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## North Coast Regional Water Quality Control Board

August 5, 2014

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In the Matter of  
**Water Quality Certification**

**For**

**Rowland Gravel Bar**  
**WDID No. 1B14053WNME**

APPLICANT: Wylatti Resource Management, Inc.  
RECEIVING WATER: Middle Fork Eel River  
HYDROLOGIC UNIT: Eel River 111.71  
COUNTY: Mendocino  
FILE: Rowland Gravel Bar; WDID No. 1B14053WNME;  
ECM PIN CW-806753

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BY THE EXECUTIVE OFFICER:

1. On June 3, 2014, Wylatti Resource Management, Inc. (applicant) filed an application for water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the North Coast Regional Water Quality Control Board (Regional Water Board) for activities associated with the Rowland Gravel Bar (project).
2. The Regional Water Board provided public notice of the application pursuant to Title 23, California Code of Regulations, Section 3858 on July 10, 2014, and posted information describing the project on the Regional Water Board's website. No comments were received.
3. The purpose of the project is to extract gravel at a sustainable rate from the Rowland Bar. The extraction amount is dependent upon natural recruitment from river geomorphological processes and will vary from no recruitment (and therefore no extraction) to a maximum annual anticipated extraction volume of 50,000 cubic yards. The typical level of extraction each year is anticipated to be approximately 25,000 cubic yards, but is entirely dependent upon natural recruitment.

JOHN W. CORBETT, CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

5550 Skylane Blvd., Suite A, Santa Rosa, CA 95403 | [www.waterboards.ca.gov/northcoast](http://www.waterboards.ca.gov/northcoast)

4. The project will cause temporary impacts to an unvegetated gravel bar approximately 3.5 acres in size, with no permanent impacts anticipated. No wetlands or riparian vegetation will be impacted. An existing access road from State Highway 162 to the gravel bar will be maintained as permanent access to the gravel bar.
5. The project may occur annually between July 15 and October 15, depending on the availability of naturally recruited gravel.
6. Mitigation for temporary impacts to waters of the state include the implementation of the "alcove" method of extraction, establishment of non-disturbance buffers to the low water channel, and removal of a train car located within the ordinary high water mark. The project will employ best management practices to prevent or reduce any discharges during and after construction.
7. The Project has an approved Reclamation Plan through Mendocino County (Case No. REC 2-2013) and the State Department of Conservation with Conditions of Approval made a part of that approval process. The Project has a 1600 Agreement (Notification No. 1600-2014-0108-R1) from the California Department of Fish and Wildlife. A 404 Permit has been applied for from the US Army Corps of Engineers. A Preliminary Jurisdictional map of the Project Area which falls in the Waters of the United States has been approved by the US Army Corps of Engineers. An Industrial Storm Water Pollution Prevention Plan (SWPPP) has been assigned WDID No. 123IO24781 by the State Water Resources Control Board.
8. The County of Mendocino, acting as lead California Environmental Quality Act (CEQA) agency, filed a notice of determination with the state clearinghouse determining that a mitigated negative declaration had been approved for the project (SCH 2014022055). The notice of determination was received by the state clearinghouse on February 25, 2014.
9. The Middle Fork Eel River Technical Total Maximum Daily Loads (TMDL) for sediment and temperature was established in 2003 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 Middle Fork Eel River are exceeded due to excessive sediment and temperature. Roads and bank erosion are identified as sources contributing to the sediment impairment. In addition, activities that impact the riparian zone and reduce riparian vegetation are identified as sources contributing to increased stream temperatures. The primary adverse impacts associated with excessive temperature and sediment in the Middle Fork Eel River pertain to cold freshwater habitat, primarily anadromous salmonid habitat. Activities authorized by this certification will require implementation of best management practices (BMPs) for sediment and turbidity control and implementation of impact

avoidance measures. Accordingly, the project is consistent with, and implements portions of the Middle Fork Eel River TMDL.

