



Linda S. Adams
Acting Secretary for
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**California Regional Water Quality Control Board
North Coast Region
Geoffrey M. Hales, Chairman**

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Edmund G. Brown, Jr.
Governor

June 27, 2011

In the Matter of
Water Quality Certification
For
Pryor Minor Subdivision and Wetland Management and Mitigation Plan
WDID No. 1B10077WNME

APPLICANT: Thomas Pryor
RECEIVING WATER: Seasonal wetlands and linear watercourse
HYDROLOGIC AREA: Noyo River Hydrologic Subarea No. 113.20,
Mendocino Coast Hydrologic Unit No. 113.00.
COUNTY: Mendocino County
FILE NAME: Pryor Minor Subdivision and Wetland Management and
Mitigation Plan

BY THE EXECUTIVE OFFICER:

1. On June 29, 2010, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Ms. Playalina Nelson, on behalf of Thomas Pryor (applicant) requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for activities associated with the Pryor Minor Subdivision and Wetland Management and Mitigation Plan (Project). The Regional Water Board provided public notice of the application pursuant to Title 23, California Code of Regulations, Section 3858 on March 9, 2011, and posted information describing the Project on the Regional Water Board's website. No comments were received.
2. The project is located at 1411 Oak Street, Fort Bragg, latitude 39.442169°N, longitude 123.78828°W, in Mendocino County (APN's 020-490-38 & 39).
3. The project site, approximately 2 acres, contains 0.83 acres of wetland area and approximately 700-1,000 individual plants of *Carex saliniformis* (Deceiving sedge). Deceiving sedge has a California Native Plant Society listing of 1B.2 and is considered rare and endangered.

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4. The purpose of the project is to reconfigure/rezone an 80,227-square feet (sf) parcel into four parcels to accommodate residential development. Parcel 1: 12,000 sf, Parcel 2: 6,000 sf, Parcel 3: 6,000 sf, Parcel 4: 56,227, with a Reconfigured Parcel of 7,136 sf. Parcel 4 will include the preserved wetland and management area, and the Reconfigured Parcel contains the existing residence.
5. Grading activities, associated with the subdivision of the parcels, will include; filling a portion of the existing wetland; transplanting Deceiving sedge; and wetland mitigation through creation, restoration and enhancement and protection (through deed restriction) of an on site wetland contained within proposed Parcel 4, under the guidance of the project *Wetland Management and Mitigation Plan* (Nelson and Samara, June 3, 2011).
6. Construction and fill activities associated with the development of parcels 1, 2, and 3, will cause permanent impacts to 0.15 acres of wetland and impact the population of Deceiving sedge. Riparian enhancement activities will cause 0.07 acres of temporary impacts to the Unnamed Tributary to Pudding Creek east of Dana Street.
7. Compensatory mitigation will be on-site and in-kind with a higher biological value and function than the current conditions. A total of 0.43 acres of wetland and riparian habitat will be enhanced and restored. A total of 0.13 acres of intact wetland habitat will be preserved, approximately 0.31 acres of upland area will be converted to wetland areas (2:1 mitigation ratio to wetland removal) and 0.06 acres of Deceiving sedge will be transplanted. The northern wetland, which includes an unnamed tributary to Pudding Creek, and an atypical wetland area (Parcel 4) are the primary areas to be enhanced and restored. Mitigation areas will be monitored for function and value, will have performance criteria, and will require monitoring and annual reporting for at least five years, or until criteria have been met. Mitigation areas will be protected in perpetuity by a Deed Restriction that was filed with the Mendocino County Clerks Office on, June 22, 2011.
8. Non-compensatory mitigation measures include the use of Best Management Practices (BMPs) to be employed during construction to minimize sediment production and prevent the movement of loose soil off-site. All erosion control measures will be installed and in place by October 15, or during non-construction periods as necessary, and maintained thereafter by the contractor/applicant. All disturbed soil will be revegetated with native species or seeded with native grasses. If vegetation cannot be reestablished before expected rainfall, mulching, erosion control fabric, or other sediment control measures will be implemented to prevent delivery of sediment to the drainages. All equipment will be maintained in good working order and spill kits will be on hand during construction. Equipment shall not be staged, or fueled, near waters of the State. Additionally, all required

BMPs shall be on-site and ready for timely deployment before the start of construction activities.

9. The Applicant has applied to the California Department of Fish and Game for a Streambed Alteration Agreement (No. 1600-2010-0248-R1).
10. The Applicant has applied for authorization from the United States Army Corps of Engineers to perform the project under Nationwide Permit No. 29-*Residential Development* (File No. 2008-00187N), pursuant to Clean Water Act Section 404.
11. On April 14, 2011, the City of Fort Bragg approved a Mitigated Negative Declaration (SCH No. 2011022070) for the project in order to comply with CEQA. The Regional Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment. The Regional Water Board will file a Notice of Determination within five days from the issuance of this order.
12. Because the Project involves construction that may adversely affect waters of the State, the Regional Water Board has regulatory jurisdiction under Water Code Section 13269.

Receiving Water: On site seasonal wetland and unnamed tributary to Pudding Creek within the Noyo River Hydrologic Subarea No. 113.20, Mendocino Coast Hydrologic Unit No. 113.00

Filled or Excavated Area: 0.15 acres of seasonal wetland.

