

DWA/RSK/BMD/JB5/AJT/jlj

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**DIVISION OF WATER AND AUDITS**  
Water and Sewer Advisory Branch

**RESOLUTION W-4920**  
June 7, 2012

**R E S O L U T I O N**

**(RES. W-4920), LEWISTON VALLEY WATER COMPANY, INC.  
(LVWC). ORDER AUTHORIZING TRANSFER OF ALL ASSETS OF  
LVWC FROM CHRIS ERIKSON TO LEWISTON COMMUNITY  
SERVICES DISTRICT (District).**

---

**SUMMARY**

By Advice Letter Nos. 10 and 8-S, filed on April 9, 2012, Lewiston Valley Water Company, Inc. (LVWC)<sup>1</sup> and Lewiston Community Services District (District) request Commission authorization pursuant to Public Utilities Code § 851 (PU Code) to transfer Lewiston Water and Lewiston Sewer from Chris Erikson, the current owner, to the District. These advice letters were filed as Tier 3 filings in compliance with General Order 96-B (GO 96-B), Water Industry Rule 7.3.3 (9) for sale to a special district, and Resolution ALJ-272.

Pursuant to PU Code §§ 851-854, we find that the sale of Lewiston Water and Lewiston Sewer to the District to be in the public interest and is approved.

**BACKGROUND**

*Lewiston Valley Water System*

LVWC was incorporated in 1990 to take over the water and sewer operations in the central areas of Lewiston. The systems were originally installed by Guy F. Atkinson, general contractor for the building of Trinity Dam and Lewiston Dam (1957-1961). At the end of the construction, there were 24 homes still being served by the water and sewer systems. The homes were sold as a single property and the water and sewer

---

<sup>1</sup> Lewiston Valley Water Company, Inc. (LVWC) is comprised of both water and sewer utilities.

systems were conveyed with the homes to the Lewiston Trading Company. The Lewiston Trading Company was granted a certificate of public convenience and necessity through Decision No. (D.) 85492, dated March 2, 1980. The Skinners, doing business as the Lewiston Trading Company, subdivided the homes into individual lots and sold a group of 12 homes and the water and sewer systems to a limited partnership which operated the systems as the Lewiston Water Works and the Lewiston Sewer System. This limited partnership was comprised of three individuals who sold off six homes and then transferred the homes and the water and sewer systems to Patrick Whitfield and his brother Gerard Whitfield (Whitfield Brothers) without the approval of the Commission. The brothers were non-residents of the area and had no interest in the systems other than to enable them to sell off or rent out three houses each.

LVWC was formed to take over the operations of the water and sewer systems so that the services could be extended to adjacent properties owned by the ten investors in the corporation. By D.93-10-066, dated October 20, 1993, the Commission approved the transfer of the water and sewer systems from both the limited partnership and the Whitfield Brothers to LVWC.

LVWC requests approval to sell to the District and provide \$20,000 in operating capital for the utility operations. This includes \$10,442 in unspent facilities fees collected by LVWC for new services and corporate retained earnings. LVWC has no other deposits from ratepayers. To ensure the District's success in this transition, LVWC's Secretary/Treasurer and manager, Chris Erikson, will continue to work for and manage the water system for the District for up to one year following the transfer. Erikson is licensed as a Water Treatment Operator 2, Water Distribution Operator 1, and Wastewater Treatment Operator 1. The current owner of LVWC will receive a deferred compensation of the right to connect 50 water and 50 sewer services in the future at a reduced facility fee of \$200 for a water connection and \$100 for a sewer connection. The present Facilities Fees approved by the Commission are \$2,000 for a water connection and \$1,000 for a sewer connection. The District is planning a moratorium on new connections until the water and sewer systems are brought up to standards approved by the California Department of Public Health (DPH) and the North Coast Regional Water Quality Control Board (RWQCB).

