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September 7, 2021

Via E-Mail

Erik Ekdahl
Deputy Director, Division of Water Rights
State Water Resources Control Board
PO Box 100
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Sacramento, CA 95814
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Re: LADWP Comments on Proposed Order Approving Amendments to Water Rights Licenses 10191 and 10192

Dear Mr. Ekdahl:

On August 31, 2021, the Mono Lake Committee received a copy of a letter sent to you by Marty Adams on behalf of the Los Angeles Department of Water and Power (LADWP), in which Mr. Adams asserts that the State Water Board's draft Order adopting the license amendments requested by LADWP in 2013 is "legally deficient" because it does not provide "a full public trust balancing analysis" of the existing export rules for LADWP's Mono Basin water rights license.

Mr. Adams' letter **violates LADWP's legal obligation** under the 2013 Mono Basin stream restoration settlement agreement, which requires all settlement parties (LADWP, the Mono Lake Committee, CalTrout, and CDFW) to support the Board's issuance of the amended licenses. Attachment 1, ¶ 5.2 ("[i]n any comments or testimony submitted to [the Board] or other Regulatory Agency, . . . [settlement parties must] support the approval of Appendix 1 without Material Modification").

The letter also **fundamentally misrepresents** the terms of that voluntary agreement. Contrary to Mr. Adams' assertions, the parties did not agree to lock into place forever LADWP's existing export rules, which currently allow LADWP to divert up to 16,000 acre feet per year of streamflow, as part of the settlement. Rather, the "deal" was that LADWP would take steps called for by the State Water Board's independent expert

scientists to restore the Mono Basin streams, including constructing a new Grant Reservoir outlet, in exchange for avoiding a contested hearing over the 2010 Synthesis Report, and LADWP would receive a valuable 12,000 acre feet of water to offset the cost of outlet construction, and a six-year delay of the previously ordered trigger date for a State Board hearing on the condition of Mono Lake.

Indeed, there is **no mention** of the Mono Basin export rules in the settlement agreement's statement of purpose:

The purposes of this Settlement are: (i) resolution of disputes between the Parties related to the Synthesis Report; (ii) provision and adaptive management of flows sufficient to complete stream restoration and fish protection required by Decision 1631, Orders 98-05 and 98-07 and relevant case law, including modification of Grant Lake Reservoir to release such flows; (iii) re-focusing the stream monitoring program on adaptive management and related improvements in the limnology and waterfowl monitoring programs; and (iv) reduction in LADWP's costs associated with modification of Grant Lake Reservoir and ongoing monitoring programs.

Attachment 1, ¶ 3; see also ¶ 2.3 (the settlement agreement "resolve[d] all disputes between the Parties related to the feasibility of measures set forth in the Synthesis Report").

Nor did LADWP mention the export rules when it submitted the proposed license amendments to the State Board in 2013, shortly after the parties signed the agreement. See Attachment 2 (Change Petition).

Moreover, other terms of the settlement agreement make clear that LADWP knew: (a) the State Water Board would hold a hearing on the condition of the lake, and possibly adjust export requirements, if the lake had not reached the target level of 6,391 feet by 2020 (Attachment 1, Appendix 1, Section 8); and (b) the State Water Board retains continuing jurisdiction to modify the license terms as needed (Attachment 1, Appendix 1, Conclusion of Law C1, C5). Thus, the agreement leaves no doubt that the condition of the lake, as opposed to its tributary streams, and the propriety of LADWP's water diversions were not at issue, much less resolved, by the settlement agreement.

