STATE OF CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for the

LEWISTON COMMUNITY SERVICES DISTRICT'S WATER SUPPLY PROJECT

SOURCE:

Trinity River

COUNTY:

Trinity

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

BY THE EXECUTIVE DIRECTOR:

I. Project Description

Lewiston Community Services District (LCSD or Applicant) filed a petition for change in point of diversion for Water Right License No. 6566 (Application No. 17669) with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) on February 20, 2013, seeking to move the current point of diversion approximately 2,800 feet downstream of the existing intake in Lewiston, California, in order to meet the federal arsenic maximum contaminant level (MCL). The Division issued the amended Water Right (License No. 6566) on October 8, 2013. A project map is attached (Figure 1).

The LCSD water system serves 40 connections, including a 22-space trailer park and a hotel/restaurant. The total service area includes 150 people, roughly equal to 60 single family dwelling equivalents (at 2.5 persons/single family dwelling). All connections are currently metered. LCSD is experiencing challenges meeting the federal arsenic MCL of 10 parts per billion (ppb) in its drinking water. The existing infiltration gallery that draws water from the Trinity River is affected by runoff from Deadwood Creek, a tributary immediately upstream of the existing infiltration gallery. Deadwood Creek is known to contain elevated arsenic levels, and recent water quality sampling shows concentrations as high as 83 ppb. Further, the existing infiltration gallery, pump station, and pipeline were originally constructed in 1957 and have reached the end of their useful life.

As part of the Water Supply Project (Project), LCSD proposes to construct an infiltration gallery in a large gravel bar that was built in August 2008 as part of the United States Bureau of Reclamation's Trinity River Restoration Program. Water would be piped from the infiltration gallery to a new raw water pump station and, from there, into a 2,675-foot long raw water pipeline that leads to LCSD's existing water treatment plant (WTP). There would be no modifications to the existing WTP. New electrical conduit would be installed below ground between the WTP and the existing water storage tank. A level sensor and level switches would be installed in the tank. With the exception of the new raw water pump station all other components of the proposed Project would be below ground. The water pipeline alignment will require crossing two roads (Deadwood Road

and Trinity Dam Boulevard). Open-cut trenching will be used to align the pipeline across Deadwood Road, while either open-cut trenching or a trenchless construction method (e.g., drill and bore) will be used for the Trinity Dam Boulevard crossing.

The existing raw water pump station located on the downstream side (left bank) of the Trinity Dam Boulevard bridge over the Trinity River, would be demolished and the existing wet well would be filled in using onsite materials, including the mounded area surrounding the existing structure. The existing raw water pipeline and existing infiltration gallery will be abandoned in place.

LCSD was awarded grant funding from the California Department of Public Health (CDPH) under Proposition 84 (The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006) to construct the proposed Project. The Project will be constructed in accordance with the construction practices outlined in the Initial Study(IS)/Mitigated Negative Declaration (MND) developed by CDPH, except as modified by conditions of this certification.

II. Regulatory Authority

Water Quality Certification and Related Authorities

The Federal Clean Water Act (33 U.S.C. §§ 1251-1387) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." (33 U.S.C. § 1251(a).) Section 101 of the Clean Water Act (33 U.S.C. § 1251 (g)) requires federal agencies to "co-operate with the State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources."

Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance with specified provisions, including water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Section 401 of the Clean Water Act directs the agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law. Section 401 further provides that state certification conditions shall become conditions of any federal license or permit for the project. The State Water Board is designated as the state water pollution control agency for all purposes stated in the Clean Water Act and any other federal act. (Wat. Code, § 13160.) The State Water Board's Executive Director has been delegated the authority to issue a decision on a water quality certification application. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)

On October 9, 2013, the State Water Board provided notice of receipt of a complete application for the Project to the applicable parties pursuant to California Code of Regulations, title 23, section 3835. The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858(a) by posting information describing the Project on the State Water Board's website on October 9, 2013. No comments were received.

The United States Army Corps of Engineers (ACOE) has determined that the Project qualifies for authorization under Department of the Army Nationwide Permit (NWP) #12 for Utility Line Activities, pursuant to Section 404 of the Clean Water Act. The ACOE identification number for the Project is 2103-00025N. The California Department of Fish and Wildlife (CDFW; formerly known as the California Department of Fish and Game) determined that a Streambed Alteration Agreement is required. The Streambed Alteration Agreement is in effect as of June 24, 2013, and will expire on December 31, 2017.

