

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Brian Wines)
MEETING DATE: June 12, 2024

ITEM: 5E

KB Home – South Bay, Inc., Communications Hill 2, Phases 3 & 4 and Industrial Project in the City of San Jose in Santa Clara County – Issuance of Waste Discharge Requirements

DISCUSSION:

The Tentative Order (Appendix A) would issue Waste Discharge Requirements (WDRs) to KB Home – South Bay, Inc. to implement the buildout of Phases 3 and 4 and future buildout of an industrial park on 172 acres of Communications Hill (Project), as part of the Communications Hill 2 development. Phases 3 and 4 include construction of 1,305 residential units and a village center, which will include up to 67,500 square feet of commercial and retail space. The Phase 3 development area will also include a school and adjacent playfields. The Project includes development of 55 acres of industrial park uses in the eastern portion of the site. Streets, stormwater facilities, and other associated supporting infrastructure will also be constructed.

Prior Project phases constructed about 900 residences and developed parks, trails, and open space areas. Those phases did not directly impact waters of the State.

Jurisdictional waters of the State at the Project site include an intermittent stream channel, in-stream wetlands, wetland and non-wetland seeps, and a quarry pond. In addition, the abandoned Hillsdale mercury mine is located on the Project site. The Discharger has prepared and will implement a Soil Management Plan that includes measures to protect future residents and workers at the Project site from naturally occurring asbestos and residual mercury contamination.

The Project will require fill of waters of the State at the site. Ordinarily, the Water Board would issue a water quality certification, pursuant to Clean Water Act section 401, for the fill. However, the U.S. Army Corps of Engineers has determined that the waters are not subject to regulation under the Clean Water Act because they are isolated from other waters of the United States. California Water Code section 13263 requires issuance of WDRs to authorize the discharge of waste to waters of the state, including discharges like the proposed fill. As a result, we have prepared the Tentative Order for the Board's consideration.

The Tentative Order includes requirements consistent with the Water Board's policy for mitigating fill impacts to waters of the state, including creeks and wetlands. Mitigation for the Project's impacts to waters of the state will be provided at the Project site, and the mitigation will include creation of the following: a 758-foot-long intermittent stream channel; a 1.3-acre seasonal wetland; and a 1.53-acre freshwater pond.

We circulated the Tentative Order for a 30-day public comment period ending May 3, 2024. No comments were received.

APPENDIX:

A. Tentative Order

Appendix A

Tentative Order

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