LVWC utilizes direct filtration for its water and has experienced five turbidity failures where turbidity was above the 0.5 Nephelometer Turbidity Unit (NTU). The water provided by LVWC is contaminated with arsenic. In all monthly tests for arsenic, the levels were above the 10 parts per billion (ppb) allowed as a Maximum Contaminant Level (MCL). The source of supply is the Trinity River, immediately downstream of Deadwood Creek. Deadwood Creek has been identified as the source of the arsenic contamination. Deadwood Creek flows into the Trinity River immediately upstream of the intake for the water system. The water intake facility is located on land owned by

the District, acquired by a Federal Government grant, for recreational purposes. The Federal Government has indicated that they will allow a new diversion point to be used for an intake if the District owns the facilities. LVWC has been approved for Proposition 84 funding of a new intake facility. DPH has agreed to allow the facility to be transferred to the District so that the construction grant can be used to build the new intake facility.

*Lewiston Valley Sewer System*

LVWC's sewer ponds were designed for temporary use during the dam construction in the 1957-1961 timeframe. They are percolation/evaporation ponds that have been cited by the RWQCB for leaking into Dack Creek, a tributary of the Trinity River.

There are two classifications sewer service as follows:

- 1) Flat Rate Effluent Removal Service applicable to all sewer service customers discharging only septic tank effluent into the sewer systems.
- 2) Flat Rate Sewer Service applicable to general sewer service.

The present manager, Mr. Erikson, will undertake the task of securing grant funds to upgrade the system to RWQCB standards.

LVWC's only part-time employee, Ms. Lorraine Dusi, provides daily checks on all sewer sub-systems and handles the billing. Ms. Dusi has a Water Treatment 1 license. She has agreed to continue her work on the sewer system after its transfer to the District. Mr. Erikson will continue to manage the sewer system for the first year while searching for his replacement.

*Lewiston Community Services District*

The District is an elected body of five individual Directors who serve the small community of Lewiston in a manner similar to the duties of a City Council. The District Directors are elected to oversee governmental issues related to the community and, specifically, to operation of the district, and other duties as prescribed pursuant to Government Code 61001-61009. The District has established powers described within Government Code 61100 for responsibilities of Parks and Recreation, Street Lighting, Operate Community Facilities, and Fire Protection.

The District applied to the Trinity County Local Agency Formation Commission (LAFCO) by Resolution dated December 1, 2010, for permission to add water and sewer powers to its prescribed duties. The District received authorization by LAFCO Resolution No. LAFCO 11-01 dated March 22, 2011. The adopted service area contains

all of LVWC's existing facilities and lies wholly within the adopted Sphere of Influence, as defined by LAFCO, of the District.

The approximate population of Lewiston is 1,000 people and lies wholly within the boundaries of the District. The population of the service area for LVWC water and sewer service is approximately 150 people. The population of Lewiston is generally low or very low income.

On April 26, 2012, DPH sent a letter to the Commission supporting the transfer of LVWC to the District indicating that the District has the technical, managerial, and financial capability to own and operate LVWC. A copy of the letter is appended in Appendix A of this resolution.

RWQCB neither supports nor opposes the transfer and will review a permit application from the District upon consummation of the sale.

#### *Purchase and Sale Agreement*

The Agreement attached to AL Nos. 10 and 8-S details the terms and conditions for the purchase and sale of LVWC. The District is proposing to acquire the entirety of LVWC. A list of the assets is shown in the "Description of Assets Being Sold" and is included in AL Nos. 10 and 8-S.

### **NOTICE AND PROTESTS**

In compliance with General Order 96-B, Section 4.3, copies of AL 10 and 8-S were served on the service list for LVWC. Pursuant to GO 96-B, Section 4.2, a Notice of AL Nos. 10 and 8-S describing the proposed sale of LVWC to the District was distributed as a Notice to Ratepayers with the billing invoices on March 30, 2012. The Division of Water and Audits (DWA) received no protests or comments to AL Nos. 10 and 8-S.

### **DISCUSSION**

Pursuant to PU Code §§ 851-854 and Resolution ALJ-272, this resolution grants authority to LVWC to sell and the District to buy LVWC in Trinity County. These advice letters were filed as Tier 3 filings in compliance with GO 96-B, Water Industry Rule 7.3.3 (9) for sale to a special district.

Proposed utility ownership changes are reviewed under PU Code §§ 851-854. PU Code §§ 851-854 prohibit the sale or transfer of control of a public utility without the advance approval of this Commission. This approval may be obtained through an advice letter

process. That process was established in Resolution ALJ-186 and extended and modified by Resolutions ALJ-202, ALJ-244, and ALJ-272.

