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Secretary for
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**California Regional Water Quality Control Board
North Coast Region
Bob Anderson, Chairman**

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Arnold
Schwarzenegger
Governor

July 9, 2009

In the Matter of
Water Quality Certification
for the
Bed Rock Products, Inc./Gualala Redwoods, Inc.
Gualala River Instream Gravel Extraction
WDID No. 1B07144WNSO

APPLICANT: Bed Rock Products, Inc./Gualala Redwoods, Inc.
RECEIVING WATER: South Fork and Wheatfield Fork of Gualala River
HYDROLOGIC UNIT: Mendocino Coast, Gualala River Hydrologic Sub Unit No. 113.85, and Mendocino Coast, Wheatfield Fork Gualala River Hydrologic Sub Unit No. 113.84
COUNTY: Sonoma
FILE NAME: Gualala River Instream Gravel Extraction
WDID No. 1B07144WNSO

BY THE EXECUTIVE OFFICER:

1. On August 31, 2007, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mrs. Karen Hay on behalf of Bed Rock Products, Inc./Gualala Redwoods, Inc. (Applicant), requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the Gualala River Instream Gravel Extraction Project (Project), located near Sea Ranch, in Sonoma County. The Project causes permanent impacts to 14.4 acres of streambed within the Mendocino Coast, Gualala River Hydrologic Sub Unit No. 113.85, and Mendocino Coast, Wheatfield Fork Gualala River Hydrologic Sub Unit No. 113.84. Fee payment for the first year of implementation, for the total of \$4,720 was completed on June 30, 2009. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on June 12, 2008, and posted information describing the project on the Regional Water Board's website. Several public comments were received and adequately addressed by the Applicant, and are archived within the application file.
2. The purpose of the project is to remove sand and gravel from the in-stream gravel bars for commercial sale. The Project includes gravel extraction from 12 in-stream gravel bars (bars 100, 280, 295, 310, 370, 385, 405, 415, 445, 465, 62, and 70)

along approximately 6.9 miles of the South Fork of the Gualala River and 1.4 miles of the Wheatfield Fork of the Gualala River. Recent extraction volumes have averaged approximately 22,000 cubic yards per year, and it is anticipated that future extraction volumes will be at this average rate. Extraction will be limited to that surveyed volume that has accumulated above the minimum baseline elevation established under the existing county permit conditions for the designated extraction area of each bar mined for aggregate. Volume of extraction shall not exceed 40,000 cubic yards in any given year, and to not exceed 133,200 cubic yards over the five year life of this Order. Gravel extraction is done with front end loaders, scrapers, and excavators. Then the gravel is delivered by dump trucks on existing logging roads to the processing site, and after processing, trucked 7 miles north to a concrete plant in Gualala. In-channel activities, including gravel extraction, shall begin no earlier than June 15th, and finish no later than November 1st. Other permitting agencies may further restrict this operation period.

3. A variety of extraction methods will be employed, including but not limited to, secondary channel skim, horseshoe skim, traditional skim, inboard skim, alcove, and oxbow extraction. These methods are detailed within the Application. These methods will be chosen based on the annual extraction plan (AEP). The AEP will be formulated to minimize impacts to the riverine system through a combination of river monitoring activities. These activities include: periodic biological monitoring; evaluation and comparison of aerial photographs, coupled with the surveying and comparison of recent and historic surveyed full-channel cross-sections or digital terrain models; and instream data collected by the Gualala River Watershed Council. The AEP will be submitted to the appropriate agencies for review, comment, and approval prior to commencement of annual activities. Additionally, an annual meeting of the approving agencies and Applicant shall be held to review the AEP, including items noted above and also to review what 401 Certification fee shall be paid for that years proposed extraction.
4. Extraction will require up to ten temporary access river crossings. Crossings will typically consist of railroad flatcar bridges or suitably sized culverts placed across a narrow portion of the channel. Crossings shall be constructed of clean washed gravel, ½" to ¾" in size, except for the minimum necessary amount of unwashed gravel for the road surface. Temporary crossings shall be removed no later than November 1st each year.
5. The Regional Water Board is issuing this 401 Water Quality Certification for a period of five years. Each year's mining and mitigation work will be reviewed by the annual meeting of the approving agencies, and amendment to the 401 Water Quality Certification may be made to incorporate any changes that may be necessary to implement Adaptive Management measures for improvements to water quality. This review will also facilitate calculation of the annual fee payment, to be based on the actual volume of gravel extracted.

