

**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2010-0062**

AUTHORIZE FUNDING FROM THE CLEAN WATER STATE REVOLVING FUND (CWSRF)  
TO THE YUOK TRIBE (TRIBE) SUSTAINABLE FORESTRY AND  
PROTECTION OF THE WEITCHPEC, KE'PEL, AND PECWAN CREEK TRIBUTARIES TO  
THE KLAMATH RIVER PROJECT (PROJECT)

WHEREAS:

1. On March 9, 2009, Western Rivers Conservancy submitted an application to the Clean Water State Revolving Fund (CWSRF) Program on behalf of the Yurok Tribe (Tribe) for the acquisition of approximately 22,237 acres of forest land in the Klamath River watershed;
2. Over the last year and a half, Division of Financial Assistance (Division) staff has worked extensively with the Tribe, reviewing Project components, evaluating various sources of repayment, reviewing complex legal issues, and participating in meetings to discuss roles and responsibilities of various agencies in implementing management measures on the acquired land;
3. The Tribe proposes to manage the acquired forest land in a sustainable manner, including no pesticide application, increased stream buffering, longer timber harvest rotations, no clear cutting, road decommissioning, and the setting aside of carbon reserves;
4. The Tribe has long sought the return of ancestral land to create a salmon sanctuary and restore tribal cultural practices, including subsistence fishing, hunting and gathering;
5. The Project is consistent with the State Water Resources Control Board's (State Water Board) "Plan for California's Nonpoint Source Pollution Control Program" and is therefore eligible for CWSRF financing under Section 319 of the federal Clean Water Act;
6. The Project is consistent with the evolving lower Klamath River Total Maximum Daily Loads (TMDLs), and would provide multiple benefits to water quality and salmon habitat;
7. The Tribe adopted Resolution No. 10-01 dedicating timber harvest revenues and carbon credits for repayment of the CWSRF financing agreement;
8. A credit review was completed on November 4, 2010, recommending a maximum CWSRF financing amount of \$18,750,000 for the project, assuming a 25-year term at a zero percent interest rate;
9. The Division issued a Project Approval letter for the Tribe's Project and the Tribe agreed with the Project Approval letter; and
10. The State Water Board finds that the Project will not result in any significant adverse water quality impacts. The State Water Board shall file a Notice of Exemption with the State Clearinghouse following the Board funding approval of the Project.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves a CWSRF Preliminary Funding Commitment (PFC) to the Yurok Tribe in the amount of \$18,750,000 at an interest rate of zero percent, and an extended term of 25 years;
2. Authorizes the Deputy Director of the Division to execute the financing agreement and any amendments to implement the Project;
3. Conditions this approval by withdrawing the CWSRF PFC if the Tribe does not sign the financing agreement within 120 days of the issuance of the State Water Board approval, and allow Division staff the discretion to approve up to a 120-day extension of the PFC expiration date(s) for good cause;
4. Conditions this approval, as determined by the Tribe's credit review, with the following:
  - a) The Tribe will establish a Reserve Fund equal to two year's debt service prior to the close of escrow date,
  - b) The Tribe will provide a contract signed by the purchasing company, for the purchase of CCAR carbon reserves to the CWSRF on the close of escrow date. Funds cannot be disbursed until the cash from the sale of carbon credits is deposited into a restricted reserve fund or the Tribe must dedicate an additional \$1,500,000 to be deposited into a restricted reserve fund until the cash from the sale of carbon credits is received by the Tribe and proof of receipt is provided to the Deputy Director of the Division of Financial Assistance.
  - c) The financing agreement shall be limited to the maximum amount of \$18,750,000, unless new information supporting the credit review changes and a supplemental credit review is performed, and
  - d) Prior to execution of the financing agreement, an updated property appraisal completed by a Certified Forestry Appraiser must be finalized, submitted to and approved by State Water Board staff;
5. Requires the Tribe to record a first lien on the Properties, and their fixtures, harvests and revenues, in favor of the State Water Board, and record title documents with the Humboldt County Recorder and the Tribal Office, and submit proof of attempt to record with, and response from, the Bureau of Indian Affairs (BIA);
6. No later than two years after the acquisition of the Properties, requires the Tribe to develop a Forest Management Plan, which includes implementation measures to correct and prevent deterioration of the watershed due to past, current, and proposed timber harvest practices;
7. Requires the Tribe to waive sovereign immunity from suit for the limited purposes of specific performance of the CWSRF financing agreement, including, but not limited to, loan repayment and implementation of the state's nonpoint source strategies, and implementation of the Cooperative Agreement. Before the financing agreement is executed, requires the Tribe to provide a resolution from its Tribal Council waiving sovereign immunity for these purposes;

8. Prior to entering into a financing agreement, requires the Tribe to produce a Cooperative Agreement signed by the Tribe, the North Coast Regional Water Board, the State Water Board, Cal Fire, and the BIA; and authorizes the Executive Director to execute such Cooperative Agreement; and
9. Prior to entering into a financing agreement, requires the Tribe to provide a legal opinion with regard to the Tribe's property rights in the Project properties, discussing such rights and certifying that such rights will enable the Tribe to access, implement, operate, maintain, and allow for outside inspections of the Project throughout the useful life of the Project or the financing term, whichever is longer.

### CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the forgoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on December 14, 2010.

AYE:            Chairman Charles R. Hoppin  
                    Vice Chair Frances Spivy-Weber  
                    Board Member Arthur G. Baggett, Jr.  
                    Board Member Tam M. Doduc  
                    Board Member Dwight P. Russell

NAY:            None

ABSENT:        None

ABSTAIN:       None

  
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Jeanine Townsend  
Clerk to the Board