Water Quality Control Plans and Related Authorities

The California Regional Water Quality Control Boards (Regional Water Boards) adopt, and the State Water Board approves, water quality control plans (basin plans) for each watershed basin in the State. The basin plans designate the beneficial uses of waters within each watershed basin, and water quality objectives designed to protect those uses pursuant to Section 303 of the Clean Water Act. (33 U.S.C. § 1313.) The beneficial uses together with the water quality objectives that are contained in the basin plans and state and federal anti-degradation requirements constitute California's water quality standards.

The North Coast Regional Water Quality Control Board (North Coast Regional Water Board) adopted, and the State Water Board and the United States Environmental Protection Agency approved, the *Water Quality Control Plan for the North Coast Region* (North Coast Basin Plan). The North Coast Basin Plan designates the beneficial uses of water to be protected along with the water quality objectives necessary to protect those uses.

The North Coast Basin Plan identifies existing beneficial uses for the Trinity River (Middle Trinity River Hydrologic Area, Douglas City Hydrologic Subarea) as: municipal and domestic supply; agricultural supply; industrial service supply; groundwater recharge; freshwater replenishment; navigation; water contact recreation; non-contact water recreation; cold freshwater habitat; wildlife habitat; rare, threatened, or endangered species; migration of aquatic organisms; and spawning, reproduction, and/or early development. In addition, industrial process supply, hydropower generation, and aquaculture have been identified as potential beneficial uses.

The State Water Board has listed the Trinity River on the Clean Water Act section 303(d) list of impaired water bodies. The Project is located on the Trinity River within the Middle Trinity Hydrologic Area, which is impaired for sedimentation/siltation.

The State Water Board reviewed and considered the plans and Project description provided by LCSD. Further, the State Water Board has considered the North Coast Basin Plan, the existing water quality conditions and Project-related controllable factors.

Construction General Permit

The Project will disturb one or more acres of soil and, as a condition of this certification, must obtain coverage under the General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit; Water Quality Order 2009-0009-DWQ and National Pollutant Discharge Elimination System [NPDES] No. CAS000002, as amended by Order No. 2010-0014-DWQ and 2012-0006-

DWQ). Construction activity subject to the Construction General Permit includes clearing, grading and disturbances to the ground such as stockpiling or excavation.

California Environmental Quality Act

CDPH is the lead agency for the purpose of California Environmental Quality Act (CEQA) compliance, while the State Water Board is a responsible agency. CDPH issued a draft MND for the Project on March 14, 2012. CDPH approved the final MND for the Project and filed a Notice of Determination (NOD) with the State Clearinghouse on August 20, 2012 (SCH #: 2012032029.) The State Water Board reviewed and considered the MND, plans and Project description in connection with the issuance of this water quality certification. The mitigation measures proposed in the MND that pertain to the protection of resources within the State Water Board's purview have been incorporated into conditions of this certification to meet the requirements of Public Resources Code Section 21081.6(a)(1). Monitoring and reporting requirements are built into certification conditions as appropriate and necessary to ensure the implementation and completion of mitigation measures in accordance with California Code of Regulations, title 14, section 15097. The State Water Board will file a NOD within five days of issuance of this certification.

All documents and other information that constitute the public record for this Project shall be maintained by the Division and shall be available for public review at the following address: State Water Board, Division of Water Rights, 1001 I Street, Sacramento, CA 95814.

III. <u>Discussion</u>

The construction activities associated with this Project have the potential to increase sediment and the discharge of foreign matter into the Trinity River leading to water quality degradation. Additionally, instream construction has the potential to negatively impact spawning gravels and fishery habitat. Consequently, construction activities could negatively impact the beneficial uses and/or cause exceedences of the water quality objectives of the Trinity River as set forth in the North Coast Basin Plan.

In order to ensure that the Project meets water quality standards and other appropriate requirements of state law, this certification imposes conditions regarding monitoring, enforcement, and potential future revisions. Additionally, California Code of Regulations, title 23, section 3860 requires imposition of certain mandatory conditions for all water quality certifications, which are included in this certification.

The State Water Board has found that, with the conditions and limitations imposed under this certification, the proposed Project will be protective of the state water quality standards and other appropriate requirements of state law.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES THAT THE LEWISTON COMMUNITY SERVICES DISTRICT WATER SUPPLY PROJECT will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, if the LCSD complies with the following terms and conditions during the Project activities certified herein.

