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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2023-

ALLOCATING UP TO AN ADDITIONAL \$3,200,000 FROM THE CLEANUP AND ABATEMENT ACCOUNT (CAA) FOR THE LEVIATHAN MINE EMERGENCY ACID MINE DRAINAGE TREATMENT AND PIT SLOPE STABILIZATION PROJECTS (PROJECTS)

WHEREAS:

1. 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;
2. The State Water Resources Control Board (State Water Board) has delegated jurisdiction over pollution abatement activities to the Lahontan Regional Water Quality Control Board (Lahontan Water Board);
3. During normal water years, the Lahontan Water Board mobilizes in-place summer treatment when the site becomes accessible after spring rains, to treat acid mine drainage (AMD) for discharge to Leviathan Creek and maximize the capacity of the ponds to receive AMD through the next winter/spring seasons;
4. During some water years, the capacity of the ponds can be exceeded, which requires the Lahontan Water Board to initiate 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;
5. On December 11, 2018, in [Resolution No. 2018-0056](#), the State Water Board adopted the CAA Funding Program Guidelines (Guidelines), and authorized the Deputy Director of DFA to approve CAA funding up to \$500,000;
6. On February 26, 2019, the Deputy Director of DFA approved \$500,000, the maximum amount delegated by the State Water Board, in CAA funding to the Lahontan Water Board to implement 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));

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7. On May 7, 2019, in [Resolution No. 2019-0016](#), the State Water Board adopted additional CAA funding of \$800,000 for emergency AMD treatment;
8. On July 11, 2023, Lahontan Water Board staff informed Division of Financial Assistance (DFA) staff that based on recent record high precipitation resulting in the high flows of AMD into the pond system, Lahontan Water Board staff expect the costs for emergency treatment this year will exceed available funds, with an estimated \$2.4 million in additional funds needed to cover costs over approximately the next three years;
9. Additionally, as a result of record-breaking rain/snowfall at the Project site during the 2023 water-year, soils on a slope adjacent to the AMD treatment Pit Clarifier became saturated in the Spring of 2023, resulting in a slump in the slope (deposition material eventually flowed into the pit clarifier). To mitigate the potential for a shutdown of treatment operations resulting in the unauthorized discharge of untreated AMD to Leviathan Creek, it is necessary to complete emergency measures to address slope stability and debris removal no later than November 30, 2023, and \$800,000 in additional CAA funding is needed to meet this need;
10. Approval of the requested funds will allow Lahontan Water Board staff to initiate emergency contracting quickly when emergency winter and spring treatment needs arise and to timely construct emergency measures to ensure slope stability;
11. 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, including a Regional Water Board, to assist in cleaning up a waste or abating the effects of a waste on waters of the state; and
12. Consistent with the Guidelines, this Project(s) 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.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the allocation of up to \$3.2 million in additional CAA funds to the Projects. The funds will be available until June 30, 2027. Any

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unexpended funds, as of December 30, 2027, shall revert to CAA, unless the Deputy Director or Assistant Deputy Director of DFA authorizes an extension.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 19, 2023.

Courtney Tyler
Clerk to the Board