6. Compensatory mitigation consists of revegetation, at a 1:1 ratio, of any areas that have vegetation removed as a result of the gravel mining or related activities. Additional mitigation shall be completed as detailed in condition number 4 below, and shall consist of hydraulic disconnection of roads from the Gualala River, installation of large woody debris structures, and planting of riparian vegetation to provide shade to the river and nearby riparian areas. These compensatory mitigation requirements shall not be part of, or credited to, any other required mitigation for activities other than those authorized within this Order. Additionally these mitigation requirements shall not be funded by other entities or agencies, other than the Applicant.
7. The Applicant has applied to the United States Army Corps of Engineers, file number 2004-28820N, for an individual Clean Water Act section 404 Permit.
8. A Streambed Alteration Agreement from the California Department of Fish and Game has been obtained, Notification No. 1600-2008-0536-3, on June 12, 2009.
9. The County of Sonoma, as lead California Environmental Quality Act (CEQA) agency, has certified a Subsequent Mitigated Negative Declaration, on September 16, 2008. They also filed a Notice of Determination with the Office of Planning and Research, (State Clearinghouse No. 2007082027) pursuant to California Environmental Quality Act (CEQA) guidelines.
10. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this water quality certification.

Receiving Water: South Fork and Wheatfield Fork of Gualala River,
Mendocino Coast, Gualala River Hydrologic Sub Unit
No. 113.85, and Mendocino Coast, Wheatfield Fork
Gualala River Hydrologic Sub Unit No. 113.84

Filled or Excavated Area: Area Permanently Impacted: 14.4 acres of river bed

Latitude/Longitude: 38.701650°N / 123.418942° W

Expiration: July 9, 2014

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Gualala River Instream Gravel Extraction Project (WDID No. 1B07144WNSO), as described in the application, will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that the Applicant complies with the following terms and conditions:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 2200, and owed by the Applicant.
4. The Gualala River is included on the Clean Water Act 303(d) list for impairments associated with excessive sediment and high temperatures. A TMDL addressing sediment impairments was established by the U.S. Environmental Protection Agency (USEPA) in December 2001. The Regional Water Board prepared a Technical Support Document (TSD) that addressed sources of sediment and temperature impairments, loading capacities, and load allocations necessary to restore sediment and temperature conditions supportive of beneficial uses related to the cold water fishery in the Gualala River Watershed. The TSD recommends the following: "Generally, available data indicate that aquatic habitat could be improved by reducing sediment delivery, increasing large woody debris for sediment metering and habitat, and enhancing the riparian canopy cover to reduce stream temperatures."

Accordingly, the compensatory mitigation for the gravel mining project will include:

1. Hydraulic disconnection of roads currently delivering sediment to water courses, by outsloping roads, removing berms, filling in ditches, and installing rolling dips and critical dips at watercourse crossings;
2. Emplacement of large woody debris, consisting of root wads and logs within selected fish-bearing water courses;
3. Riparian restoration to increase shade canopy to help reduce temperatures.

The specific amounts of each type of compensatory mitigation will be composed of one or more of the options described below. For calculating the minimum amount of mitigation done annually, the Applicant will implement the following each year, or a combination thereof, for each 25,000 cubic yards of gravel/sediment extracted from project area annually:

1. Complete 0.25 miles of hydraulic disconnection of roads;

2. Emplace 5 pieces of instream wood (each 50 cubic feet or greater in size);
3. Complete 0.2 acres of riparian restoration.

Annually, prior to any operations, the Applicant will submit a proposal to the approving agencies, detailing: which roads in the watershed will be disconnected; where large woody debris will be installed, and where riparian restoration will be conducted. This proposal will be submitted, and agreed upon, by approving agencies before implementation.

For each type of mitigation project, a five-year monitoring plan to evaluate the efficacy of the mitigation actions will be implemented. For revegetation or planting mitigation, an 85% survival rate of all proposed plant species at the end of five years is required.

In addition to this compensatory mitigation, any vegetation removed from mining operations shall be replaced in-kind on the gravel bars, or in the nearby vicinity. Any areas of riparian vegetation greater than 100 square feet or individual plants having 90% of trunks greater than 1 inch in diameter shall be transplanted, by an approved biologist, from areas of bars planned to be mined. Riparian vegetation shall be transplanted to an area where it would provide a similar ecological function as it was providing. Areas of occurring or potential bank erosion related to mining activities shall be planted with a multi-story palette of native vegetation in a manner intended to minimize erosion and promote salmonid habitat and riparian complexity. Plantings and transplantings shall have an 85% survival rate of thriving vegetation at the end of five years from planting date. Annual monitoring and reporting is required, and shall be submitted by January 15th of each year, and before the next year's amendment is considered for issuance.

