STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for the

RESORT IMPROVEMENT DISTRICT #1
TELEGRAPH CREEK NEW WATER INTAKE

SOURCES: Telegraph Creek

COUNTY: Humboldt

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

BY THE EXECUTIVE DIRECTOR:

I. Project Description

Resort Improvement District #1 (Applicant or District), filed Water Right Application No. 23708 with the Division of Water Rights (Division) of the State Water Resources Control Board (State Water Board) on February 26, 1971, seeking to appropriate 0.775 cubic feet per second by direct diversion between January 1 and December 31 of each year, limited to 419 acre-feet per annum. The Division issued Permit No. 16407 on April, 21, 2007. The appropriated water is used for municipal purposes.

On February 7, 2011, the Applicant filed a Petition for Change of Point of Diversion with the Division. The Division issued an amended permit granting the change in the point of diversion on November 10, 2011.

The Telegraph Creek New Water Intake (Project) is located near Telegraph Creek, approximately 1.1 miles upstream of the Pacific Ocean. Water is directly diverted from Telegraph Creek and used within the community of Shelter Cove, all of which is located within Humboldt County.

The Applicant proposes to construct a new raw water intake system to serve the community of Shelter Cove. A site plan of the Project is provided in Attachment A. The proposed Project includes the following design and construction elements, as outlined in the Final Mitigated Negative Declaration (MND) adopted by the Applicant on March 28, 2011:

1. Water is proposed to be drawn through a side-channel concrete intake structure. An approximately 35-foot long, 1-foot high concrete weir with flashboards would span the stream bank to bank. The weir will be used to control the bypass flow and divert the water allowed under the District's existing water rights into the new intake structure. The diversion structure will be constructed at the dam, approximately 700 feet upstream of the existing intake.

    - All in-stream construction work will be performed during the dry season (low-flow period).

- Equipment will access the Project site from Telegraph Creek Road on an existing graded roadbed along the north bank of Telegraph Creek that terminates near the new intake location. Minor tree clearing may be required to allow construction access.

- Equipment will work from the south bank of the channel and may need to encroach onto dry portions of the channel adjacent to the left bank. During construction, stream crossings may be required. Equipment will include, but is not limited to, a backhoe or excavator to excavate for the diversion structure and piping.

- Portions of the channel will be dewatered, as needed, through the new intake area and channel reach. All necessary measures to relocate aquatic species will be implemented, consistent with the Project description provided by the District.

- Instream boulders at the Project site will be relocated, as needed.

- The instream channel bed will be excavated to construct the concrete wall to control the bypass flow and divert water to the new intake.

- A side channel will be excavated along the left bank of the stream to construct the concrete intake canal box.

- A Coanda (brand) screen system will be installed at the downstream end of the intake canal box. The screen is hydraulically self-cleaning without moving parts, so it will require minimal maintenance. It is capable of screening out small debris and aquatic organisms from the intake pipe.

- Stream banks will be armored with rock at both ends of the concrete weir.

2. Install up to two, 7,500-gallon cone bottom settling tank(s), east of the water treatment plant and on the east side of Telegraph Creek Road.

   - One 20-foot by 35-foot concrete slab will be constructed approximately 25 feet south of the top bank of Telegraph Creek to serve as a foundation for the settling tanks. The settling tank yard will be excavated using a backhoe or excavator in order to construct the slab and a retaining wall.

   - The settling tank(s) will be approximately 12 feet in diameter by 13 feet high. Seismic tie downs will be installed at the tank(s) in accordance with Seismic Zone 4 requirements, and to address high wind loads.

   - A compacted gravel drainage swale will be constructed within the settling tank yard to allow for drainage. Wattles will be placed within the drainage swale to catch sediment prior to water being discharged back to the stream within a rock lined channel.

   - An overflow bypass pipe will be constructed from the water storage settling tanks to Telegraph Creek in accordance with designs and specifications. An energy dissipater device will be constructed at the outlet of the overflow bypass pipe.

- A chain link fence with double locking gates will be constructed around the settling tank(s), and will include a graded gravel yard and an asphalt access way into the yard from Telegraph Creek Road.

3. Install up to six, 12,000-gallon polyethylene raw water storage tanks, south of the existing settling basin at the water treatment plant.

