitoring and Reporting Requirements."
 - 1. All reports, as well as all supporting documentation such as monitoring results, pictures, and inspection reports for the Site from July 1, 2022, until March 17, 2023, shall be uploaded to SMARTS by May 1, 2023.
 - 2. All future reports required by Attachment E, Sections G through I, shall be provided to the Regional Water Board via e-mail and uploaded to SMARTS within two days of the report production.
- C. **Discharge Based Monitoring and Reporting:** The Discharger shall monitor and report discharges from the Site during daylight hours, seven days a week. The monitoring shall include photographic documentation of the discharges and

sampling activities. All samples shall be collected by personnel trained by a QSP and the sample results shall be submitted to SMARTS within two business days of collection along with all supporting documentation.

1. Discharge samples shall be collected at all points where discharge leaves the Site and/or enters a receiving water. A minimum of three samples shall be collected from each discharge point each day in which a discharge is occurring.
2. Receiving water samples shall be collected from Nagasawa Creek. The upstream sampling point shall be at a point downstream of both outfall 4006 and outfall 3947 and immediately upstream of the point of discharge from the Site. The downstream sampling point shall be collected between the discharge point and culvert 858 as identified by City of Santa Rosa GIS mapping.
3. All discharge and receiving water samples shall be analyzed for turbidity and pH using calibrated field meters. All data recorded on field sampling sheets and all supporting calibration records shall be provided.
4. Any result that exceeds the range of the field meter must be further 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.
5. Include National Oceanic and Atmospheric Administration (NOAA) sourced precipitation data.⁶ Site specific and/or other rain gauge data may be provided to supplement the NOAA data. Reference information, including data source, must be provided with any supplemental data submitted.
6. 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.
7. All discharge monitoring data collected under this section shall be maintained in a spreadsheet and made available to the Regional Water Board. The spreadsheet should include, at a minimum, the following fields:

⁶ Local rainfall and climatological records for Sonoma County Airport (WBAN:23213) can be found using [NOAA's Local Climatological Data \(LCD\) Tool \(noaa.gov\)](https://www.noaa.gov/data/monitoring-assessments/monitoring/monitoring-data/lcd/).

- a. Date, time, and location of sample collection, location description, daily rainfall total;
- b. Name of person collecting samples;
- c. List of all parameters analyzed, monitoring results, units of measurement, method detection limit, identify if the sample was field or laboratory analyzed;
- d. Mathematical comparison against applicable Basin Plan requirements (i.e., turbidity and pH); and
- e. Reference to photos and other supporting documentation.

D. Special Notification Requirements:

1. The Discharger shall notify the Regional Water Board by e-mail at NorthCoast@Waterboards.ca.gov and Walt.Dragaloski@waterboards.ca.gov, and by telephone at 707-576-2220 as soon as possible and no later than 24 hours if any of the following occur:
 - a. Any exceedance of the turbidity objective (20% above naturally occurring background levels) (Basin Plan, page 3-6, section 3.3.17);
 - b. Any exceedance of pH objectives for the Russian River Hydrologic Unit (<6.5 or >8.5) or any increase above 0.5 within the receiving water (Basin Plan, page 3-11, Table 3-1 Specific Water Quality Objectives for the North Coast Region); or
 - c. Any spills or releases of non-stormwater, materials, discharges of chemicals, or any hazardous material releases or discharges.
2. If any of the conditions in Item C.8 occur, the Discharger shall submit a written post-discharge incident summary and response plan to SMARTS within 72 hours of the incident, which includes the following:
 - a. A summary of the incident including cause, time, location, duration, material and quantity of discharge, impacts to receiving waters, monitoring results, and response actions taken.
 - b. Corrective actions planned, including a schedule of implementation, remediation actions, and actions undertaken to prevent reoccurrence.
 - c. All supporting documentation including, but not limited to, photographs, site maps, manifests, work orders, schedule of work, monitoring results, and calibration logs.

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:** Technical reports shall be submitted electronically to the North Coast Regional Water Quality Control Board at NorthCoast@waterboards.ca.gov and uploaded to SMARTS subject to the deadlines outlined above.
6. **Duration and Modification of Order:** This Order shall remain in full force and effect until it is rescinded in writing by the Regional Water 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 Water Board reserve their right 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 Water Code or other orders issued by the Regional Water Board.
2. **Enforcement Notification:** Pursuant to 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. Pursuant to Water Code section 13385, any unauthorized discharge to waters of the United States may subject the Discharger up to \$10,000 per day of violation and \$10 per gallon over 1,000 gallons discharged. The Regional Water Board reserves its right to take any enforcement action authorized by law.
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 the California Code of Regulations, title 14, sections 15306 and 15321, subdivision (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 Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 et seq. 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 or will be provided upon request.

City Ventures Homebuilding, Inc.
Round Barn Village Project
13267 Order No. R1-2023-0018
SMARTS WDID: 1 49C386416

It is hereby ordered:

 Digitally signed
by Claudia E.
Villacorta
Date: 2023.03.17
10:00:43 -07'00'

Claudia E. Villacorta, P.E.
Assistant Executive Officer

13267 Investigative Order No. R1-2023-0018 for Round Barn Village

cc:

North Coast Regional Water Quality Control Board

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