The health and restoration of Mono Lake is a very important, but an entirely separate, matter. The settlement agreement was about restoration of 20 miles of vital stream habitat and fisheries that were severely damaged in violation of state laws by LADWP's past excessive water diversions; it was not about the separate matter of the restoration of Mono Lake or the LADWP exports that slow the lake's rise to its mandated management level. In 1994, after lengthy hearings, the State Water Board conducted the "public trust balancing" LADWP now seems to be asking for, and issued D-1631. This landmark decision, which Mr. Adams does not mention in his letter, established a sustainable, long-term average elevation for Mono Lake (6,392 feet) and restricted LADWP's exports significantly to achieve that mandatory lake level. The Board also wisely required a follow-up hearing, twenty years down the road, to see if this mandate had been achieved. As of today, the lake remains well below 6,392—indeed it is less than 40% of the way to achieving the requirement.

While Mr. Adams now complains that this follow-up hearing will happen after LADWP has expended resources to restore streams in the Basin, **it was LADWP that demanded** the trigger date be deferred from 2014 until 2020 as a provision of the settlement. Thus, Mr. Adam's claim that LADWP cannot move forward with developing an outlet at Grant Lank reservoir—a key component of the 2013 settlement agreement—unless the State Board guarantees continuing exports at the levels set forth in D-1631, is inconsistent with the very term LADWP insisted be included in the settlement.

This is not the first time LADWP has attempted to escape or rewrite its obligations under the settlement agreement. Mr. Adams and LADWP counsel, David Edwards, made a virtually identical argument last year, when they refused to finalize the environmental document for the proposed license amendment unless the parties and the State Board guaranteed LADWP's exports would not be reduced as a result of any future hearing on the condition of the lake. At that time, the Mono Lake Committee prepared a detailed summary of the history of the settlement agreement demonstrating that the agreement offered no such guarantee. We are attaching that history again here, for your reference. See Attachment 3. Before that, LADWP delayed implementing the settlement agreement for more than two years by insisting on conducting new and unnecessary "studies" of the recommended flow regime—a regime that was based on more than a decade of study and analysis by the Board's own stream scientists. It has now been eight years since the parties signed the settlement agreement, and yet LADWP again seeks to avoid carrying out its end of the deal.

In sum, Mr. Adams' letter attempts to derail approval of the settlement terms, in breach of the voluntary settlement agreement. It is, quite frankly, baffling why LADWP continues to throw up road blocks to completing the much-lauded 2013

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settlement agreement that its own Board of Commissioners approved. Nonetheless, the Mono Lake Committee stands by the agreement, supports the draft Order, and urges the State Board to adopt the license amendments proposed by LADWP and the other settlement parties in 2013.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Winter King

Attachment 1 (Settlement Agreement)
Attachment 2 (Change Petition)
Attachment 3 (History of Settlement Agreement)

Cc:

Mr. Joaquin Esquivel, Chair, State Water Resources Control Board
Mr. Sean Maguire, Board Member, State Water Resources Control Board
Ms. Nichole Morgan, Board Member, State Water Resources Control Board
Ms. Dorene D'Adamo, Vice Chair, State Water Resources Control Board
Ms. Laurel Firestone, Board Member, State Water Resources Control Board
Ms. Eileen Sobeck, Executive Director, State Water Resources Control Board

ATTACHMENT 1

**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD**

_____)
In the matter of:)
City of Los Angeles Department of Water and Power,)
Water Right Licenses Nos. 10191 and 10192)
_____)

**SETTLEMENT AGREEMENT REGARDING CONTINUING IMPLEMENTATION OF
WATER RIGHTS ORDERS 98-05 AND 98-07**

**I.
GENERAL PROVISIONS**

1. Parties

The City of Los Angeles Department of Water and Power, California Department of Fish and Wildlife, California Trout, and Mono Lake Committee (Parties) hereby enter into this “Settlement Agreement Regarding Continuing Implementation of Water Rights Orders 98-05 and 98-07.”

