

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

**MEETING OF JULY 13 AND 14, 2005
BISHOP, CALIFORNIA**

ITEM: 16

SUBJECT: **WATER QUALITY CERTIFICATION, WASTE DISCHARGE REQUIREMENTS, AND NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER, LOWER OWENS RIVER PROJECT, INYO COUNTY**

CHRONOLOGY: This is a new item before the Regional Board.

ISSUES: Should the Regional Board grant an exception to waste discharge prohibitions for the Lower Owens River Project (LORP) and, if so, what are appropriate conditions?

DISCUSSION: The Los Angeles Department of Water and Power (LADWP) is seeking to reintroduce, on a permanent basis, a portion of flow to approximately 62 miles of the Lower Owens River for habitat restoration. This portion of the river has been largely deprived of flow since diversions began following the 1913 completion of the Los Angeles Aqueduct. Flow reintroduction will be preceded by significant in-channel construction and grading activities; but adding flow, rather than mechanical earth moving, will be the primary method for effecting river restoration.

The reintroduced flows are anticipated to result in significant adverse unavoidable effects on water quality. This is due to earthen and organic materials that will be mobilized by the reintroduced flows following grading and construction activities. The lower portions of the river (approximately 30 miles) flow perennially, from a combination of alluvial groundwater and releases from the Los Angeles Aqueduct for the purpose of sustaining habitat. As a result, more than 100,000 cubic yards of organic soils (often described as "muck") are accumulated in the lower reaches. These materials have potential to exert significant effects on ammonia and dissolved oxygen levels, and create conditions toxic to fish and other aquatic organisms, or that could otherwise impair the water for beneficial uses. It is impractical, and may be economically infeasible, to remove these sediments to avoid or prevent significant adverse water quality effects.

The Basin Plan contains prohibitions against discharges of waste that could violate water quality objectives or impair beneficial uses, and sets forth exemption criteria for "restoration projects." The proposed Order (Enclosure 1) includes a 10-year exemption to the prohibitions for the Lower Owens River, conditioned in part on compliance with a mitigation measure required in the proposed Order to ensure compliance with the California Environmental Quality Act. The mitigation measure involves

a short-term, high-flow release of water from the Los Angeles Aqueduct Alabama Spillgate (the “Alabama Release,” see Order Attachment H). This is needed to partially flush the sediments and organic materials from the lower river during the initial phases of flow reintroduction, and thereby shorten the severity and duration of potential water quality effects. Even with this added mitigation measure, it is unlikely that all water quality objectives will be met; therefore, because the conditions may persist for an unpredictable period of time, a short-term exemption is recommended for the Lower Owens River.

The Order sets forth the basis for granting an exemption for the LORP, and requires implementation of the above-described mitigation measure to ensure “all applicable Best Management Practices and mitigation measures have been incorporated into the project to minimize . . . potential adverse environmental impacts . . .” If the LADWP fails to implement the required mitigation measure, the exemption granted in the proposed Order is automatically rescinded.

LADWP will also construct a Pump Station approximately 3.6 miles from the LORP downstream boundary, to divert a portion of the reintroduced river flows for dust control operations on the margins of Owens Lake, or to the Los Angeles Aqueduct and its downstream receiving water, Haiwee Reservoir. The proposed Order requires the LADWP to monitor and report on water quality in the Los Angeles Aqueduct to ensure that such diversions do not violate receiving water objectives for Haiwee Reservoir. Despite significant dilution capacity at most times in the Los Angeles Aqueduct, this requirement has the potential to limit diversions of poor-quality water to the Los Angeles Aqueduct.

Comments on a tentative Order were solicited from the LADWP and other interested parties. Written comments were received from the LADWP, the United States Environmental Protection Agency (USEPA), and California Indian Legal Services, representing the Owens Valley Indian Water Commission (a consortium of three Owens Valley Tribes). Comments were received jointly from the Sierra Club and the Owens Valley Committee, concurring with the tentative Order and especially the inclusion of the Alabama Release. Comments received are presented in Enclosure 2. Enclosure 3 contains written responses to the comments.

Issues that may not be addressed to the LADWP’s satisfaction in the response to comments and the proposed Order include water losses associated with the above-described partial-flushing-flow mitigation measure, and potential inability to divert river flows for municipal use while maintaining water quality standards in Haiwee Reservoir. With regard to the former, staff has reduced the amount of water that will not be recoverable by an estimated 80% from requirements in the tentative Order, while still accomplishing the intended flushing effects. The LADWP also proposed that the prohibition exemption should extend to the Los Angeles Aqueduct and its downstream waters, so that ability to divert river water to another watershed would be unconstrained by water quality considerations. Regional Board staff has rejected this approach as insufficiently protective of water quality and unwarranted.

USEPA comments generally concurred with the tentative Order, and were also supportive of the Alabama Release. Changes to the tentative Order were requested by USEPA to address certain habitat protection issues for the "Brine Pool" area downstream of the LORP area. These were considered to be associated with water rights and related public trust issues, rather than water quality, and were deemed outside of Regional Board authority to require.

Comments from California Indian Legal Services, representing the Owens Valley Indian Water Commission, were generally supportive of the tentative Order, and especially the Alabama Release. Changes to the tentative Order were requested to require daily monitoring during seasonal "high flow" releases (at rates between 40 and 200 cubic feet per second) for more than the three years required in the tentative Order. The need for additional monitoring of such flows will be evaluated following the first three years. If monitoring beyond that required in the proposed Order is deemed necessary, it may later be required by the Executive Officer.

Notices of the public hearing were published in the Inyo Register and the Mammoth Times on June 16, 2005, and posted to the Regional Board's Internet website.

A note on the format of the Order: the State Water Board has developed a NPDES Permit template to improve efficiency and statewide consistency. This Order may be the first in the Region to be prepared in the new template format (and also incorporating other requirements), and so may be unfamiliar to some Board members.

**RECOMMEND-
ATION:**

Adoption of the Order as proposed.

Enclosures:

1. Proposed Order
2. Comments Received
3. Responses to Comments