



California Regional Water Quality Control Board

Central Valley Region

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Environmental
Protection

9 April 2009

Mr. Peter Daru
720 Howe Avenue, Suite 103
Sacramento, CA 95825

**CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY
CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE
NORTH VINEYARD GREENS DEVELOPMENT PROJECT: UNIT 1 SUBDIVISION, UNIT 3
SUBDIVISION, AND GOSAL ESTATES (WDID#5A34CR00383), SACRAMENTO COUNTY**

WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and §3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required under 23 CCR §3833, unless otherwise stated in writing by the certifying agency.
4. Certification is valid for the duration of the described project. Discharger shall notify the Regional Board in writing within 7 days of project completion

ADDITIONAL TECHNICALLY CONDITIONED CERTIFICATION CONDITIONS:

In addition to the four standard conditions, the applicant shall satisfy the following:

1. Peter Daru shall notify the Board in writing of the start of any in-water activities.
2. Except for activities permitted by the U.S. Army Corps under §404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.

California Environmental Protection Agency

3. The discharge of petroleum products or other excavated materials to surface waters is prohibited.
4. Activities shall not cause turbidity increases in surface waters to exceed:
 - (a) where natural turbidity is between 0 and 5 Nephelometric Turbidity Units (NTUs), increases shall not exceed 1 NTU;
 - (b) where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
 - (c) where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
 - (d) where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTU over background turbidity as measured in surface waters 300 feet downstream from the working area. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected.

5. Activities shall not cause settleable matter to exceed 0.1 ml/l in surface waters as measured in surface waters 300 feet downstream from the project.
6. Activities shall not cause visible oil, grease, or foam in the work area or downstream.
7. All areas disturbed by project activities shall be protected from washout or erosion.
8. In the event that project activities result in the deposition of soil materials or creation of a visible plume in surface waters, the following monitoring shall be conducted immediately upstream and 300 feet downstream of the work site and the results reported to this office within two weeks:

Parameter	Unit	Type of Sample	Frequency of Sample
Turbidity	NTU	Grab	Every 4 hours during in water work
Settleable Material	ml/l	Grab	Same as above.

9. Peter Daru shall notify the Board immediately if the above criteria for turbidity, settleable matter, oil/grease, or foam are exceeded.
10. Peter Daru shall notify the Board immediately of any spill of petroleum products or other organic or earthen materials.
11. Peter Daru shall comply with all Department of Fish and Game 1600 requirements for the project.

12. Peter Daru must obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activities issued by the State Water Resources Control Board.

ADDITIONAL STORM WATER QUALITY CONDITIONS:

The applicant shall also satisfy the following additional storm water quality conditions:

1. During the construction phase, Peter Daru must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. These strategies must include the following:
 - (a) the Storm Water Pollution Prevention Plan (SWPPP) must be prepared during the project planning and design phases and before construction;
 - (b) an effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working prior to the rainy season and during all phases of construction.
2. Peter Daru must minimize the short and long-term impacts on receiving water quality from the North Vineyards Greens Development Project by implementing the following post-construction storm water management practices:
 - (a) minimize the amount of impervious surface;
 - (b) reduce peak runoff flows;
 - (c) provide treatment BMPs to reduce pollutants in runoff;
 - (d) ensure existing waters of the State (e.g., wetlands, vernal pools, or creeks) are not used as pollutant source controls and/or treatment controls;
 - (e) preserve and, where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, and buffer zones;
 - (f) limit disturbances of natural water bodies and natural drainage systems caused by development (including development of roads, highways, and bridges);
 - (g) use existing drainage master plans or studies to estimate increases in pollutant loads and flows resulting from projected future development and require incorporation of structural and non-structural BMPs to mitigate the projected pollutant load increases in surface water runoff;
 - (h) identify and avoid development in areas that are particularly susceptible to erosion and sediment loss, or establish development guidance that protects areas from erosion / sediment loss;
 - (i) control post-development peak storm water run-off discharge rates and velocities to prevent or reduce downstream erosion, and to protect stream habitat.

3. Peter Daru must ensure that all development within the project provides verification of maintenance provisions for post-construction structural and treatment control BMPs. Verification shall include one or more of the following, as applicable:
 - (a) the developer's signed statement accepting responsibility for maintenance until the maintenance responsibility is legally transferred to another party; or
 - (b) written conditions in the sales or lease agreement that require the recipient to assume responsibility for maintenance; or
 - (c) written text in project conditions, covenants and restrictions for residential properties assigning maintenance responsibilities to a home owner's association, or other appropriate group, for maintenance of structural and treatment control BMPs; or
 - (d) any other legally enforceable agreement that assigns responsibility for storm water BMP maintenance.

4. Staff of the Regional Water Board has prepared total maximum daily load (TMDL) allocations that, if approved, would limit methylmercury in storm water discharges to the Sacramento-San Joaquin Delta. The Regional Board has scheduled these proposed allocations to be considered for adoption. Should the Regional Water Board adopt the TMDL and have it eventually approved by the Environmental Protection Agency, the discharge of methylmercury may be limited from the proposed project. The purpose of this condition is to provide notice to the applicant that methylmercury discharge limitations and monitoring requirements may apply to this project at some time in the future and also to provide notice of the Regional Water Board's TMDL process and that elements of the planned construction may be subject to the proposed TMDL allocation.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

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WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from the North Vineyards Greens Development Project (WDID #5A34CR00383) will comply with the applicable provisions of §301 ("Effluent Limitations"), §302 ("Water Quality Related Effluent Limitations"), §303 ("Water Quality Standards and Implementation Plans"), §306 ("National Standards of Performance"), and §307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)".