2. Recitals

2.1. Under Order 98-05 ¶ 1.b(2)(a) – (b), the Stream Monitoring Team evaluated the magnitude, duration, and frequency of flows necessary for the Restoration of Rush Creek, the need for an outlet to Grant Dam to achieve such flows, and related matters. The team presented its recommendations in *Mono Basin Stream Restoration and Monitoring Program: Synthesis of Instream Flow Recommendation to the State Water Resources Control Board and the Los Angeles Department of Water and Power, Final Report* (April 30, 2010) (Attachment 1) (hereafter, *Synthesis Report*).

2.2. Los Angeles Department of Water and Power (LADWP) determined that certain recommendations are not feasible. As an alternative to disputing that determination, other parties requested permission to undertake settlement negotiations. By letter dated November 1, 2010, the Water Board authorized such negotiations, and by subsequent letters, extended the deadline for completion until September 30, 2013.

2.3. This Settlement resolves all disputes between the Parties related to the feasibility of measures set forth in the *Synthesis Report*.

3. **Purposes**

The purposes of this Settlement are: (i) resolution of disputes between the Parties related to the *Synthesis Report*; (ii) provision and adaptive management of flows sufficient to complete stream restoration and fish protection required by Decision 1631, Orders 98-05 and 98-07 and relevant case law, including modification of Grant Lake Reservoir to release such flows; (iii) re-focusing the stream monitoring program on adaptive management and related improvements in the limnology and waterfowl monitoring programs; and (iv) reduction in LADWP's costs associated with modification of Grant Lake Reservoir and ongoing monitoring programs.

4. **Definitions**

- 4.1. **Appendix 1** means: Appendix 1 to the Settlement, proposing amendments to Water Right Licenses 10191 and 10192 for the review and approval of the State Water Resources Control Board ("SWRCB").
- 4.2. **Applicable Law** means: general law which (i) exists outside of this Settlement, including statute and regulation, and (ii) applies to obligations contemplated in this Settlement.
- 4.3. **CDFW** means: California Department of Fish and Wildlife.
- 4.4. **Contractual Obligation** means: those obligations under this Settlement that are not subject to the Final Order or other regulatory approval.
- 4.5. **Effective Date** is defined in Section 6.1.
- 4.6. **Final Order** means: a final order of the Water Board, other Regulatory Agency, or a Court, that is necessary for, or otherwise directly relates to, the performance of the measures proposed in Appendix 1. This includes, but is not limited to, the Water Board's order amending the Licenses as proposed in Appendix 1.
- 4.7. **Force Majeure** means: an event beyond the reasonable control of a Party that prevents that Party's timely performance of an obligation.
- 4.8. **LADWP** means: Los Angeles Department of Water and Power.
- 4.9. **Material Modification** means: any terms of a Final Order that have the effect of materially reducing the bargained-for benefits of a Party, in that Party's sole judgment.
- 4.10. **Mono Basin Licenses** means: Water Right Licenses 10191 and 10192, held by LADWP.

- 4.11. **Notice** is defined in Section 6.3.
- 4.12. **Parties** means: LADWP, CDFW, California Trout, and Mono Lake Committee, as signatories to this Settlement.
- 4.13. **Regulatory Agency** means any public agency which has regulatory jurisdiction over the measures proposed in Appendix 1.
- 4.14. **Regulatory Obligation** means: those obligations arising under this Settlement that become effective if approved in the Final Order.
- 4.15. **Significant New Information** means: information that was not available when the Final Order issued that bears materially on the effectiveness or sufficiency of the flows and other measures specified in Appendix 1 to achieve stream restoration and fish protection.

II.

IMPLEMENTATION OF SETTLEMENT

5. Obligation to Support Settlement

Within 10 days after the last Party has executed the Settlement, LADWP shall file a petition with the SWRCB to amend its Licenses as provided in Appendix 1. The Parties shall support a Final Order approving Appendix 1 (including findings, conclusions, and conditions) without Material Modification, and take other actions to achieve the bargained-for benefits of this Settlement, as follows.