The Commission requires a test of ratepayer indifference when evaluating the sale of a public utility, and also requires the buyer to demonstrate that the buyer's acquisition of the public utility yields a tangible benefit to the ratepayer. Using the ratepayer indifference test to assess the sale of LVWC, we will evaluate three key metrics: (1) service quality; (2) continuity of service; and (3) the impact of the purchase price on ratebase.

We also assess whether the transaction requires compliance with California Environmental Quality Act (CEQA), and whether any required approvals of other agencies are received, when assessing whether a sale of water utility should be authorized.

#### Service Quality

The District officially took over operations on May 1, 2012. However, additional DPH funding is contingent upon Commission approval of the transfer. Conditions of service quality will improve under the jurisdiction of the District as the existing water system's drinking water infrastructure has surpassed its useful life and is in need of repair and replacement.

By transferring from private to public ownership, the water system will be eligible for many more grant funding opportunities. The water system is currently slated to receive approximately \$1.4 million in DPH grant funding to move their intake and replace their raw water pipeline.

#### Continuity of Service

The District meets all mandatory technical, managerial, and financial requirements to operate both the water and sewer systems. Additionally, the certified operator, Mr. Erikson, who had operated the water and sewer systems under LVWC's ownership, will stay on to operate the system under the District's ownership for a minimum of one year.

Finally, DPH has been working closely with the District Board members regarding the water system transfer and believes these individuals are dedicated to the betterment of their community.

Reasonability of Purchase Price

Transfer Price and Compensation

- The transfer price being paid by the District to LVWC for the assets is set at \$35,000 based on the allocated land value of \$10,000, an allocated water right value of \$20,000, and an allocated value of \$5,000 for other assets to be transferred.
- The District will also compensate the current owner of LVWC for the assets to be transferred by providing LVWC the right to connect “50 single-family equivalents” to the District’s water and sewer systems in the future.
- The current owner of LVWC would pay the District \$200 per water connection and \$100 per sewer connection to formally reserve the capacity required to provide the subject water and sewer services.

Additional details of the transfer and price compensation are included in the “Agreement for the Transfer of Assets and Operations” included in AL Nos. 10 and 8-S.

Based on the above, we find the transfer price and compensation reasonable. This transaction will not materially impact the rates of the utility. We further find that the value of the transaction is less than \$5 million and thus is eligible for the advice letter process under PU Code §851.

CEQA Review

CEQA review is not required by the proposed sale. CEQA applies to a “project” or action “which has a potential for resulting in either a direct physical change in the environment, or a reasonable foreseeable indirect physical change ...[and involves] the issuance to a person of a lease, permit, license, certificate, or entitlement for use by one or more public agencies.”<sup>2</sup> Pursuant to our review we have determined that CEQA does not apply as these advice letter filings involve only a transfer of ownership of the existing water and sewer facilities and no new construction or changes in the source of water supply are being proposed.

---

<sup>2</sup> CEQA Guidelines, CALIFORNIA CODE OF REGULATIONS TITLE 14, § 15378(a) (2003).

There is no evidence of any other changes in the operation of LVWC. Accordingly, approval of these advice letters is not a CEQA project and there is no possibility that the transaction may have any significant effect on the environment. Based on the advice letters, there is no evidence of any potential change to the environment as a result of our approval of this resolution.<sup>3</sup> As a result, the approval of AL Nos. 10 and 8-S are exempt from CEQA.

### Permits

The District filed for a Domestic Water Supply Permit Amendment from the California Department of Public Health (DPH) dated May 14, 2012 and DPH issued a permit on June 1, 2012. Therefore, this resolution approves the LVWC's water system unconditionally.

However, the wastewater system transfer is pending approval from the North Coast Regional Water Quality Control Board (RWQCB). On May 14, 2012, LVWC's sewer system applied for a permit due to changes in ownership and operations. This permit application is currently under review and the transfer shall be conditional upon approval of this permit.