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).

for 
PAMELA C. CREEDON
Executive Officer

Enclosure: Project Information

cc: U.S. Army Corps of Engineers, Sacramento
Mr. Dave Smith, Wetlands Section Chief (WTR-8), U.S. Environmental Protection Agency, Region 9, San Francisco
U.S. Fish & Wildlife Service, Sacramento
Mr. Bill Orme, 401 Certification and Wetlands Unit Chief, State Water Resources Control Board, Sacramento
Mr. Jeff Drongesen, Department of Fish and Game, Sacramento
Mr. Bill Jennings, CA Sportfishing Protection Alliance, Stockton
Mr. David L. Magney, David Magney Environmental Consulting, Ojai

PROJECT INFORMATION

Application Date: 26 October 2007

Applicant: Mr. Peter Daru
720 Howe Avenue, Suite 103
Sacramento, CA 95825

Applicant Representatives: Mr. David L. Magney
David Magney Environmental Consulting
P.O. Box 1346
Ojai, CA 93024-1346

Project Name: North Vineyards Greens Development Project

Application Number: WDID#5A34CR00383

U.S. Army Corps File Number: Individual Permit Number #200600428

Type of Project: Residential Subdivision Project

Project Location: Section 6, Township 7 North, Range 6 East, MDB&M. Latitude: 38.49° and Longitude: 123.35°

County: Sacramento County

Receiving Water(s) (hydrologic unit): Gerber Creek, Sacramento Hydrologic Basin, Valley-American Hydrologic Unit #519.12, Florin HSA

Water Body Type: Wetlands

Designated Beneficial Uses: The Basin Plan for the Central Valley Regional Board has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Industrial Supply (IND), Hydropower Generation (POW); Groundwater Recharge, Water Contact Recreation (REC-1); Non-contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); and Wildlife Habitat (WILD).

Project Description (purpose/goal): This certification is for the North Vineyards Greens Development Project, which includes Unit #1, Unit # 3, and Gosal Estates. The project description is based on information contained in the following documents:

- a) Project applications for the water quality certification and U.S. Army Corps (Corps) Section 404 Permit.

- b) Final Supplemental Environmental Impact Report for North Vineyard Greens Unit #1, #3, and Gosal Estates and Davis Property, February 2006. (State Clearinghouse Number 2005022149).
- c) The U.S. Fish and Wildlife Service (USFWS) Biological Opinion for the North Vineyard Greens Project, 7 January 2009, Ref#81420-2009-F-0259-1.
- d) Corps wetland delineation verification letter for the North Vineyard Greens Project Unit #1 site, 23 April 2007, Corps file #200600428.
- e) Corps wetland delineation verification letter for the North Vineyard Greens Project Site, 22 June 2006, Corps file #200600428.
- f) Corps wetland delineation verification letter for the Gosal Estates Project, 1 September 2004, Corps file #200400273.

The North Vineyards Greens Development Project Unit 1 Subdivision, Unit 3 Subdivision, and Gosal Estates, involves the development of +/-206.3 acres within the North Vineyard Greens Station Specific Plan area in southern Sacramento County. It is anticipated that 750 dwelling units, consisting of 525 single-family units and 225 multiple-family units, will be constructed on 139 acres of the 206.3-acre site. The project site supports a total of 5.691 acres of waters consisting of vernal pools, seasonal wetlands, seasonal marsh, and Gerber Creek. The proposed project will fill and mitigate for 1.6 acres of federally-jurisdictional waters. Potential impacts to 1.53 acres of non-federal waters were not evaluated; therefore are not covered by this certification.

Preliminary Water Quality Concerns: The construction activities may impact surface waters with increased turbidity and settleable matter.

Proposed Mitigation to Address Concerns: Peter Daru will implement Best Management Practices (BMPs) to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities. Peter Daru will conduct turbidity and settleable matter testing during in water work, stopping work if Basin Plan criteria are exceeded or are observed.

Fill/Excavation Area: Approximately 5,600 cubic yards of clean soil will be placed into 1.6 acres of federally-jurisdictional waters.

Dredge Volume: none

U.S. Army Corps of Engineers Permit Number: Individual Permit #200600428

Department of Fish & Game Streambed Alteration Agreement: The Department of Fish and Game (DFG) determined that a Streambed Alteration Agreement is not required for the project (Personal Communication from DFG to David Magney Environmental Consulting on 27 March 2009).

Possible Listed Species: Vernal pool fairy shrimp, vernal pool tadpole shrimp, northwestern pond turtle, giant garter snake, and Swainson's hawk.

Status of CEQA Compliance: The Final Supplemental Environmental Impact Report for North Vineyard Greens Units #1, #3, and Gosal Estates and Davis Property this project was approved and completed in February 2006 (State Clearinghouse Number 2005022149).

Compensatory Mitigation: The North Vineyards Greens Project will permanently impact 1.6 acres of federally-jurisdictional waters. Prior to the start of project construction, the Corps and USFWS are requiring Peter Daru to purchase 3.2 acres of vernal pool habitat credits (1.6 ac of impact at 2:1 ratio of preservation = 3.2 acres) and create 2.796 acres of seasonal wetlands onsite (1.6 ac of impact at 1.75:1 ratio of creation = 2.796 acres). Impacts and mitigation for the potential fill of 1.53 acres of non-federal waters were not evaluated.

Application Fee Provided: Total fees of \$3,940.00 have been submitted as required by 23 CCR §3833b(2)(A) and by 23 CCR § 2200(e).

DISTRIBUTION LIST

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