   - Remove the existing chain link fencing south of the basin, and construct a new chain link fence, along the property line approximately 10 to 15 feet south of the existing fence line, to accommodate the new tanks.

   - The new tanks will be approximately 13.5 feet in diameter and 16 feet high, connected by pipe.

   - The tank area will be excavated approximately 1 foot, compacted, and a concrete slab foundation will be constructed below the tanks.

   - Seismic tie downs will be installed at the tank(s) in accordance with Seismic Zone 4, and to resist high wind loads.

4. A gravity-fed piping system will be installed from the new upstream intake to the cone bottom settling tank(s), situated east of Telegraph Creek Road.

   - Pipe will be aligned above ground along the left bank (facing downstream) and anchored to the valley slope in accordance with designs and specifications.

   - Necessary air valves will be installed at periodic increments in accordance with design requirements.

   - Vegetation removal will be necessary for the construction and placement of the piping alignment.

5. A gravity-fed piping system will be constructed from the cone bottom-settling tank to the raw water storage tanks, situated south of the water treatment plant settling basin. A section of asphalt on Telegraph Creek Road will be trenched to allow for the subsurface crossing of piping and electrical. The Applicant will need to get permission from Humboldt County prior to conducting this work.

6. A gravity-fed piping system will be constructed from the raw water storage tanks to the existing water treatment plant supply pipe, situated near the existing pumping station at the dam. The raw water intake will connect to the existing system, where it will be treated and filtered, and pumped into the distribution system, ready for use.

7. An overhead lighting system will be installed at the settling tank(s), storage tanks, and pump station, for a total of two new lights. Power will be supplied from an existing power pole and/or from the water treatment plant.

II. Regulatory Authority

Water Quality Certifications

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 of the Clean Water Act, including water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Clean Water Act section 401 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 Executive Director may issue a decision on a water quality certification application (Cal. Code Regs., tit. 23, § 3838, subd. (a)).

The United States Army Corps of Engineers (ACOE) has determined Nationwide Permits 12 and 39, under section 404 of the Clean Water Act, are required for the Project.

Water Quality Control Plans

The California Regional Water Quality Control Boards (Regional Water Boards) have adopted, and the State Water Board has approved, 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 constitute State water quality standards.

The North Coast Regional Water Board adopted, and the State Water Board and the United States Environmental Protection Agency (USEPA) 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 Mattole River Hydrologic Area, which includes Telegraph Creek, as: municipal and domestic supply; agricultural supply; industrial supply; groundwater replenishment; freshwater replenishment; navigation; water contact recreation; non-contact recreation; commercial and sport fishing; cold freshwater habitat; wildlife freshwater habitat; rare, threatened or endangered species; migration of aquatic organisms; cold spawning; estuarine habitat; and aquaculture. Industrial process supply, power, and warm freshwater habitat are listed as potential uses.

III. Discussion

The District is the lead agency for the purpose of California Environmental Quality Act (CEQA) compliance, while the State Water Board is a responsible agency. The District issued a draft MND and a Proposed "Mitigation Measures, Monitoring, and Reporting Program" (Mitigation Program) for the Project on January 27, 2011. The District approved the final MND and Mitigation Program for the Project and filed a Notice of Determination (NOD) with the State Clearinghouse on March 28, 2011.

State Water Board staff reviewed and considered the environmental document as well as the plans and Project description provided by the Applicant in its application for water quality certification. Furthermore, State Water Board staff considered the North Coast Basin Plan, the existing water quality conditions and Project-related controllable factors.

The construction activities associated with this Project have the potential to increase suspended sediments and the discharge of foreign matter into Telegraph Creek. Consequently, these construction activities could negatively impact the beneficial uses and/or cause exceedences of water quality objectives of Telegraph Creek as set forth in the North Coast Basin Plan. This certification imposes measures to assure that these potential construction impacts do not violate water quality standards. Furthermore, dewatering of the stream and diversion of water has the potential to cause adverse effects upon aquatic resources and fishery habitat in violation of state water quality standards. This certification therefore contains conditions to prevent such a violation. In order to assure that the Project operates to meet water quality standards as anticipated, and to assure that the Project will continue to meet state water quality standards and other appropriate requirements of state law over its lifetime, this water quality certification imposes conditions regarding monitoring, enforcement, and potential future revisions. These include conditions to ensure that the changes incorporated into the Project through the CEQA process remain part of the Project. Monitoring and reporting are also required under CEQA, and the conditions required under the State Water Board's Mitigation, Monitoring, and Reporting Plan (Attachment B) are incorporated as conditions in the certification. Additionally, California Code of Regulations, title 23, section 3860 requires imposition of certain mandatory conditions for all water quality certifications, which are also included in the 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.