- 1. The Applicant shall obtain coverage under and comply with the Construction General Permit and any amendments thereto.
- 2. If dewatering of groundwater during construction is found to be necessary, the Applicant shall use a method of water disposal other than disposal to surface waters (such as land disposal) or the Applicant shall apply for coverage under Order No. R1-2009-0045, Waste Discharge Requirements for Low Threat Discharges to Surface Waters in the North Coast Region or an individual NPDES permit. The Applicant shall obtain coverage from the North Coast Regional Water Board or State Water Board prior to dewatering activities to surface waters.
- 3. The Applicant shall comply with the amended Water Right License No. 6566.
- 4. Turbidity increases associated with Project activities shall not exceed the water quality objectives for turbidity in the Trinity River basin, as documented in the North Coast Basin Plan. Turbidity levels are defined in nephelometric turbidity units (NTUs). The current threshold for turbidity levels in the Trinity River are listed in the North Coast Basin Plan. According to the Basin Plan, turbidity levels shall not be increased by more than 20 percent above naturally occurring background levels.

The Applicant shall monitor turbidity levels 50 feet upstream of Project activities (i.e., natural background) and 500 feet downstream of the point of river's edge construction activities. Turbidity monitoring shall occur at least hourly during Project construction in the Trinity River, its tributaries, or the river banks. If the grab sample results indicate that turbidity levels exceed the thresholds established in the North Coast Basin Plan, the associated Project activities shall cease immediately. The Deputy Director for Water Rights (Deputy Director) and the North Coast Regional Water Board Executive Officer (Executive Officer) shall be notified promptly and no later than 24 hours after the monitoring results indicate an exceedance of the North Coast Basin Plan turbidity water quality objective. Associated activities shall not resume without approval from the Deputy Director. In addition, any and all actions shall be implemented immediately to reduce and maintain turbidity at or below the North Coast Basin Plan thresholds.

Turbidity monitoring results shall be reported to the Deputy Director within two weeks of initiation of monitoring and every two weeks thereafter for the remainder of the monitoring period.

5. The Applicant shall replace any spawning materials removed from the surface layer of the gravel bar. In addition, the gravel bar will be re-contoured to its original elevation upon completion of the installation of the infiltration gallery. Replacement cobble and boulders used will be 5-inch to 2-foot in diameter. Any cobble and boulders used on the streambeds, stream banks, and river crossing shall be composed of washed, spawning-sized material from a local Trinity Basin source.

Cobble and boulders will be washed to remove any silts, sand, clay, and organic matter and will be free of contaminants such as petroleum products. Washed cobble and boulders shall pass the California Department of Transportation (Caltrans) cleanliness test #227 with a value of 85 or greater.

- 6. Activities that increase the erosion potential within the Project area shall be restricted to the relatively dry summer and early fall period (approximately May 15 to October 15) to the maximum extent practicable to minimize the potential for rainfall events to transport sediment to the Trinity River and other surface water features. If construction activities must take place during the late fall, winter, or spring, then temporary erosion and sediment control structures must be in place and operational at the end of each construction day and maintained until permanent erosion control measures are in place (e.g., successful revegetation).
- 7. Prior to a rain event or when there is greater than 50 percent possibility of rain forecasted by the National Weather Service during the next 24 hours, weed-free mulch, tarps, or geotextile fabrics shall be applied to all exposed areas upon completion of the day's activities. Stockpiles that are to remain on-site through the rainy season (October 15 to May 15 of the following year) shall be protected to prevent erosion with appropriate best management practices (BMPs).
- 8. Caltrans Type D erosion control measures (i.e., hydroseeding) or hand seeding and mulching methods shall be implemented during construction of the proposed Project in non-riparian upland areas. Erosion control work shall consist of one application of erosion control materials to embankment slopes, excavation slopes, and other areas with non-riparian uplands as designated by the Project engineer. These materials shall consist of fiber, seed, mulch, commercial fertilizer, stabilizing emulsion, and water.
- 9. Suitable BMPs, such as silt fences or straw wattles, shall be placed below all construction activities at the edge of surface water features to intercept sediment before it reaches the waterway. These BMPs shall be installed prior to any clearing or grading activities associated with construction activities at the edge of surface water features.
- 10. Spoil sites shall be located such that they do not drain directly into a surface water feature, if possible. If a spoil site drains into a surface water feature, catch basins shall be constructed to intercept sediment before it reaches the feature. Spoil sites shall be graded and vegetated to reduce the potential for erosion.
- 11. No unset cement, concrete, grout, damaged concrete, concrete spoils, or wash water used to clean concrete surfaces shall contact or enter surface waters. No leachate from truck or grout mixer cleaning stations shall percolate into Project area soils. Cleaning of concrete trucks or grout mixers shall be performed in designated washout areas of sufficient size to completely contain all liquid and waste concrete or grout generated during washout procedures. All wash water and hardened concrete or grout shall be disposed of at an authorized landfill or disposal site, in compliance with State and local laws, ordinances and regulations.

