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**North Coast Regional Water Quality Control Board**

October 9, 2012

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In the Matter of

**Water Quality Certification**

for

**The Woods at Fern Canyon**  
**WDID No. 1B11089WNME**

APPLICANT: Ms. Yumiko Westland, Northern California Presbyterian  
Homes & Services

RECEIVING WATER: Seasonal Wetland

HYDROLOGIC UNIT: Mendocino Coast Hydrologic Area 113.40

COUNTY: Mendocino

FILE NAME: The Woods at Fern Canyon

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BY THE EXECUTIVE OFFICER:

1. On June 7, 2011, Ms. Yumiko Westland, Director of Facilities, Northern California Presbyterian Homes & Services (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 related to the Woods at Fern Canyon Wetland Restoration Project (Project). Additional information was received electronically on May 21, 2012. This information included responses to questions posed by Regional Water Board staff, mitigation plans, mitigation and monitoring schedule, and the deed restriction to be filed to preserve the mitigation area. The Project has already been completed; this is an after-the-fact permit. The project was for installation of two test wells within a *Ledum glandulosum*-dominated wetland and related restoration activities. The area has been restored by revegetation and will be protected with a deed restriction. Project is located within a seasonal wetland, 43500 Little River Airport Road, Little River, latitude 39.269017°N, and longitude 123.757998°W, in Mendocino County. The proposed project caused permanent impacts to 0.018 acres of seasonal wetlands, Mendocino Coast Hydrologic Area 113.40.

2. The project included the installation of two test wells within a shrubby *Ledum* wetland. The total wetland area permanently impacted by the wells and drill cutting deposition was approximately 800 square feet. Wells were located within a wetland due to contractor error. The wells were installed in support of project planning for The Woods at Fern Canyon, a residential community for older persons. The wells are not currently in use but may be used in the future as a water source for the adjacent existing residential community ("The Woods"), or for future development of The Woods at Fern Canyon. The U.S. Army Corps of Engineers provided a preliminary Jurisdictional determination for the entire parcel, and an after-the-fact permit for the well impacts on January 4, 2010. All other permitting and development of The Woods at Fern Canyon is on hold indefinitely, and no 404 or 401 permit application have been submitted for the project.
3. Compensatory mitigation included planting of replacement wetland plants to replace wetland plants that were removed for the well construction. Plants were replaced in-kind at a ratio of 1:1 and will be maintained and monitored until established. Mitigation and monitoring and reporting shall be performed as described in the May 21, 2012 submittal.
4. The Applicant has received a US Army Corps of Engineers (File Number 2019-00222N) for a Clean Water Act Section 404 Nationwide Permit 18–Minor Discharges, on January 4, 2010.
5. The North Coast Regional Water Quality Control Board, as lead California Environmental Quality Act (CEQA) agency, had determined that the project qualifies for a Categorical Exemption, 15303(d)-New Construction, and will file a Notice of Determination with the State Clearinghouse concurrent with issuance of the 401 Water Quality Certification, pursuant to CEQA guidelines.
6. 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:	Mendocino Coast Hydrologic Area 113.40.
Filled or Excavated Area:	Area Temporarily Impacted: 853 square feet (0.02 acres) of stream bed and bank
Latitude/Longitude:	39.269017°N, 123.757998°W
Expiration:	October 9, 2017

Accordingly, based on its independent review of the record, the Regional Water Board certifies that The Woods at Fern Canyon Wetland Restoration Project (WDID No. 1B11089WNME) 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. The deed restriction to protect the wetland restoration area shall be recorded and processed with the County of Mendocino, or other appropriate authority, and submitted to the Regional Water Board within 120 days of issuance of this Order.
5. 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.”
6. 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.

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 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.
8. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
9. 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.
10. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
11. 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.
12. 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).
13. 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.

14. The Applicant shall provide a copy of this Order and 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.
15. The Applicant shall implement the project in accordance with the project described in the application and the findings above, and shall comply with all applicable water quality standards as detailed in the Basin Plan.
16. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the project.
17. 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.
18. 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.
19. 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.
20. 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.

21. 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).
22. The authorization of this certification for any dredge and fill activities expires on October 9, 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 Stephen Bargsten at (707) 576-2653.

Original Signed By Luis Rivera For

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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: Ms. Yumiko Westland, Northern California Presbyterian Homes & Services, 1525 Post Street, San Francisco, CA 94109

Copy to: Ms. Amy Wynn, 703 North Main Street, Fort Bragg, CA 95437