All proposed changes incorporated into the Project are required as a condition of approval to avoid significant effects to the environment. The State Water Board also adopts the Mitigation, Monitoring, and Reporting Plan (Attachment B) as part of this certification. The State Water Board will file an NOD within five days of issuance of this certification.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER RESOURCES CONTROL BOARD CERTIFIES THAT CONSTRUCTION AND OPERATION OF THE TELEGRAPH CREEK NEW WATER INTAKE BY THE RESORT IMPROVEMENT DISTRICT #1 will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, if the District complies with the following terms and conditions during the Project activities certified herein.

CONDITION 1. Any violation of conditions 5, 8, 9, 10, 12 or 14 of Water Right Permit No. 16407 (Water Right Application No. 23708) shall be a violation of this water quality certification. The District shall report violation of the bypass flows required in Condition 8 of Water Right Permit No. 16407 to the State Water Board within 48 hours. This report shall document all observed impacts, and include an analysis of how to avoid non-compliance in the future. Fisheries effects (e.g., a fish kill or fish observed in obvious distress) resulting from any deviations from prescribed flow will be reported immediately to the California Department of Fish and Game, the State Water Board and the North Coast Regional Water Board.

CONDITION 2. All management practices described in the application for water quality certification and supplemental information 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 measures described in the application for water quality certification and its supplements.

CONDITION 3. Control measures for erosion, excessive sedimentation and turbidity shall be implemented and be in place at commencement of, during and after any ground clearing activities, excavation, or any other Project activities that could result in erosion or sediment discharges to surface waters.

CONDITION 4. Construction material, debris, spoils, soil, silt, sand, bark, slash, sawdust, rubbish, steel, or other organic or earthen material from any construction activity shall be prevented from entering surface waters.

CONDITION 5. No unset cement, concrete, grout, damaged concrete, concrete spoils, or wash water used to clean concrete surfaces shall contact or enter surface waters.

CONDITION 6. All equipment must be washed prior to transport to the Project site and must be free of sediment, debris and foreign matter. All equipment using gas, oil, hydraulic fluid or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Stationary equipment (motors, pumps, generator, etc.) shall be positioned over appropriate types of containment. Spill and containment equipment (oil spill booms, sorbent pads, etc.) shall be maintained onsite at all locations where such equipment is used or staged.

CONDITION 7. All imported riprap, rocks and gravels used for construction shall be pre-washed.

CONDITION 8. Erosion control blankets, liners with berms and/or other erosion control measures shall be used for any stockpile of excavated material to control potential runoff.

CONDITION 9. Cleaning of concrete trucks or grout mixers shall be performed at a designated concrete washout area within the staging site. Washout water shall be held in temporary pit or bermed area of sufficient volume to completely contain all liquid and waste concrete or grout generated during washout procedures. Hardened concrete or grout shall be disposed at an authorized landfill.

CONDITION 10. 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 all the Project sites for disposal at an authorized landfill or other disposal site.

CONDITION 11. A copy of this certification shall be provided to the contractor and all subcontractors conducting the 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.

CONDITION 12. The State Water Board and the North Coast Regional Water Board shall be notified one week prior to the commencement of ground disturbing activities, and upon request, a construction schedule shall be provided to agency staff in order for staff to be present onsite, to answer any public inquiries during construction, and to document compliance with this certification.

CONDITION 13. If at any time an unauthorized discharge to surface waters (including rivers 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 for Water Rights and the Executive Officer for the North Coast Regional Water Board shall be notified within 24 hours. Associated activities may not resume without approval from the Deputy Director for Water Rights.

CONDITION 14. 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.

CONDITION 15. The State Water Board's approval authority includes the authority to withhold approval or to require modification of a proposal or plan prior to approval. The State Water Board may take enforcement action if the Applicant fails to provide or implement a required plan in a timely manner.