- 12. Construction material, debris, spoils, soil, silt, sand, bark, slash, sawdust, rubbish, steel, other inorganic, organic, or earthen material, and any other substances from any Project-related activity shall be prevented from entering surface waters. All construction debris and trash shall be contained and regularly removed from the work area to the staging area during construction activities. Upon completion, all Project-generated debris, building materials, excess material, waste, and trash shall be removed from the Project sites for disposal at an authorized landfill or other disposal site in compliance with State and local laws, ordinances, and regulations.
- 13. All equipment must be washed prior to transport to the Project site and must be free of sediment, debris and foreign matter.
- 14. Fueling of construction equipment shall be done at a fixed fueling station to reduce the area exposed to the potential for fuel spills. Secondary containment, such as a drain pan or drop cloth, shall be used to catch spills or leaks when removing or changing fluids. Spill containment materials shall be kept onsite at all times to contain any accidental spill. Absorbent materials shall be used on small spills rather than hosing down or burying the spill. The absorbent material shall be promptly removed and disposed of properly.
- 15. Onsite vehicles and equipment shall be regularly inspected for leaks and repaired immediately. If vehicle and equipment maintenance must occur onsite, it shall be done in designated areas, located away from drainage courses, to prevent the runon of stormwater and the run-off of spills.
- 16. Onsite containment for storage of chemicals classified as hazardous shall include secondary containment and appropriate management as specified in California Code of Regulations, title 27, section 20320.
- 17. All equipment and materials shall be stored at least 50 feet away from surface water features, including the Trinity River.
- 18. The Applicant shall submit to the State Water Board an on-site re-vegetation plan (Plan) to address on-site mitigation measures for permanent and temporary Project impacts to jurisdictional wetlands and riparian vegetation. At a minimum, the Plan shall include a planting plan, planting palette, implementation schedule, invasive species control plan, and a proposed reporting schedule to the State Water Board. The Plan must incorporate criteria for the plantings to become established and achieve a minimum survival rate of 85 percent at the end of five years. The Applicant will be responsible for implementation of the approved Plan and monitoring and reporting responsibilities. Project construction shall not commence until the Plan has been reviewed and approved by State Water Board staff.
- 19. Riparian habitat (vegetation greater than 6-inches in diameter at breast height) damaged or removed during Project construction shall be replaced. The amount of habitat created/restored shall occur within the area of riparian habitat disturbed by Project construction and shall be at least three times greater than the amount lost due to Project implementation (i.e., 3:1 ratio for new plantings of vegetation greater than 6-inches in diameter at breast height that are destroyed).

- 20. The Applicant shall take all necessary measures in preconstruction planning to minimize construction impacts on riparian habitat. Prior to construction, the Applicant shall erect construction fencing along the outer edges of the construction zone, where necessary, to prevent accidental entry into riparian habitat. Additionally, the Applicant shall flag and avoid, to the greatest extent possible, mature alders during construction activities. All stockpiling of materials and equipment shall occur outside of riparian habitat. Upon completion of construction activities, any unvegetated and impacted areas within the riparian corridor shall be reseeded with native species or native grasses.
- 21. The top 6 to 12 inches of topsoil excavated from a wetland falling within the Project pipeline alignment shall be stockpiled and used as backfill following installation of the pipeline through the wetland. The excavated topsoil must be temporarily placed in an area free of vegetation and weeds for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. Any exposed slopes and stream banks must be stabilized immediately upon completion of the pipeline installation through a waterbody. Disturbed wetlands and waters of the United States shall be restored to pre-existing conditions following construction.
- 22. A preconstruction survey for foothill yellow-legged frogs and their eggs shall be conducted by a qualified biologist within the construction boundary no more than two days prior to the start of construction activities. For this survey, the construction boundary is considered to be 100 feet outside the defined bed and bank channel of the Trinity River and any tributary. If foothill yellow-legged frogs are detected, the biologist shall relocate them to a suitable location outside of the construction boundary. In the event that a foothill yellow-legged frog is observed within the Project limits during construction activities, construction activities shall halt immediately and until a qualified biologist has moved the frog to a safe location within suitable habitat outside of the construction boundary. Any trapped, injured, or killed frogs shall be reported immediately to CDFW.
- 23. A preconstruction survey for western pond turtles shall be conducted by a qualified biologist in the Trinity River part of the Project area. This survey shall be conducted within the construction boundary no more than two days prior to the start of construction activities. If western pond turtles are detected, the biologist shall relocate them to a suitable location outside of the construction boundary. If construction is to occur during the nesting season for western pond turtles (generally late June through July), a minimum of one survey for pond turtle nests shall be conducted by a qualified biologist at the proposed infiltration gallery site along the Trinity River. If a pond turtle nest is found, the biologist will flag the site and determine whether construction activities can avoid affecting the nest. If the nest cannot be avoided, the nest will be excavated by the biologist and reburied at a suitable location outside of the construction boundary.