Latitude/Longitude: latitude 39.442169°N, longitude 123.78828°W

Expiration: June 22, 2015

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Pryor Minor Subdivision and Wetland Management and Mitigation Plan (WDID No. 1B10077WNME) 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. 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 Order (enclosed).
5. The Noyo River watershed is listed on the Clean Water Act Section 303(d) list as impaired for sediment and temperature. In 1999, the U.S. EPA established sediment total maximum daily loads (TMDLs) for the Noyo River Watershed. Roads and bank erosion are a significant source of sediment in the watershed (directly, from surface erosion, and, indirectly, by triggering landslides). In addition, activities that impact the riparian zone and reduce riparian vegetation are identified as sources contributing to increased stream temperatures. A focus on measures to reduce sediment discharges to surface waters from roads in the watershed, and measures to avoid, minimize, and mitigate impacts on riparian zones is essential for achieving TMDL compliance. Actions authorized by this Order require implementation of Best Management Practices (BMPs) for sediment control and avoidance of removal and planting of additional riparian zone shade vegetation at the project site. Accordingly, this Water Quality Certification is consistent with, and implements the Noyo River TMDL.
6. Pursuant to Regional Water Board Resolution R1-2004-0087, Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters within the North Coast Region (Sediment TMDL Implementation Policy), the Executive Officer is directed to "rely on the use of all available authorities, including existing regulatory standards, and permitting and enforcement tools to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste."
7. The federal antidegradation policy requires that state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board's

Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. This Order is consistent with applicable federal and State antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased volumes of treated wastewater.

8. Future development of the site will include the use of post-construction stormwater treatment features employing low impact development (LID) techniques. Techniques will include bioretention planters, vegetated swales, and detention basins. The LID techniques are designed to attenuate stormwater runoff to be the same or less than pre-construction amount, infiltrate stormwater on-site, and treat stormwater to remove contaminants from parking lots, roads, and landscaping areas. Specific descriptions of techniques to be implemented are included in the *Pryor Wetland Management and Mitigation Plan* (Nelson and Samara June 3, 2011).
9. The project shall comply with the Findings and Conditions in the *Development Permit* (City of Fort Bragg Community Development Department, April 26, 2011).
10. To ensure a successful revegetation/stabilization effort, plantings shall be monitored and maintained (including irrigation if necessary) for five years. All tree and shrub plantings shall have a minimum of 85% success of thriving growth at the end of five years with a minimum of two consecutive years (2 growing seasons) of monitoring after the removal of irrigation. The Applicant is responsible for replacement planting, additional watering, weeding, invasive exotic eradication, or any other practice to achieve these goals. Replacement plants shall be monitored with the same survival success for an additional five years from the year of installation. A status report shall be submitted to the Regional Water Board by December 31st of the each year. Photos shall be submitted with the report.
11. Applicant shall prioritize use of wildlife-friendly 100% biodegradable erosion control products/BMPs wherever feasible. For purposes of this Order, photodegradable synthetic products are not considered biodegradable. Applicant shall not use or allow the use of erosion control products, that contain synthetic (e.g., plastic or nylon) netting or materials for permanent erosion control (i.e., erosion control materials to be left in place for two years or after the completion date of the project). If the Applicant finds that erosion control netting or products have entrapped or harmed wildlife, the Applicant shall remove the netting or product and replace it with wildlife-friendly biodegradable products. The Applicant shall not use or allow the use of soil stabilization products that contain synthetic materials within waters of the United States or waters of the State at any time. Applicant shall remove any remaining synthetic netting or materials remaining at the end of two years, or sooner.

12. The Regional Water Board shall be notified prior to the commencement of ground disturbing activities, with details regarding the construction schedule, in order to allow staff to be present onsite during construction, and to answer any public inquiries that may arise regarding the project.
13. 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 into 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.
14. 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.
15. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
16. 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.
17. 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.
18. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
19. 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.
20. 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, it will be considered a violation of this Order, and the Applicant may be subject to Regional Water Board enforcement actions.

21. 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.
22. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
23. In the event of any violation or threatened violation of the conditions of this certification, 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 certification. In response to a suspected violation of any condition of this certification, the Regional Water Board may require the holder of any federal permit or license subject to this certification 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 certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
24. In the event of any change in control of 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.

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.

25. 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).

26. The authorization of this certification for any dredge and fill activities expires on June 22, 2015. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

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

Catherine Kuhlman
Executive Officer

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- Web link: 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 may be found at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf
- Original to: Mr. Thomas Pryor, P.O. Box 930, Fort Bragg, CA 95437
- Copy to: Mr. Chris Carterette, City of Fort Bragg, Planning Department, 416 North Franklin Street, Fort Bragg, CA 95437
Ms. Playalina Nelson, P.O. Box 5765, Santa Rosa, CA 95402
Ms. Amy Wynn, Coastal Development Permits, 703 North Main Street, Fort Bragg, CA 95437
- ECopies sent to: Mr. Rich Macedo, California Department of Fish and Game, 601 Locust Street, Redding, CA 96001
Rmacedo@dfg.ca.gov
Ms. Samantha Olson, SWRCB, Office of the Chief Counsel.
SOlson@waterboards.ca.gov
Mr. Bill Orme, SWRCB, 401 Program Manager, Clean Water Act
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Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 1455 Market Street, San Francisco, CA 94105-1398
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