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## North Coast Regional Water Quality Control Board

October 2, 2012

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In the Matter of  
**Water Quality Certification**  
for

**McCartney Residence – Culvert Installation, Unnamed Tributary to Mill Creek  
WDID No. 1B12157WNHU**

APPLICANT: Mr. David McCartney  
RECEIVING WATER: unnamed tributary to Mill Creek  
HYDROLOGIC UNIT: Blue Lake Hydrologic Area No. 109.10  
COUNTY: Humboldt  
FILE NAME: McCartney Residence – Culvert Installation

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BY THE EXECUTIVE OFFICER:

1. On August 9, 2012, Mr. David McCartney (Applicant) filed an application for water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with installation of two culverts in an existing wet ford (stream crossing) on a dirt road that was originally built in the 1990s when the parcel was logged. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on September 10, 2012, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
2. The Applicant is developing a parcel (APN 50905139) for residential use and access to the parcel is currently provided by a dirt road through a parcel (APN 50905108) that is currently owned by the Green Diamond Resource Company. The existing dirt road was originally constructed as a logging road by Simpson Timber Company in the 1990s. The road will continue to be used by Green Diamond Resource Company.
3. The project is located at an existing wet ford where a 17-foot wide dirt road crosses an unnamed tributary to Mill Creek. The existing stream crossing is in a low-lying area that is subject to standing water and muddy conditions. The primary purpose of the project is to improve the roadway and stream crossing to provide reliable access to the Applicant's residential parcel during all seasons. The project will eliminate the existing wet ford crossing so vehicles will no longer be driving directly

through the muddy streambed. The new culverts and roadway improvements will also improve water quality by reducing sedimentation and potential pollution associated with vehicles driving directly through the stream. The stream in the project area is not habitat for anadromous salmonids due to a natural fish migration barrier located downstream on Mill Creek.

4. The road improvements include installation of two culverts. A 24-inch diameter and 30-foot long corrugated plastic culvert will be installed where the road crosses an intermittent stream channel and an 18-inch diameter and 20-foot long culvert will be installed at a location where water will flow during storm events. The 30-foot long culvert will be embedded six inches into the road bed and the 20-foot long culvert will be installed at the existing grade. Excavated soil will be incorporated into the 75-foot long roadway and a 75-foot long section of the roadway will be elevated approximately three feet with clean imported quarry rock. The inlets and outlets will be armored with rock. All work will occur within the existing 17-foot wide roadway.
5. The project will result in 34 linear feet and 870 square feet of permanent impacts to waters of the United States. The project will not result in any temporary impacts to waters of the United States. Compensatory mitigation is not required for this project. Non-compensatory mitigation measures include the use of Best Management Practices (BMPs) for sediment and erosion control, and use of heavy equipment in a stream channel. Proposed activities will occur between June 15 and October 15. The project is expected to take approximately 3 days to complete.
6. The Applicant has obtained authorization (File No. 2012-00217N) from the United States Army Corps of Engineers to perform the project under Nationwide Permit Nos. 3 and 14 pursuant to Clean Water Act, section 404. The Applicant has also applied for a Lake or Streambed Alteration Agreement (1600 Permit) from the California Department of Fish and Game. .
7. Regional Water Board staff have determined that this project is categorically exempt from CEQA review (Section 15301 – existing facilities).
8. The Mad River Total Maximum Daily Load (TMDL) for sediment and turbidity was established in 2007 by the United States Environmental Protection Agency in accordance with section 303(d) of the Clean Water Act, because the State of California determined that the water quality standards for the Mad River are exceeded due to excessive sediment and turbidity. Roads and bank erosion are identified as sources contributing to the sediment impairment. The primary adverse impacts associated with excessive sediment and turbidity in the Mad River pertain to cold freshwater habitat, primarily anadromous salmonid habitat. Actions authorized by this Order require implementation of BMPs for sediment and erosion control, and use of heavy equipment in a stream channel. Accordingly, the project activities are consistent with, and implement portions of the Mad River TMDL.
9. 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, and does not otherwise authorize degradation of the waters affected by this project.