In the event that a western pond turtle or nest is observed within the Project limits during construction activities, construction activities shall halt immediately and until a qualified biologist has moved the turtle or nest to a safe location within suitable habitat outside of the construction boundary. Any trapped, injured, or killed western pond turtles shall be reported immediately to CDFW.

- 24. The Applicant shall report any noncompliance with the certification to the Deputy Director within 24 hours of the time when the Applicant, its contractor, or subcontractors become aware of noncompliance with the certification.
- 25. The State Water Board reserves the authority to add to or modify the conditions of this water quality certification to incorporate changes in technology, sampling, or methodologies and/or load allocations developed in a total maximum daily load developed by the State Water Board or a Regional Water Board.
- 26. This certification requires compliance with all applicable requirements of the North Coast Basin Plan. If at any time an unauthorized discharge to surface waters (including river or streams) occurs or monitoring indicates that the Project has or could soon be in violation with water quality objectives, the associated Project activities shall cease immediately and the Deputy Director and the Executive Officer shall be notified. Associated activities shall not resume without approval from the Deputy Director.
- 27. The State Water Board reserves authority to modify this certification if monitoring results indicate that continued operation of the Project could violate water quality objectives or impair the beneficial uses.
- 28. This certification does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (ESA) (Fish & Game Code §§ 2050-2097) or the federal ESA (16 U.S.C. §§ 1531 1544). If a "take" will result from any act authorized under this certification or water rights held by the Applicant, the Applicant must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Applicant is responsible for meeting all requirements of the applicable ESAs for the Project authorized under this certification.
- 29. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation is 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 ensure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
- 30. In response to a suspected violation of any condition of this certification, the State Water Board or 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 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 (California Water Code sections 1051, 13165, 13267 and 13383). The State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

- 31. Nothing in this certification shall be construed as State Water Board approval of the validity of any water rights, including pre-1914 claims. The State Water Board has separate authority under the Water Code to investigate and take enforcement action if necessary to prevent any unauthorized or threatened unauthorized diversions of water.
- 32. Unless otherwise specified in this water quality certification or at the request of the State Water Board, data and/or reports must be submitted electronically in a format accepted by the State Water Board to facilitate the incorporation of this information into public reports and the State Water Board's water quality database systems in compliance with California Water Code section 13167.
- 33. The Applicant is responsible for compliance with all applicable federal, state, or local laws or ordinances and shall obtain authorization from applicable regulatory agencies prior to the commencement of construction activities.
- 34. A copy of this certification shall be provided to any contractor and all subcontractors conducting Project-related work, and copies shall remain in their possession at the Project site. The Applicant shall be responsible for work conducted by its contractor or subcontractors.
- 35. The Deputy Director and the Executive Officer shall be notified one week prior to the commencement of ground disturbing activities. Upon request, a construction schedule shall be provided to agency staff. The Applicant shall provide State Water Board and Regional Water Boards staffs access to the Project sites to document compliance with this certification.
- 36. Any requirement in this water quality certification that refers to an agency whose authorities and responsibilities are transferred to or subsumed by another state or federal agency, will apply equally to the successor agency.
- 37. The Applicant must submit any changes to the Project, including Project operation, which would have a significant or material effect on the findings, conclusions, or conditions of this certification, to the State Water Board for prior review and written approval. If the State Water Board is not notified of a significant change to the Project, it will be considered a violation of this certification.
- 38. The State Water Board shall provide notice and an opportunity to be heard in exercising its authority to add or to modify any of the conditions of this certification.
- 39. This certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).
- 40. This water quality certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent water quality certification application was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b) and that application

specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

41. Certification is conditioned upon total payment of any fee required under article 4, title 23 of the California Code of Regulations.

Thomas Howard

Executive Director

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Attachment: Figure 1 - Project Map

