

April 12, 2005

**Public Notice for 401 Water Quality Certification
and/or
Waste Discharge Requirements (Dredge/Fill Projects)**

**Vichy Springs Community Homes – Unit 2 Project, Ukiah
Mendocino County (WDID# 1B03190WNME)**

On October 27, 2003, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mr. George Rau of Rau and Associates Civil Engineers, on behalf of Mr. Phillip Wright et al., requesting a Water Quality Certification and/or Waste Discharge Requirements for Dredge/Fill Projects (Water Quality Certification) for the Vichy Springs Community Homes – Unit 2 residential development Project in Mendocino County. Regional Water Board staff member Andrew Jensen met with Mr. Rau and Cathy McKeon of Rau and Associates, to walk the site and discuss impacts and proposed mitigation measures. Mr. Jensen notified Mr. Rau and Ms. McKeon of the need to revise the application and associated mitigation plan to address all associated impacts.

On February 10, 2004, the Regional Water Board issued an Incomplete Report of Waste Discharge and Request for Additional Information letter to the applicants. On July 19, 2004, Mr. Jensen again met with the project applicants and a staff member of Fish and Game, Ms. Corrine Gray out on site to discuss the mitigation plans. A revised *Oak Woodlands, Watercourse and Wetlands Mitigation and Monitoring Plan*, dated October 2004, was submitted by the project applicants and received on January 10, 2005. This public notice is based on the information presented in the revised plan. The proposed project causes disturbances to waters of the state associated with seasonal wetland habitat and intermittent waterways in the Ukiah Hydrologic Sub Area No. 114.31 and the Russian River Hydrologic Unit No. 114.00.

The proposed project is located on a 30-acre parcel, off Vichy Springs Road, approximately 2.5 miles east-northeast of downtown Ukiah, Mendocino County, California. The purpose of the project is to subdivide the 30-acre parcel in a four-phase subdivision with approximately 76-single-family homes.

The proposed project is a planned development which during Phase 1 shall consist of 24 residential Lots and the Common Area, Parcel A, and all improvements, including creation of roads, waterway crossings, and various infrastructure. Phase 2, if annexed, is expected to contain and additional 23 residential Lots. Phase 3, if annexed, is expected to contain an additional 14 residential Lots, and Phase 4, if annexed, will contain an additional 15 residential Lots.

The development of the project includes impacts to oak woodland habitat, seasonal waterways and associated riparian habitat and seasonal wetland habitat. According to the *Oak Woodlands, Watercourse and Wetlands Mitigation and Monitoring Plan*, dated October, 2004, proposed impacts to oak woodland habitat and tree removal within the Vichy Springs Community Homes-Unit 2 project were identified as a potential significant impact by the California Department of Fish and Game (DFG) personnel during the on-site inspection for 1603 permit

approval. In accordance with DFG personnel request, an oak woodland revegetation mitigation and monitoring plan was incorporated into the overall *Oak Woodlands, Watercourse and Wetlands Mitigation and Monitoring Plan*, dated October 2004 (MMP). The MMP once implemented, will result in the restoration of approximately three acres of “transitional” mixed oak woodland habitat, with the planting of 528 trees to mitigate for the removal of approximately 250 trees, mostly California native oak trees. The Mitigation areas are a combination of open space areas owned by the homeowner’s association (HOA) and open space under private ownership. The mitigation efforts will be maintained and monitored for three years according to the protocols outlined in the MMP.

Proposed impacts to wetland and stream habitat within the Vichy Springs Community Homes-Unit 2 project were identified as potential significant impacts by Regional Water Board and DFG staff during on-site inspections associated with the application for Water Quality Certification. At the request of the Regional Water Board, the original application submittal was revised to include a wetland and stream mitigation plan, which is outlined in the MMP. This document outlines the replacement of approximately 0.15 acres of freshwater emergent wetland habitat that will be impacted as a result of excavation in an isolated “man-induced” wetland feature located just south of the terminus of Tehuacan Road. In addition, the MMP outlines mitigation measures for the impacts of approximately 567 lineal feet of watercourse, resulting from road and utility construction within the project scope.

The wetland habitat on the site that will be removed as part of the project, occurs on Lot 23, and is comprised of a shallow inadvertently man-made depressional feature of approximately 0.15 acre in size. Obligate and facultative wetland indicator species were found in the wetland feature, and the habitat quality was found to be low by biologists working for Mad River Biologists. The MMP originally called for mitigation to occur at a 1:1 ratio, however, Regional Water Board staff had concerns with the temporal loss of wetland habitat, and required a mitigation ratio of 1.5:1 on-site. The goal of the compensatory mitigation is to fully compensate for biotic impacts to the seasonal wetland habitat with in-kind mitigation. The proposed wetland replacement program provides for construction of three interconnected wetland ponds, including two new wetland ponds reconstruction of a pre-existing failed stock pond. The three ponds are sited in the open space area, and will occupy two benches on an inter-fluvial slope between Watercourses 1 and 2. Revegetation of the mitigation wetlands will be accomplished through the transplanting of native obligate, facultative, and wetland transition species from the impacted Lot 23 wetland feature.

