

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE  
MAY 6, 2019**

**ITEM 2**

**SUBJECT**

CONSIDERATION OF A RESOLUTION TO ALLOCATE UP TO AN ADDITIONAL \$800,000 FROM THE CLEANUP AND ABATEMENT ACCOUNT (CAA) FOR THE LEVIATHAN MINE EMERGENCY ACID MINE DRAINAGE TREATMENT PROJECT (PROJECT)

**DISCUSSION**

Leviathan Mine is a former sulfur mine the State of California acquired in the early 1980s to address water quality problems caused by historic mining. The State Water Resources Control Board (State Water Board) has delegated jurisdiction over pollution abatement activities at the former mine to the Lahontan Regional Water Quality Control Board (Lahontan Water Board).

On May 11, 2000, the United States Environmental Protection Agency (U.S. EPA) placed Leviathan Mine on the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) National Priorities List, thus making Leviathan Mine a federal Superfund site. USEPA issued an Administrative Abatement Action (AAA) that directs the Lahontan Water Board to implement certain pollution abatement and site monitoring activities at Leviathan Mine.

Lahontan Water Board staff are responsible for monitoring the water levels in holding ponds at the mine that collect and contain acid mine drainage (AMD). During normal water years, the Lahontan Water Board mobilizes personnel, equipment, and supplies to the mine in June when the site becomes accessible, and then treats AMD in the ponds using an in-place treatment facility. This treatment effort allows for discharge of treated water to Leviathan Creek to maximize the capacity of the ponds to receive AMD through the next winter/spring seasons.

During some water years, the capacity of the ponds can be exceeded, which could result in the discharge of untreated AMD from the ponds to Leviathan Creek. When necessary to avoid such a discharge, the Lahontan Water Board initiates emergency winter/spring treatment operations to treat AMD for discharge. This creates adequate capacity to hold all incoming AMD until regular operations begin in the summer. Lahontan Water Board staff regularly monitor pond levels, acid mine drainage flow rates to the pond system, precipitation and snow pack, as well as predicted weather conditions, to determine when emergency winter/spring treatment operations are necessary.

CAA funds totaling over \$7 million have historically been provided for the Leviathan Mine. Previously approved funds have been expended. For over ten years, the Lahontan Water Board has also received an annual allocation from the General Fund, which covers routine summer treatment of AMD, but not emergency treatment work in the winter and spring.

On February 20, 2019, Lahontan Water Board staff informed Division of Financial Assistance (DFA) staff that based on recent high precipitation, the Lahontan Water Board will likely need to move forward with emergency treatment this spring.

On February 26, 2019, the DFA Deputy Director approved \$500,000 in CAA funding to the Lahontan Water Board to implement the emergency treatment work at Leviathan Mine and determined that the Project is exempt from the California Environmental Quality Act under

statutory exemptions for emergency projects (Public Resources Code Section 21080(b)(4); California Code of Regulations, Title 14, Section 15269, Subdivision (c)). The Lahontan Water Board has an existing emergency contracting process in place with the Department of General Services that they will utilize to quickly mobilize the contractor to initiate emergency treatment work.

Based on historical needs, emergency treatment is typically needed every four to five years. Costs are typically within \$500,000 per annual event; however, in 2017, costs were higher at \$650,000. The Lahontan Water Board is requesting \$800,000 in CAA funding to supplement the recent \$500,000 approval. If the State Water Board approves this request, a total of \$1.3 million will be available for the next five years. This requested amount is based upon past need, but additional funding may be needed within the five-year timeframe if there are a series of very wet winters.

Approval of this request will allow Lahontan Water Board staff to initiate emergency contracting quickly when emergency winter and spring treatment needs arise. Given that the total funding requested for the Project exceeds the \$500,000 threshold for DFA approvals, State Water Board approval is required.

The requested allocation is consistent with the purposes of Water Code section 13442, which provides that the State Water Board may approve the payment of moneys from the CAA to a public agency to assist in cleaning up a waste or abating the effects of a waste on waters of the state. Consistent with the [CAA Funding Program Guidelines](#), adopted by the State Water Board on December 11, 2018, this Project is categorized as a Tier 1 emergency project that requires immediate action to mitigate a significant threat to the environmental or public health and safety.

## **POLICY ISSUE**

Should the State Water Board:

1. Approve the allocation of up to \$800,000 additional CAA funds, for a total of \$1.3 million, to the Project. The funds will be available until June 30, 2024. Any unexpended funds, as of December 30, 2024, shall revert to CAA, unless the Deputy Director or Assistant Deputy Director of DFA authorizes an extension.

## **FISCAL IMPACT**

CAA cash balances are adequate to cover projected Project expenditures.

## **REGIONAL WATER BOARD/DISTRICT OFFICE IMPACT**

The Lahontan Water Board is supportive of the proposed additional funding for the Project.

## **STAFF RECOMMENDATION**

Staff recommend that the State Water Board adopt the proposed Resolution.

<p>State Water Board action on this item will assist the Water Boards in reaching Goal 4 of the Strategic Plan Update: 2008-2012, to comprehensively address water quality protection and restoration, and the relationship between water supply and water quality, and describe the connections between water quality, water quantity, and climate change, throughout California's water planning processes.</p>
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