### Conclusion

Based on the above criteria, we find that the District can assume the ownership without incurring financial difficulties and that it has plans to effectively control costs. Based on the agreement discussed above, the customers of LVWC will be well-served by the change to the District's ownership. Pursuant to PU Code § 851-854 and Resolution ALJ-272 we find that the sale of Lewiston Water and Lewiston Sewer to the District to be in the public interest and does not warrant a more comprehensive review that would be provided through a formal PU Code §851 application. This sale is approved.

### **COMMENTS**

This is an uncontested matter that grants the relief requested. Pursuant to Public Utilities Code § 311(g) (2), this Resolution was not circulated for public comment.

---

<sup>3</sup> CEQA Guidelines, CALIFORNIA CODE OF REGULATIONS TITLE 14, § 15061(b)(3) "A project is exempt from CEQA if ... it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment ...").

## **FINDINGS AND CONCLUSIONS**

1. By Advice Letter Nos. 10 and 8-S, filed on April 9, 2012, Lewiston Valley Water Company, Inc.<sup>4</sup> and Lewiston Community Services District request Commission authorization pursuant to Public Utilities Code § 851 to transfer Lewiston Water and Lewiston Sewer from Chris Erikson, the current owner, to the District.
2. These advice letters were filed as a Tier 3 in compliance with General Order 96-B, Water Industry Rule 7.3.3 (9) for sale to a special district, and Resolution ALJ-272.
3. Lewiston Valley Water Company, Inc. was incorporated in 1990 to take over the water and sewer operations in the central areas of Lewiston.
4. Lewiston Valley Water Company, Inc. requests approval to sell to the Lewiston Community Service District and provide \$20,000 in operating capital for the utility operations.
5. To ensure the Lewiston Community Services District's success in this transition, Lewiston Valley Water Company, Inc.'s Secretary/Treasurer and manager, Chris Erikson will continue to work for and manage the systems for the District for up to one year following the transfer.
6. On April 26, 2012, California Department of Public Health sent a letter to the Commission supporting the transfer of Lewiston Valley Water Company, Inc. to the Lewiston Community Services District indicating that the Lewiston Community Services District has the technical, managerial, and financial capability to own and operate Lewiston Valley Water Company, Inc. A copy of the letter is appended in Appendix A of this resolution.
7. The North Coast Regional Quality Control Board neither supports nor opposes the transfer and will review a permit application upon consummation of the sale.
8. The sale of Lewiston Valley Water Company, Inc. is evaluated based on three key metrics: (1) service quality; (2) continuity of service; and (3) the impact of the purchase price on ratebase.

---

<sup>4</sup> Lewiston Valley Water Company, Inc. (LVWC) is comprised of both water and sewer utilities.

9. Conditions of service quality will improve under the jurisdiction of the Lewiston Community Services District as the existing water system's drinking water infrastructure has surpassed its useful life and is need of repair and replacement. By transferring from private to public ownership, the water system will be eligible for many more grant funding opportunities.
10. The Lewiston Community Services District meets all mandatory technical, managerial, and financial requirements for continued operation of both the water and sewer systems. Additionally, the certified operator, Mr. Erikson, who had operated the water and sewer systems under Lewiston Valley Water Company, Inc.'s ownership, will stay on to operate the system under Lewiston Community Services District's ownership for a minimum of one year in order to provide continuity of service.
11. The Agreement attached to AL Nos. 10 and 8-S details the terms and conditions for the purchase and sale of Lewiston Valley Water Company, Inc.
12. The transfer price being paid by the Lewiston Community Services District to Lewiston Valley Water Company, Inc. for the assets is set at \$35,000 based on the allocated land value of \$10,000, an allocated water right value of \$20,000, and an allocated value of \$5,000 for other assets to be transferred.
13. The value of the transaction is less than \$5 million.
14. The District will compensate the current owner of Lewiston Valley Water Company, Inc. for the assets to be transferred by providing the current owner of Lewiston Valley Water Company, Inc. the right to connect "50 single-family equivalents" to the Lewiston Community Services District's water and sewer systems in the future.
15. The current owner of Lewiston Valley Water Company, Inc. may pay the Lewiston Community Services District \$200 per water connection and \$100 per sewer connection to formally reserve the capacity required to provide the subject water and sewer service.
16. We find the transfer price and compensation are reasonable.
17. This transaction will not materially impact the ratebase of the utility.
18. The transaction does not warrant a more comprehensive review that would be provided through a formal PU Code Section 851 application.

