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**North Coast Regional Water Quality Control Board**

December 23, 2015

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**In the Matter of  
Water Quality Certification**

**for**

**Garman Property – Middle Fork Eel River Aggregate Extraction at McKenzie Bar  
WDID No. 1B11008WNME**

APPLICANT: Bud and Sharon Garman  
RECEIVING WATER: Cable Creek and Middle Fork Eel River  
HYDROLOGIC UNIT: Eden Valley Hydrologic Subarea 111.71  
COUNTY: Mendocino  
FILE: Garman, Bud & Sharon – McKenzie Bar Gravel Extraction, Middle  
Fork Eel River, ECM PIN CW-762308

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BY THE EXECUTIVE OFFICER:

1. On December 16, 2014, the North Coast Regional Water Quality Control Board (Regional Water Board) received a letter requesting reissuance of Federal Clean Water Act, section 401, Water Quality Certification (Certification) and/or Waste Discharge Requirements (Dredge/Fill Projects) from Wylatti Resource Management, Inc. (Applicant) to continue annual gravel (river-run aggregate) removal activities at the McKenzie gravel bar on the Middle Fork Eel River and Cable Creek approximately one mile east of Dos Rios, CA (Project). On June 2, 2011, the Regional Water Board issued a Water Quality Certification for the activities which expired November 15, 2015. The Regional Water Board provided public notice of the Project pursuant to title 23, California Code of Regulations, section 3858 on October 30, 2015, and posted information describing the Project on the Regional Water Board's website. No comments were received. The Project will cause disturbances to waters of the United

States and state associated with the Middle Fork Eel River in the Middle Fork Eel River Hydrologic Unit No. 111.71. The McKenzie gravel bar is located at 39.7088° N, 123.3374° W.

2. Annual aggregate extraction operations at the McKenzie Bar typically result in 4.6 acres of temporary impacts to waters of the U.S. and the state and result in no permanent impacts. The maximum volume of aggregate authorized for annual extraction from the McKenzie Bar is 30,000 cubic yards. The actual volume removed and the specific area of extraction varies from year-to-year but may not exceed the maximum limits authorized by the Certification. Gravel removal activities are expected to continue annually, following proposal approval by local, state, and federal permits.
3. The Applicant may use a variety of heavy equipment including dozers, excavators, front-end loaders, scrapers, and dump trucks to remove the aggregate material from gravel bars and to transport the material to offsite stockpile areas. Up to 8,000 cubic yards may be stockpiled at an adjacent upland area along Highway 162. The Project does not include any onsite aggregate processing activities.
4. A temporary culverted stream crossing is typically installed in Cable Creek to provide access to the extraction area. After the Applicant has removed the aggregate to the approved extraction design lines and grades, the Applicant is required to re-grade the extraction area as necessary to leave no depressions or berms that may potentially trap fish or cause impacts to surrounding habitats. When the final surfaces of the site are graded for seasonal reclamation, the Applicant may remove the temporary crossing and leave the bank-full channel area to the natural reclamation process, which occurs during the high flow events of the following winter. The aggregate extraction activities shall be confined to the period of June 1 to October 15.
5. On March 4, 2004, the County of Mendocino, as the lead California Environmental Quality Act agency, approved a use permit renewal and certified a Mitigated Negative Declaration for the Applicant's aggregate extraction operations. 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 Applicant is required to implement impact avoidance, minimization, and mitigation measures during the aggregate extraction processes including: maintaining vertical and horizontal offset from the live channel to ensure low-flow channel confinement; maintaining sufficient water depth for fish, minimizing impacts to water quality and riparian vegetation; limiting aggregate extraction activities to the period of June 1 to October 15; and, annual cross-sectional measurements are required in order to maintain and monitor a sustained yield method of aggregate extraction.

6. The Applicant has received authorization from the United States Army Corps of Engineers to perform the Project under Individual Permit, pursuant to Clean Water Act, section 404. The Applicant has obtained a Lake or Streambed Alteration Agreement (1600-2010-0251-R1) from the California Department of Fish and Wildlife (CDFW).
7. On October 4, 2010, CDFW determined that the Project will not have a significant effect on the environment and filed a Notice of Determination with the State Clearinghouse (SCH No. 2010109003), pursuant to CEQA guidelines.
8. 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 at temporary stream crossings and implementation of impact avoidance measures as described above. Accordingly, the project is consistent with, and implements portions of the Middle Fork Eel River TMDL. 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.”
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 Certification 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.