CONDITION 16. The State Water Board reserves the authority to modify the conditions of this water quality certification to incorporate load allocations developed in a Total Maximum Daily Load developed by the State Water Board or a Regional Water Board.

CONDITION 17. The State 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 or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.

CONDITION 18. This certification is subject to modification upon administrative or judicial review, including review and amendment pursuant to California Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with § 3867).

CONDITION 19. The State Water Board reserves authority to modify this certification if monitoring results indicate that construction and/or continued operation of the Project could violate water quality objectives or impair the beneficial uses of Telegraph Creek.

CONDITION 20. This certification is contingent on ongoing compliance with all applicable requirements of the North Coast Basin Plan.

CONDITION 21. Notwithstanding any more specific conditions in this certification, the Project shall be operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act. The Applicant must take all reasonable measures to protect the beneficial uses of waters of Telegraph Creek.

CONDITION 22. 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.

CONDITION 23. 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 assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

CONDITION 24. 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.

CONDITION 25. No construction shall commence until all necessary federal, state and local approvals have been obtained.

CONDITION 26. 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.

CONDITION 27. The State Water Board may provide notice and an opportunity for hearing in exercising its authority to add or modify any of the conditions of this certification.

CONDITION 28. In addition to complying with the conditions in this certification, the Applicant must comply with mitigation measures identified in the Applicant's and State Water Board's Mitigation, Monitoring, and Reporting Plan.

CONDITION 29. This certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).

CONDITION 30. 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 certification application was filed pursuant to Subsection 3855(b) of article 4, title 23 of the California Code of Regulations and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

CONDITION 31. Certification is conditioned upon total payment of any fee required under article 4, title 23 of the California Code of Regulations and owed by the Applicant.