- 5.1. Appendix 1A. Within 45 days after submittal of this petition, the Parties shall undertake to complete a form of document known as “living license,” in consultation with the SWRCB’s Office of Chief Counsel. This form will: (i) include all existing terms of the Licenses, (ii) show the Appendix 1 conditions as redline of those terms proposed to be amended, and (iii) also show the Appendix 1 findings and conclusions. Upon completion of this form, the Parties shall submit it as Appendix 1A, as a supplement to Appendix 1, for the SWRCB’s approval of the terms proposed to be amended.
- 5.2. Approval. In any comments or testimony submitted to the SWRCB or other Regulatory Agency, the Parties shall support the approval of Appendix 1 without Material Modification. If the Water Board issues a Final Order approving Appendix 1 without Material Modification, the Parties shall not seek reconsideration or judicial review thereof. The Parties shall continue to support the Final Order if any other participant seeks reconsideration or judicial review; provided that each Party may choose a reasonable method of support and level of effort at its discretion.

- 5.3. Other Final Order. If a Final Order effects a Material Modification in Appendix 1, the Parties shall deem the Settlement to be modified to conform to the Final Order, unless a Party objects by Notice of Dispute Initiation pursuant to Section 7.2 within 10 days of such order. A Party may timely seek reconsideration or judicial review of such a Final Order; *provided* that the Party shall provide such Notice and, to the extent practicable, undertake and conclude Dispute Resolution Procedures before such action.
- 5.4. Continuing Obligation. If administrative and judicial remedies of the Final Order have been exhausted and have not resulted in Material Modification of Appendix 1, the Parties shall continue to support the Final Order as sufficient for the purposes stated in Section 3; *provided* that a Party who concludes that Significant New Information exists shall provide a Dispute Initiation Notice pursuant to Section 7.2. If a third party brings an action seeking to reopen the Final Order following exhaustion of remedies as described in Section 5.1, the Parties shall continue to support the Final Order unless Significant New Information, in that Party's judgment, demonstrates that the Final Order does not achieve the purposes stated in Section 3.

6. Implementation

- 6.1. Effective Date. Contractual Obligations shall be effective when all Parties have executed this Settlement. Regulatory Obligations shall be effective when the Water Board has issued a Final Order approving Appendix 1 without Material Modification as the basis for amending the Mono Basin Licenses, or the exhaustion of judicial review of the Final Order, whichever is later.
- 6.2. Governing Law. A Party's performance of Contractual Obligations shall be governed by applicable provisions of this Settlement. A Party's performance of Regulatory Obligations shall be governed by Applicable Law for such obligations.
- 6.3. Notice. Any Notice required by this Settlement shall be sent to all Parties by electronic mail or comparable means of delivery. A Notice shall be effective upon receipt. The list of authorized representatives of the Parties as of the Effective Date is attached as Attachment 2. Each Party shall provide timely Notice of any change in the authorized representatives, and LADWP shall maintain the current distribution list of such representatives. Failure to provide current contact information will result in a waiver of that Party's right to Notice under this Settlement.
- 6.4. Force Majeure. A Party shall not be deemed to breach a Contractual Obligation if it is unable to timely perform due to Force Majeure. The Party whose performance is delayed by Force Majeure shall provide Notice as soon as reasonably practicable, including: a description of the event causing the delay, an estimate of the anticipated delay, a description of the measures the Party will take

to avoid or minimize the delay, and a proposed schedule for performance of the obligation. Force Majeure as to Regulatory Obligations shall be addressed as provided in Applicable Law.

- 6.5. Remedies. The remedies for breach of Contractual Obligations are: Dispute Resolution Procedures pursuant to Section 7, and withdrawal pursuant to Section 9. The remedies for breach of Regulatory Obligations are: whatever remedies are available under Applicable Law.

7. Dispute Resolution Procedures

All disputes among the Parties regarding performance of Contractual Obligations shall be the subject to the Dispute Resolution Procedures.