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: Middle Fork Eel River  
Eden Valley Hydrologic Subarea 111.71

Filled or Excavated Area: Temporary impact to waters of the state:  
4.6 acres of stream channel  
Permanent impact to waters of the state:  
None

Latitude/Longitude: 39.7088° N / 123.3374° W

Expiration: December 23, 2020

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Garman, Bud & Sharon – McKenzie Bar Gravel Extraction Project WDID 1B11008WNME, as described in the application on file, 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 Certification 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 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 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 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. A complete fee of \$600 was received on October 30, 2015.
4. This Certification will be subject to annual billing per the current fee schedule. An Annual Active Discharge Fee will be applied any year aggregate extraction occurs. An Annual Post Discharge Monitoring Fee will be applied any year of the Certification's term where aggregate extraction does not occur. These fees will be automatically invoiced to the Applicant by the State Water Resources Control Board in the fall for activities conducted during the previous calendar year. The fee payment (check payable to the State Water Resources Control Board) shall be sent to the Regional Water Board accompanied by a transmittal letter that includes the WDID number and ECM PIN for this Certification, the applicable aggregate mining season (previous calendar year), and the volume of aggregate removed per gravel bar and the total volume of aggregate removed.

The current fee schedule can be found on our website:

[http://www.waterboards.ca.gov/northcoast/water\\_issues/programs/water\\_quality\\_certification.shtml](http://www.waterboards.ca.gov/northcoast/water_issues/programs/water_quality_certification.shtml)

5. BMPs shall be implemented as proposed in the application materials. 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. Severe and unseasonal rain events are becoming more frequent due to the effects of climate change. Therefore, BMPs shall be immediately available for deployment at all times to prevent discharges to waters of the state.
6. Pre-extraction proposals shall be submitted at least one month prior to the proposed extraction date and will be available for the pre-extraction site inspections annually until the Certification expires. The report must include the following information:
  - a) The file name and WDID number and ECM PIN of the project;
  - b) The names, qualifications, and affiliations of the persons contributing to the report;
  - c) The proposed extraction amounts, extraction areas, cross sections, 35% flow elevations, and anticipated schedule for completion of extraction activities including the installation and operational status of any temporary crossings;
7. Annual post-extraction reports shall be submitted no later than December 31<sup>st</sup> of the year of extraction each year until the Certification expires. A post-extraction report is

required even if no extraction has occurred. The report must include the following information:

- a) The file name and WDID number and ECM PIN of the project;
- b) The names, qualifications, and affiliations of the persons contributing to the report;
- c) The actual extraction amounts, map of extraction areas, and cross sections;

A description of any incident of noncompliance with conditions of this Certification during the annual monitoring period, its cause, the period of the noncompliance including exact dates and times, and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. If the noncompliance has not been corrected by the time of the report, include a description of the corrective steps to be taken and the anticipated timeline.

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 Certification, 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. 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.
10. Only wildlife-friendly, 100 percent biodegradable erosion and sediment control products that will not entrap or harm wildlife shall be used. Erosion and sediment control products shall not contain synthetic (e.g., plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable. The Applicant shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
11. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this Certification.
12. 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 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 Certification. In response to a suspected violation of any condition of this Certification, pursuant to Water Code section 13267, 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.

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. Prior to implementing any change to the Project that may have a significant or material effect on the findings, conclusions, or conditions of this Certification, 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 Certification, and the Applicant may be subject to Regional Water Board enforcement action(s).
15. All Project work shall be conducted as described in this Certification and in the application submitted by the Applicant, and shall comply with all applicable water quality standards as detailed in the Basin Plan. If the Regional Water Board is not notified of a significant alteration to the Project, it will be considered a violation of this Certification, and the Applicant may be subject to Regional Water Board enforcement actions.
16. The Applicant shall provide a copy of this Certification 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.
17. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the Project.

18. The Regional Water Board may add to or modify the conditions of this Certification, 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 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 Certification by letter and shall email a copy of the letter to the following email address: [NorthCoast@waterboards.ca.gov](mailto:NorthCoast@waterboards.ca.gov).
20. To discharge dredged or fill material under this Certification, the successor-in-interest must email the Regional Water Board Executive Officer at: [NorthCoast@waterboards.ca.gov](mailto:NorthCoast@waterboards.ca.gov) a written request for transfer of the Certification. 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.
21. 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 Certification. 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 December 23, 2020. 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 Jake Shannon at (707) 576-2673 or Stephen Bargsten at (707) 576-2653.

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Matthias St. John  
Executive Officer

Original to: Bud and Sharon Garman, 389 N Main Street, Willits, CA 95490

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