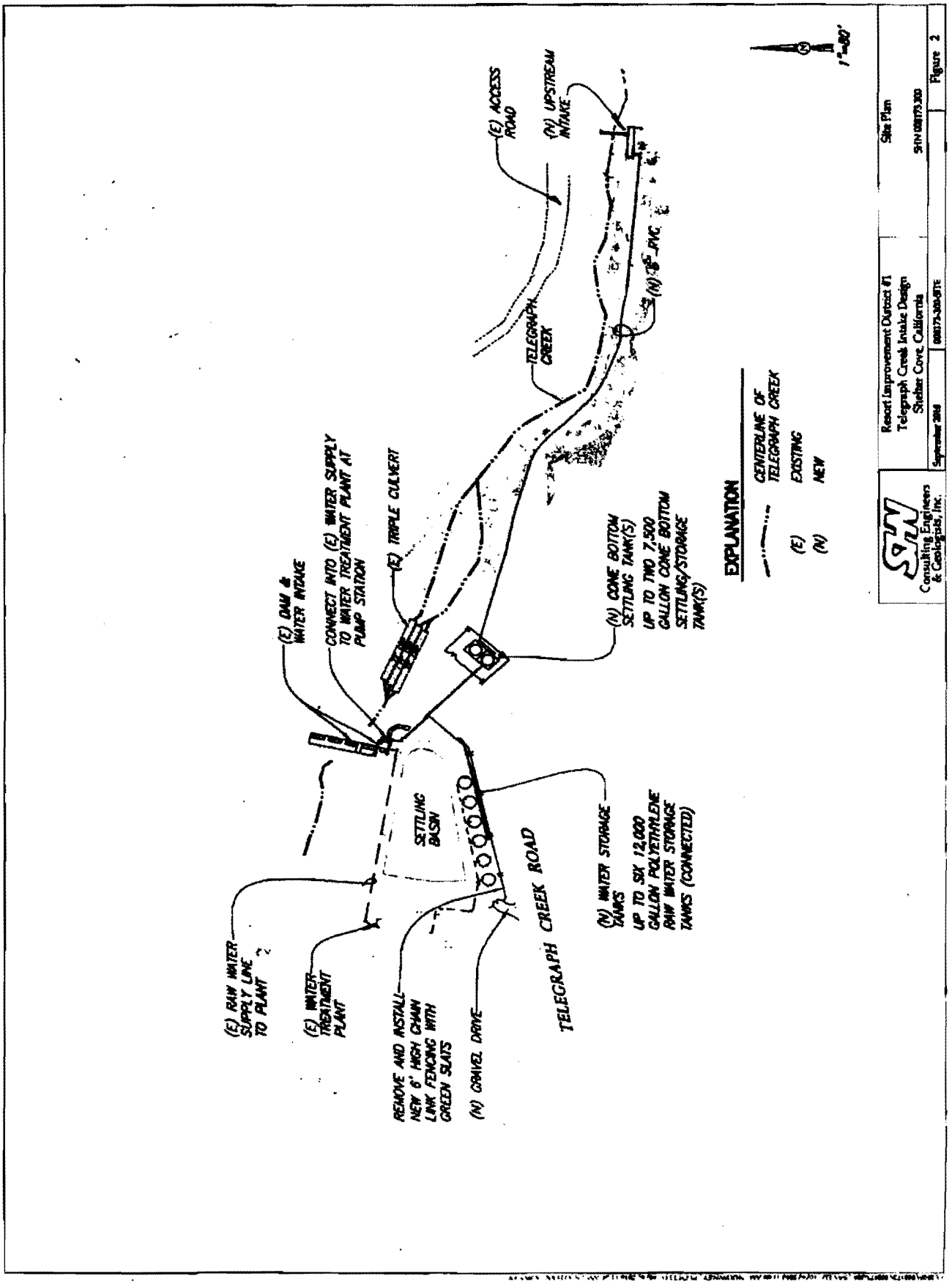
Thomas Howard

Thomas Howard
Executive Director

4/17/2012
Date

Attachment A: Project Site Plan
Attachment B: Mitigation, Monitoring, and Reporting Plan

Attachment A: Project Site Plan



ATTACHMENT B

Mitigation, Monitoring, and Reporting Plan (MMRP)

Mitigation Measure No. 1. To avoid impacts to amphibians and fisheries species, an Erosion and Sediment Control Plan (ESCP) shall be prepared and included in the Telegraph Creek New Water Intake (Project) design plans and specifications and provided to all contractors and subcontractors. This plan will describe the measures to be used during and post-construction to protect Telegraph Creek from water quality degradation due to sediment inputs or other water pollutants. These measures will make use of appropriate management practices.

Fisheries effects minimization measures, including sediment control, on-site accessibility to a spill contaminant kit and requirements for equipment sanitation, shall be implemented as stated in the biological assessment (BA) (Berg, 2010).

The ESCP will include implementation of Conditions 2 through 13 of the water quality certification. The ESCP will specify the handling and disposal of petroleum and other hazardous materials during construction. This will include development of a spill response plan and the prohibition of fueling within the riparian areas.

Timing for Implementation/Compliance: Prior to site preparation and throughout grading and construction activities.

Monitoring and Reporting: Observations of compliance with this measure will take place on an ongoing basis during any earth moving activities over the life of the Project. Monitoring will be performed by Resort Improvement District #1 (Applicant or District) personnel and any contractor performing or supervising earth-moving activities. The District shall immediately report any observation of sediment loading to surface water or any discharge of hazardous material to the State Water Resources Control Board (State Water Board), the North Coast Regional Water Quality Control Board and Humboldt County.

Fisheries effects (i.e., a fish kill or fish observed in obvious distress) will be reported immediately to the California Department of Fish and Game (CDFG), the State Water Board and the North Coast Regional Water Quality Control Board.

Mitigation Measure No. 2. Prior to any channel dewatering or fish relocation during construction, minimization measures shall be implemented as stated in the BA (Berg, 2010). These measures apply to equipment crossings during dewatering activities.

Timing for Implementation/Compliance: Prior to channel dewatering and throughout grading and construction activities.

Monitoring and Reporting: The District will monitor compliance with the minimization measures outlined in the BA (Berg, 2010), reporting any deviation or non-compliance to the State Water Board within 48 hours. The report shall document all observed impacts, and include an analysis of how to avoid non-compliance in the future.

Fisheries effects (i.e., a fish kill or fish observed in obvious distress) will be reported immediately to the CDFG, the State Water Board and the North Coast Regional Water Quality Control Board.

References: Alice Berg and Associates. (2010). *Biological Assessment for the Telegraph Creek New Water Intake, Shelter Cove, CA*. Ferndale: ABA.