10. 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.”
11. 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 68-16, which incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific finding. 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.
12. This discharge is also regulated under State Water Board Order 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:	Middle Fork Eel River 111.71
Filled or Excavated Area:	3.5 acres, temporary annual impact
Dredge Volume:	up to 50,000 cubic yards, annually
Latitude/Longitude:	39.71255°N/123.34988°W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Rowland Gravel Bar Project (WDID 1B14053WNME), 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. 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 dredge amount of 50,000 cubic yards proposed for the first year, and each year following. This fee shall be submitted prior to authorization of that year's management period 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 the entire proposed gravel mining work for that year is not completed during that management season, the fee for the remaining amount of dredged material for that year shall be applied to the remaining management season(s), until the remaining amount of the fee is exhausted. In the case that the remaining amount of the fee is exhausted within the five year term of this Order, the appropriate fee amount shall be paid at that point to be based on the actual volume of gravel mining performed, and/or proposed to be performed. There shall be no fee refunded to the applicant if at the expiration of this Order there is any unapplied fee.
2. Mitigation for temporary impacts to waters of the state include the implementation of the "alcove" method of extraction, establishment of non-disturbance buffers to the low water channel, and removal of a train car located within the ordinary high water mark. The project will employ best management practices to prevent or reduce any discharges during and after construction.
3. The mitigation measures detailed in the Mitigated Negative Declaration (SCH No. 2014022055) are hereby incorporated by reference and are conditions of approval of this certification. Notwithstanding any more specific conditions in this certification, the applicant shall comply with all mitigation measures identified in the Mitigated Negative Declaration that are within the Regional Water Board's jurisdiction.
4. The applicant shall submit annual notification of gravel replenishment data to the Regional Water Board and other responsible agencies for review. A cross-section profile comparison from the prior post-extraction survey to the late-spring gravel bar configuration provides the basis for estimating the amount of gravel available for extraction and the delineation of the proposed extraction location (shallow alcove) for the summer-fall extraction season. If Regional Water Board staff determines that inadequate recovery has occurred, the applicant will either limit the planned extraction or halt extraction for the season.
5. Annually, prior to July 1st, the applicant shall submit to the Regional Water Board, and other responsible agencies, an accounting of the quantities and types of materials

extracted that season. The accounting report shall indicate the dates on which the specified volumes were removed, the method used to calculate the volume figures, and the signature of the person responsible for completing the report. The report shall be submitted even if no material was removed that season.

6. Regional Water Board staff shall be invited annually, with other responsible agency staff, to visit the gravel bar and assist in laying out the configuration of the shallow alcove for that year's extraction.
7. 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.
8. 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.
9. The validity of 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.
10. Regional Water Board staff shall be notified in writing at least five working days 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.
11. No debris, soil, silt, sand, bar, slash, sawdust, 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.
12. All activities and best management practices (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.
13. In accordance with state and federal laws and regulations, the applicant is liable and responsible for the proper disposal for project-generated waste. When handling,

transporting, and disposing of project-generated waste, the applicant and their contractors shall comply with all applicable state and federal laws and regulations. When disposing of project-generated waste offsite, the applicant and its contractors shall:

- a. Make appropriate arrangements to dispose of the material, including, but not limited to, property owner agreements, permits, licenses, and environmental clearances;
  - b. Obtain satisfactory evidence that the work in 13.a has been completed; and
  - c. Obtain a dated, signed manifest from the disposal site owner, or authorized representative, that identifies the type and quantity of disposed waste.
14. 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 more 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.
15. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the project.
16. 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.
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 that leaks any substance that may impact water quality.
18. 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 actions.

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. The applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
21. 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.
22. The applicant shall provide a copy of this Order and State Water Board Order 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.
23. 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 email a copy of the letter to the Regional Water Board at the following email address: [NorthCoast@waterboards.ca.gov](mailto:NorthCoast@waterboards.ca.gov).

To discharge dredged or fill material under this Order, the successor-in-interest must email the Regional Water Board Executive Officer at [NorthCoast@waterboards.ca.gov](mailto:NorthCoast@waterboards.ca.gov) a 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. 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).

24. 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).

25. The authorization of this certification for any dredge and fill activities expires on August 5, 2019, with the option for a five year renewal by approval of the Executive Officer. 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 contact Stephen Bargsten at (707) 576-2653 or [stephen.bargsten@waterboards.ca.gov](mailto:stephen.bargsten@waterboards.ca.gov) or Kaete King at (707) 576-2848 or [kaete.king@waterboards.ca.gov](mailto:kaete.king@waterboards.ca.gov).

*Original signed by*

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Matthias St. John  
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 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)

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