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.  
[http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)

Receiving Water: unnamed tributary to Mill Creek in the Blue Lake Hydrologic Area No. 109.10

Filled or Excavated Area: Area Temporarily Impacted: None  
Area Permanently Impacted: 870 square feet of stream channel

Total Linear Impacts: Length Temporarily Impacted: None  
Length Permanently Impacted: 34 linear feet of stream channel

Dredge Volume: None

Latitude/Longitude: 40.92695 N/124.07387 W

Expiration: October 2, 2017

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the McCartney Residence – Culvert Installation Project (WDID No. 1B12157WNHU), 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:

**All conditions of this order apply to the Applicant (and all their employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the project as related to this Water Quality Certification.**

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. The validity this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by the Applicant.
4. Regional Water Board staff shall be notified in writing at least five working days (working days are Monday – Friday) 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.
5. All project work shall be conducted as described in this Order and in the application submitted by the Applicant. 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. 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 action(s).
6. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification. 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.
7. The Applicant shall prioritize the use of wildlife-friendly biodegradable (not photo-degradable) erosion control products wherever feasible. The Applicant shall not use or allow the use of erosion control products that contain synthetic materials within waters of the United States or waters of the State at any time. The Applicant shall not use or allow the use of erosion control products that contain synthetic netting 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, personnel shall remove the netting or product and replace it with wildlife-friendly biodegradable products. The Applicant shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
8. 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.
9. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the project.

10. This Water Quality Certification does not authorize the Applicant to draft surface waters.
11. 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.
12. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
13. If, at any time, an unauthorized discharge to surface water (including wetlands, lakes, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented including stopping work. 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.
14. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or threatened discharge to any waters of the State including dry portions of the shoreline. At no time shall the Applicant or its contractors allow use of any vehicle or equipment, which leaks any substance that may impact water quality.
15. Spill kits are required at each fueling location and at each location where power equipment will be working within waters of the State. In the event of an unauthorized release of fuel (spill or leak) to waters of the State, the Applicant shall immediately stop work and conduct the following measures:
  - a) notify the appropriate agencies including the Regional Water Board, CDFG, and the Office of Emergency Services (OES) at 1(800) 852-7550;
  - b) utilize the appropriate spill kits for containment and cleanup of the release;
  - c) collect samples within the immediate area of release, 50 feet downstream, and downstream to the full extent of the release if the release reaches surface waters; and,
  - d) analyze required surface water samples for all appropriate constituents including but not limited to total petroleum hydrocarbons as diesel (TPH-D), total petroleum hydrocarbons as gasoline (TPH-G), and benzene, toluene, ethylbenzene, total xylenes (BTEX).
16. Any potentially hazardous waste(s) (solids, liquids, or slurries) derived or encountered during this project shall undergo the appropriate characterization to demonstrate compliance with all applicable waste disposal laws and regulations.
17. The Applicant shall provide a copy of State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ to any contractor(s), subcontractor(s), and utility company(ies) conducting work on the project, and shall require that copies remain in their possession at the work site. The Applicant shall be responsible for ensuring that all work conducted by its contractor(s), subcontractor(s), and utility companies is performed in accordance with the information provided by the Applicant to the Regional Water Board.

18. The Applicant shall comply with all applicable water quality standards as detailed in the Basin Plan.
19. 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.
20. 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 for the violation or threatened violation 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 certification, the State 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 State 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.
21. 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.

22. 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).
23. The authorization of this certification for any dredge and fill activities expires on October 2, 2017. Conditions and monitoring requirements outlined in this Order 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 Dean Prat at (707) 576-2801.

Original Signed By

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Matthias St. John  
Executive Officer

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Weblink: 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 can be found at: [http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)

Original to: Mr. David McCartney, P.O. Box 2976, McKinleyville, CA 95519

cc: Ms. Prairie Moore, Natural Resources Management Corporation, 1434 Third Street, Eureka, CA 95501

Electronic Copy to: U.S. Army Corps of Engineers, District Engineer, 601 Startare Drive, Box 14, Eureka, CA 95501  
Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 1455 Market Street, San Francisco, CA 94103-1398