The MMP outlines the monitoring plan and the related success criteria and the maintenance of the wetland mitigation area. If the success criteria have not been met at the end of the proposed three-year monitoring period, monitoring will be continued for another two years, or for a total of five years. Annual reports will be prepared by a qualified biologist, botanist, or restoration ecologist, and will include all maintenance activities performed, a summary of vegetation cover data, and notes on hydrology and soil characteristics. If criteria are not met within five years, additional mitigation and/or remediation measures may be implemented by the project applicant at the discretion of the Regional Water Board.

Impacts to watercourses resulting from the proposed project were thought to be significant by Regional Water Board and DFG staff, and therefore the applicant was required to address avoidance, minimization, and mitigation in the MMP. Through 2 reiterations of draft mitigation plans, the project applicant addressed the concerns of Regional Water Board and DFG staff, and reduced the impacts to the watercourses and increased the scope of the watercourse mitigation plan. The final MMP describes the overall impacts and proposed mitigation measures related to the impacted watercourses on the site. There are a total of 567 lineal feet of watercourse impacted as a result of road and utility construction within the project. Regional Water Board and DFG staff met with the project applicant several times on-site, and determined that the impacts to the watercourses could be mitigated through either a 1:1 watercourse replacement on-site, or a 2:1 enhancement of existing watercourses on-site. Due to the steep terrain and limited area, the project applicant determined that the 2:1 enhancement ratio was the only viable mitigation option.

The watercourses chosen for enhancement exhibit down cutting and erosion, and will require the placement of log check dams for grade control. The final mitigation for impacts to the on-site watercourses involves in-channel restoration and streambank enhancement, as well as riparian habitat restoration along 2,026 lineal feet of watercourse, which results in a mitigation ratio of 3.45:1. All watercourse mitigation will be performed in accordance with the protocols outlined in the MMP and the DFG Stream Restoration Manual. Restoration and enhancement activities will include the installation of wood check dams, native material revetments, coarse woody debris placements, and riparian plantings. All specific measures and the required maintenance and monitoring are outlined in the MMP. All instream work will be performed between June 15 and October 15, unless the project applicant obtains time extensions from the Regional Water Board and DFG.

Non-compensatory mitigation measures include the use of erosion control Best Management Practices (BMPs), and post-construction storm water treatment controls that will be incorporated into the development project in order to decrease potential detrimental impacts associated with storm water runoff from the developed site. Much of the planning to establish and maintain post-construction Best Management Practices (BMPs) for the treatment of storm water runoff from the proposed project will be handled through the provisions for open space buffers between watercourses and developed areas, both on private lots and in the common area of the subdivision. Through the Covenants, Conditions, and Restrictions (CC&Rs) for the project, the open space is restricted as to the use, and is maintained in perpetuity. In general, the building areas are separated from areas near watercourses by at least 20 feet, and generally extend from 40 to 150 feet between the building envelope and adjacent watercourses. This is designed to allow runoff from the building envelope and landscaped areas to be treated as overland flow through filter strips of native vegetation before reaching watercourses. The overall open space of the project covers approximately 52 percent of the site.

An evaluation of the storm water collection and disposal system within the paved areas was made for the purpose of identifying areas where storm water could be collected and treated in natural channels/swales prior to being released into the existing watercourse system. Due to the steep gradient of much of the site (15-20 percent), and the numerous watercourses on the site, treatment swales were impractical. Energy dissipaters and overland sheet flow through filter strips were incorporated into the project design, and well as drop inlet filter inserts which were specified on all inlets which are adjacent to street pavement areas. The maintenance of the storm water filters is provided for through the CC&Rs for the project.

The County of Mendocino, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for a Negative Declaration pursuant to the California Environmental Quality Act (CEQA) (Case # S 5-87/#UM 28-85/87A)

The nearest receiving water is Sulphur Creek located in Ukiah Hydrologic Sub Area No. 114.31 and the Russian River Hydrologic Unit No. 114.00.

The subdivision project is scheduled to begin during the summer of 2005. Staff is proposing to regulate this project pursuant to Section 401 of the Clean Water Act (33 USC 1341) and/or Porter-Cologne Water Quality Control Act Authority. In addition, staff will consider all comments received during a 21-day comment period that begins on the first date of issuance of this letter. If you have any questions or comments, please contact staff member Andrew Jensen at (707) 576-2683, or at ajensen@waterboards.ca.gov within 21 days of the posting of this notice.