

**Appendix B:
ENGEO Opinion Letter**

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Project No.
3328.105.504

November 13, 2018

Mr. Joe Chretien
William Lyon Homes, Inc.
2603 Camino Ramon, Suite 450
San Ramon, CA 94583

Subject: Subdivision 8448
Alves Ranch and Vista Del Mar Properties
Pittsburg, California

OPINION REGARDING PROJECT STORMWATER REQUIREMENTS

- References:
1. San Francisco Bay Regional Water Quality Control Board; Water Quality Certification for the Vista Del Mar Mixed-Use (a.k.a Alves Ranch) Project, City of Pittsburg, Contra Costa County, California; Site No. 02-07-C0696; March 2005.
 2. San Francisco Bay Regional Water Quality Control Board; Municipal Regional Stormwater Permit; Order No. R2-2015-0049, NPDES No. CAS612008; November 2015.

Mr. Chretien:

At your request, we are providing our opinion related to the current project planning occurring at the Alves Ranch project in Pittsburg, California. More specifically, we are providing our opinion on whether the 2008 Contra Costa County Provision C.3 Standards are still appropriate for this project given minor modifications to project land plans that are currently being proposed. The 2008 Provision C.3 stormwater standards that have been used to master plan the project were current at the time the Vesting Tentative Map (VTM) for the project was approved by the City of Pittsburg. ENGEO has worked on the stormwater compliance aspect of many master planned communities in the San Francisco Bay Area similar to the your project, and we are providing our experience as to what we believe the standard of practice is, when older projects with vested entitlements move forward after a lapse of activity, from a stormwater management perspective.

Project Background:

The Alves Ranch and Vista Del Mar projects are located south of State Highway 4 and west of the Oak Hills subdivision in the City of Pittsburg, California. Stormwater runoff from both projects was intended to be treated in a joint water quality basin that was previously designed for the 2004 master project located adjacent to Highway 4. This regional stormwater treatment concept was approved by the San Francisco Bay Regional Water Quality Control Board (RWQCB) in 2005 in the Vista Del Mar / Alves Ranch 401 Water Quality Certification (Reference 1). The Vista Del Mar project moved forward with the regional basin concept as development proceeded in 2005. However, for Alves Ranch, because land planning was not completed by 2006 and no Vesting Tentative Map was approved for the project, the project sponsor opted to update stormwater calculations to show compliance with San Francisco Regional Water Quality Control Board

Municipal Regional Permit (MRP) Provision C.3. standards, which originally became effective in 2007, as a condition of VTM approval with the City of Pittsburg. This compliance consisted of recalculating the water quality volume required to treat runoff from the Alves Ranch project in the RWQCB-approved regional water quality basin, based on 2007 Provision C.3 stormwater standards and land planning approved in the VTM. We understand in 2018 that final planning on the Alves Project is moving forward and some modifications are again taking place to land planning that affect the 2007 sizing calculations approved with the VTM for areas that drain into the regional stormwater basin.

Regulatory Framework RWQCB/MRP

The San Francisco Bay Regional Water Quality Board is the lead agency for stormwater management in the part of the State of California where the project is situated. The agency either issues water quality certifications at an individual project level, or allows local agencies, such as the City of Pittsburg to issue stormwater permits on their behalf through the MRP.

As mentioned previously, the Alves project has a 401-Water Quality Certification (Certification) from the RWQCB to treat stormwater in a regional water quality pond which it shares with the existing Vista Del Mar project. Our experience working the RWQCB on master planned projects is that the agency does not require updating of project stormwater management plans to standards that become effective after issuance of the original project Certification. The standards agreed upon at the time of issuance of the Certification are applicable until final buildout of the project. We work on several other master planned projects in the San Francisco East Bay region which were permitted around the 2002-2007 timeframe of your project and are still not complete. These projects are still using stormwater standards that were agreed upon by the RWQCB at the time their Certification and VTMs were issued.

Regulatory Framework MRP:

The 2015 MRP (Reference 2), to which the City of Pittsburg is a co-permittee, provides some guidance regarding which development projects are considered exempt from the most recent (2015) MRP Provision C.3 stormwater requirements.

Provision C.3.b (1) states:

Any Regulated Project that has been approved with stormwater treatment measures in compliance with Provision C.3.d. [stormwater numeric sizing requirements] under a previous MS4 [NPDES stormwater management] permit is exempt from the requirements of Provision C.3.c. (low impact development requirements).

Our experience with the RWQCB is that projects that were approved in the 2002-2007 timeframe with regional detention basins, such as this project, do not retrofit them to meet newer low-impact development requirements, based on this language in the MRP, even if considerable time has elapsed since original approvals were granted.

Moreover, Provision C.3.b.(2) a.i states:

A [stormwater compliance] exemption may be granted to Any Regulated Project that was previously approved with a vesting tentative map that confers a vested right to proceed with

development in substantial compliance with the ordinance, policies, and standards in effect at the time the vesting tentative map was approved or conditionally approved, as allowed by State law.

Our experience is that projects that have VTMs that predate post-construction stormwater requirements entirely are not required to implement measures even if constructed today. In these cases the project is required to meet minimum state post-construction requirements when application is made to the State Water Resources Control Board for a Notice of Intent to grade the project in conformance with the Statewide Construction General Permit.

However, the VTM for the project was approved in 2008, so the language in Provision C.3.b (1) stated above would be the most appropriate for this situation, and the project should still use the Provision C.3 requirements that were in effect in 2008 in future stormwater planning. This is our experience with Vested Rights under a Statutory Development Agreement, which we understand provide a measure of certainty that the regulations in place at the time of a development application apply to the development even if subsequent regulations are adopted.

CLOSURE

Based on our experience with the implementation of many other development projects, and our interaction with RWQCB staff, we opine that the Provision C.3 standards that were current at the time of VTM approval of the Alves Ranch project in 2008, are still applicable in 2018.

We hope this letter provides some clarification as to which stormwater standards should apply to the Alves Ranch project based on our professional experience.

If you have any questions or comments regarding this letter, please call and we would be glad to discuss them with you.

Sincerely,

ENGEO Incorporated


Jonathan Buck, GE, QSD




Uri Eliahu, GE

iv/jb/ue/dt