STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:	)	
	)	
Brookfield Homes Southland, Inc.	)	Order No. R8-2004-0035
3090 Bristol Street, Suite 200	)	for
Costa Mesa, CA 92626	)	Administrative Civil Liability
	)	
Attention: Mr. Brian Geis	)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a hearing on March 12, 2004 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2004-0022, dated February 18, 2004, and on the recommendation for the imposition of administrative civil liability pursuant to Water Code Section 13385 in the amount of $ 50,000. The Board finds as follows:

1. On August 19, 1999, the State Water Resources Control Board (SWRCB) adopted Waste Discharge Requirements, Order No. 99-08-DWQ, (NPDES No. CAS000002), General Permit for Storm Water Discharges Associated with Construction Activity (Permit). Brookfield Homes Southland, Inc. (Brookfield), is authorized to discharge storm water from its Amerige Heights construction site, located on the southeast corner of North Gilbert Street and Pioneer Avenue in the City of Fullerton, under the Permit, WDID 830S316718. The Permit requires Brookfield to develop and implement a Storm Water Pollution Prevention Plan (SWPPP) and monitoring program and reporting plan that includes inspections of the construction site prior to anticipated storm events, during extended storm events and after actual storm events to ensure Best Management Practices (BMPs) are properly maintained and are adequate to control erosion and to prevent sediment discharges.

2. After repeated efforts by the City of Fullerton staff (City staff) to bring the site into compliance with State and City requirements met with lack of response, City staff requested that Board staff (staff) inspect the site. Staff inspected the site on three occasions. On October 2 and 6, 2003 staff observed, and pointed out to Brookfield staff, inadequate BMPs and poor housekeeping issues that resulted in violations of the Permit. A Notice of Violation was issued by staff on October 22, 2003. On November 13, 2003, following a moderate storm event the day before, staff again inspected the site and observed inadequate and inadequately maintained BMPs that had resulted in a discharge of sediment-laden storm water runoff. A second Notice of Violation was issued on December 3, 2003.

3. Water Code Section 13385(a)(2) provides that any person who violates waste discharge requirements shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars ($10,000) for each violation that occurs each day.

Additional liability, not to exceed $10 per gallon, may be imposed for each gallon discharged in excess of 1,000 gallons.

4. On February 18, 2004, the Executive Officer issued Administrative Civil Liability Complaint No. R8-2004-0022 to Brookfield, proposing that the Board impose civil liability in the amount of $50,000 on Brookfield for the violations cited above.

5. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13385, administrative civil liability shall be imposed on Brookfield Homes Southland, Incorporated, in the amount of $50,000 as proposed in Complaint No. R8-2004-0022 for the violations cited, payable as set forth below.

1. Brookfield shall pay the entire amount due to the State Water Resources Control Board by April 12, 2004.

2. The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on March 12, 2004.

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Gerard J. Thibeault
Executive Officer