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2015 NOV -2 PM 12:07

October 25, 2015

K. Hovnanian Homes of Maryland, LLC
6th Floor
1802 Brightseat Road
Landover, MD 20785

Re: 60-Day Notice of Intent to File Citizens' Suit for Violation of the Clean Water Act by K. Hovnanian Homes of Maryland, LLC and Affiliates

Ladies and Gentlemen:

I am writing on behalf of the Magothy River Association ("MRA") regarding violations of the Federal Water Pollution Control Act, commonly known as the Clean Water Act ("CWA") by K. Hovnanian Homes of Maryland, LLC and its affiliated companies ("Hovnanian"). This letter constitutes notice, pursuant to § 505(b) of the CWA, that MRA intends to file a civil action in federal district court against Hovnanian for doing construction work in Mill Creek in Arnold Maryland resulting in discharges of pollutants without a permit issued pursuant to CWA § 404 in violation of CWA § 301 (a) and Title 5, Subtitle 9 of the Environment Article of the Maryland Code. Upon the expiration of the 60 day statutory waiting period, MRA intends to file a citizen suit in federal district court.

Background

Hovnanian is engaged in the development in Anne Arundel County, Maryland of a residential development known as the Village at Stephen's Woods. As part of the work on the development, Hovnanian received permission to connect it to the Anne Arundel County sewer system, and arranged for a contractor to perform the necessary work. The contractor proposed to access the sewage main from a point between 400 and 402 King's College Drive. To reach the line from that point, it was necessary to cross Mill Creek, a non-tidal tributary of the larger, tidal Mill Creek, a tributary of the Magothy River. Hovnanian did not apply for or receive a permit from the Maryland Department of the Environment or the U.S. Army Corps of Engineers to do this work as required by Maryland law and the CWA. In late September, it proceeded to lay down construction matting in the streambed of Mill Creek and its adjacent floodplain, covering the matting with bark mulch, in order to be able to drive its heavy construction equipment across the stream. This effectively

created a dam across the stream. On October 1 a heavy rainstorm caused the area behind this dam to flood, and resulted in the flooding of neighboring properties and significant amounts of sediment washing downstream from the dam.

Prior Violations

This is not the first time in recent history that Hovnanian has violated the CWA. In 2010 it entered into a consent decree in the United States District Court for the Eastern District of Pennsylvania to settle an enforcement action brought by the Environmental Protection Agency, the District of Columbia, the State of Maryland, the Commonwealth of Virginia, and the State of West Virginia. The complaint in that proceeding charged Hovnanian with violating the CWA at some 590 sites throughout the country. Pursuant to the consent decree, Hovnanian agreed to pay civil penalties totaling $1 million. The decree also ordered Hovnanian to implement a variety of methods and procedures designed to assure its future compliance with the CWA and state anti-pollution laws.

Notwithstanding this consent decree, Hovnanian continued to violate the CWA. In March 2013, Hovnanian agreed to settle an administrative proceeding brought by the Environmental Protection Agency alleging further CWA violations at five construction sites in Maryland and Virginia. It agreed to pay a penalty of $130,000, and again agreed to implement procedures to prevent future violations.

Relief Sought

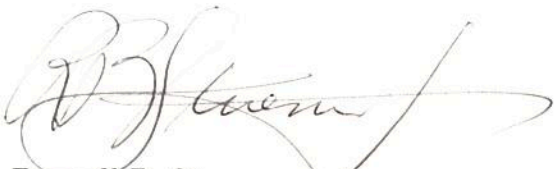
Upon completion of the sixty day notice period, MRA intends to initiate a citizen suit pursuant to CWA § 505(a). The suit will request that Hovnanian be ordered to cease all work within the non-tidal wetlands of Mill Creek and its flood plain until it has received the required permits from the State of Maryland and the Army Corps of Engineers and that it adhere strictly to the conditions of those permits in carrying out any work on the site. It will further request that Hovnanian be ordered to carry out an internal investigation to determine how the violations alleged occurred notwithstanding the methods and procedures it agreed to adopt in the 2010 consent decree and the 2013 consent order; that it submit to the Court and the plaintiffs a written report describing its findings and the changes to its methods and procedures necessary to assure that there will be no future violations; and that the Court issue an order requiring it to make those changes. In addition, MRA will seek penalties, damages and reasonable costs, attorney and expert fees, and any other relief deemed just and appropriate by the Court pursuant to CWA § 505(d). We reserve the right to modify the descriptions of the incidents described in this letter, as well as the relief requested, either upon the commencement of the civil

action or afterwards, depending upon revelations that may occur in the course of the litigation discovery process.

Party Giving Notice

The Magothy River Association is a non-profit organization dedicated to promoting and protecting the quality of the water and the environment in the Magothy River watershed. It has approximately 30 community association members and 350 individual members, many of whom live on or near the tidal and non-tidal portions of Mill Creek that have been adversely affected by the violations described above. The Magothy River Association's postal address is P.O. Box 550, Severna Park, Maryland 21146.

Sincerely,



Russell B. Stevenson, Jr.
Attorney for the Magothy River Association

Cc:

Secretary Ben Grumbles
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, MD 21230

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
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Shawn M. Garvin, Regional Administrator
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Col. Edward P. Chamberlayne
U.S. Army Corps of Engineers
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10 S. Howard Street
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