All compensatory mitigation shall be completed within one year of mining operations for which the mitigation is required.

5. Applicant shall comply with all requirements within the Army Corps of Engineers Clean Water Act Section 404 permit file No. 2004-28820N; the National Marine Fisheries Service Biological Opinion, dated August 18, 2008; the California Department of Fish and Game Streambed Alteration Agreement Number 1600-2008-0536-3; and, requirements of other permitting agencies.
6. The Regional Water Board shall be notified prior to the commencement of ground disturbing activities, with details regarding the work schedule, in order to allow its staff to be present onsite during implementation, and to answer any additional public inquiries that may arise regarding the project.
7. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized

by this Order, shall be allowed to enter, or be placed where it may be washed by rainfall into, waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.

8. Best management practices (BMPs) for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during, and after any ground-clearing activities, or any other project activities that could result in erosion or sediment discharges to surface water.
9. All activities and BMPs shall be implemented according to the submitted application and the conditions in this Order.
10. A copy of this Order and the application documents submitted by the Applicant for this certification shall be provided to all contractors and subcontractors conducting the work, and shall be in their possession at the work site.
11. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly, and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
12. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
13. Prior to implementing any change to the project that may have a significant or material effect on the findings, conclusions, or conditions of this Order, the Applicant shall obtain the written approval of the Regional Water Board Executive Officer.
14. All project work shall be conducted as described in this Order and in the application submitted by the Applicant. If the Regional Water Board is not notified of a significant alteration to the project that may cause detrimental impacts to water quality, it will be considered a violation of this Order, and the Applicant may be subject to Regional Water Board enforcement actions.
15. The Regional Water Board may add to, or modify the conditions of, this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted and approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.
16. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this Order.

17. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable State or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order. In response to a suspected violation of any condition of this Order, the Regional Water Board may require the holder of any federal permit or license subject to this Order to furnish, under penalty of perjury, any technical or monitoring reports the Regional Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.
18. In the event of any change in control or ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.
19. To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, and the address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the project as described in this Order, including all required mitigation. Regardless, the applicant's obligations shall continue regardless of control of ownership of land (e.g. five year monitoring of plantings for 85% success rate, or other mitigation requirements that still need to be completed.)
20. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited to, and all proposed mitigation being completed in strict compliance with, the Applicant's project description, and b) compliance with all applicable requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan).
21. The annual fee amount for this Clean Water Act Section 401 Water Quality Certification shall be in accordance with the current dredge and fill fee schedule, per Division 3, Chapter 9, Article 1, section 2200(a)(3) of title 23 of the California Code of Regulations, based on the maximum extraction amount of 40,000 cubic yards proposed for each year. This fee shall be submitted prior to authorization of that year's mining and shall be approved by amendment to this Order by signature

of the Executive Officer. The fee payment shall indicate the WDID number, and which season it is for. If all of the proposed mining for that year is not completed during that annual cycle, the fee for the remaining amount of gravel extraction for that year shall be applicable to the next mining season. The remainder of the previous year's fee, along with the fee difference up to the maximum extraction amount, shall be submitted for that year's fee. There shall be no fee refunded to the Applicant if at the expiration of this Order, there is any unapplied fee.

22. The authorization of this certification for any dredge and fill activities expires on July 9, 2014. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date above, and remain in full effect and are enforceable until completed.

If you have any questions or comments please call Stephen Bargsten of our office at (707) 576-2653.

Sincerely,

Catherine Kuhlman
Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ

Originals to: Mr. and Mrs. Bill and Karen Hay, Bed Rock Products, Inc., P.O. Box 366, Point Arena, CA 95468
Mr. Henry Alden, Gualala Redwoods, Inc., P.O. Box 197, Gualala, CA 95445

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Mr. Dan Wilson, California Department of Fish and Game, P.O. Box 47, Yountville, CA 94599
Mr. John McKeon, National Marine Fisheries Service, 777 Sonoma Avenue, Santa Rosa, CA 95404
Mr. Ken Ellison, Sonoma County PRMD, 2550 Ventura Avenue, Santa Rosa, CA 95403