19. The California Environmental Quality Act does not apply as this application involves only a transfer of ownership of the existing water and sewer facilities and no new construction or changes in the source of water supply are being proposed. There is no evidence of any other changes in the operation of Lewiston Valley Water Company, Inc. Accordingly, there is no project under CEQA and there is no possibility that the transaction may have any significant effect on the environment.
20. The approval of Advice Letters Nos. 10 and 8-S are exempt from California Environmental Quality Act.
21. The District has filed for a Domestic Water Supply Permit Amendment from the California Department of Public Health (DPH) dated May 14, 2012 and DPH issued a permit on June 1, 2012.
22. This resolution approves the sale of LVWC's water system unconditionally.
23. The sewer system transfer is pending approval from the North Coast Regional Water Quality Control Board (RWQCB).
24. On May 14, 2012, LVWC's sewer system applied for a permit due to changes in ownership and operations. This permit application is currently under review and the transfer shall be conditional upon approval of this permit.
25. Pursuant to Public Utilities Code § 851-854, it is recommended that the sale of Lewiston Water and Lewiston Sewer to the Lewiston Community Services District to be in the public interest and is approved.

**THEREFORE IT IS ORDERED THAT:**

1. Advice Letter 10 of Lewiston Valley Water Company, Inc. to sell and Lewiston Community Services District to buy the water system is granted.
2. Advice Letter 8-S of Lewiston Valley Water Company, Inc. to sell and Lewiston Community Services District to buy the sewer system is granted, conditioned upon the District receiving a permit from the Regional Water Quality Control Board to operate Lewiston's wastewater system.
3. After the sale of Lewiston Valley Water Company, Inc. to the Lewiston Community Services District, it is no longer required to provide regulated water and sewer service to customers of Lewiston.



APPENDIX A



RON CHAPMAN, MD, MPH  
Director

State of California—Health and Human Services Agency  
Department of Public Health



EDMUND G. BROWN JR.  
Governor

April 25, 2012

California Public Utilities Commission  
Division of Water and Aesthetics, 3<sup>rd</sup> Floor  
505 Van Ness Ave  
San Francisco, CA 94102

RE: Transfer of Public Water System No. 5301002 from Lewiston Valley Water Company to Lewiston Community Services District, Trinity County

Dear Mr. Thaler:

Lewiston Community Services District (CSD) recently took over ownership and operation of Public Water System No. 5301002, the water system formerly owned by the Lewiston Valley Water Company (LVWC).

The water system's drinking water infrastructure has surpassed its useful life and is in need of repair and/or replacement. By transferring from private to public ownership, the water system will be eligible for many more grant funding opportunities. The water system is already slated to receive nearly \$1.4 million in CDPH grant funding to move their intake and replace their raw water pipeline. They are also actively applying for funding to upgrade their filter plant, and replace their failing water storage tank with a new and larger tank.

Lewiston CSD meets all mandatory technical, managerial, and financial requirements. CDPH is in receipt of their formation documents, the Trinity County Local Agency Formation Commission resolution expanding their water and sewer powers, three years of audited financials, and documentation of the water system transfer (including signed transfer contract, recorded grant deed, recorded quitclaim for easements, water rights transfer). Additionally, the certified operator who had operated the water system under Lewiston Valley's ownership will stay on to operate the system under Lewiston CSD's ownership.

Lastly, CDPH has been working closely with three of the Lewiston CSD Board members, Mr. David Covington, Mr. Robert Mordecai, and Mr. Mel Dearjorff, regarding this water system transfer. They are all very conscientious and capable individuals dedicated to the betterment of their community. Our office looks forward to working with the Lewiston CSD Board to make the much needed improvements to this small drinking water system.

CDPH fully supports the transfer of Public Water System No. 5301002 to Lewiston CSD. If you have any questions, feel free to contact me at [mey.bunle@cdph.ca.gov](mailto:mey.bunle@cdph.ca.gov) or (530) 224-3265.

Mey Bunle, P.E.  
Staff Engineer  
DRINKING WATER FIELD  
OPERATIONS BRANCH