- 7.1. General. The Disputing Parties shall devote those resources that are needed and reasonably available to resolve the dispute. The Disputing Parties shall cooperate to promptly schedule, attend, and participate in the dispute resolution. Unless otherwise agreed, each Disputing Party shall bear its own costs for its participation in any dispute resolution process initiated under this Settlement Agreement. Each Disputing Party shall promptly implement any resolution of the dispute.

- 7.2. Specific Procedures. A Party claiming a dispute shall provide the other Parties with a Dispute Initiation Notice.

- A. The Notice shall describe: the matter in dispute, the identity of any other Party alleged to have not performed an obligation under the Settlement, and the specific relief sought.
- B. The Disputing Parties shall hold at least one meeting to resolve the dispute, commencing within 10 days after the Dispute Initiation Notice. This meeting may be in person or by telephone.
- C. The Disputing Parties shall provide Notice of any resolution of the dispute. This Notice shall state: the disputed matter, as initially described in the Dispute Initiation Notice; the alternatives which the Disputing Parties considered for resolution; whether resolution was achieved, in whole or part, and the specific relief to which the Disputing Parties have agreed.
- D. If the dispute is not resolved within 30 days after the Dispute Initiation Notice, the Party claiming a dispute may pursue any and all other remedies authorized by Section 6.5 of this Settlement.

- 7.3. Regulatory Obligations

These procedures apply to disputes related to Contractual Obligations. Any disputes related to Regulatory Obligations will be subject to those procedures available under Applicable Law.

III. OTHER PROVISIONS

8. **Amendment**

The Settlement may be amended only in written form signed by all of the Parties.

9. **Withdrawal**

A Party may withdraw from this Settlement in two circumstances: (i) a Final Order effects a Material Modification to Appendix 1, the Party objects to such modification, and the dispute between the Parties regarding such modification is not resolved pursuant to Section 7; or (ii) a Party objects that another Party is not performing its Contractual Obligations, and the dispute between the Parties regarding such non-performance is not resolved pursuant to Section 7. Withdrawal from this Settlement shall have no effect on any order adopted by the State Water Board or on a party's obligations to comply with such order.

10. **Termination**

This Settlement shall terminate if LADWP withdraws. A Party shall not have any further obligations under this Settlement if it withdraws or the Settlement terminates, except that the Parties agree that all communications related to the development of the Settlement shall be confidential as provided under Applicable Law. Termination of this Settlement shall have no effect on any order adopted by the State Water Board or on a Party's obligations to comply with such order.

11. **No Precedent**

This Settlement shall not be offered for or against a Party as an argument, admission, or precedent regarding any issue of fact or law in any administrative or judicial proceeding.

12. **No Third Party Beneficiaries**

This Settlement is not intended and shall not be construed to confer any right or interest in the public or any non-Party, and shall not authorize any non-Party to bring an action based on a claim arising from this Settlement.

13. **Titles for Convenience Only**

The titles in this Settlement are for convenience of reference and shall not be used to modify, explain, or interpret any provisions herein.

14. Entire Agreement in Writing

This is the entire Agreement between the Parties on this subject matter, and it supersedes any prior or contemporaneous communications.

15. Execution

Each signatory of this Settlement states that he or she is authorized to execute this Settlement and legally bind the Party he or she represents, and that such Party shall be fully bound by the Settlement upon such signature without any further act, approval, or authorization. The Settlement may be executed in counterparts.

Attachments

1. McBain & Trush, Inc. and Ross Taylor and Associates, *Mono Basin Stream Restoration and Monitoring Program: Synthesis of Instream Flow Recommendation to the State Water Resources Control Board and the Los Angeles Department of Water and Power, Final Report* (April 30, 2010)
2. List of Authorized Representatives of the Parties

Appendices

1. Proposed Amendments to Water Rights of Los Angeles Department of Water and Power
2. Mono Basin Operations Plan Outline
3. Ross Taylor and Bill Trush, “Technical Memorandum: Scope of Future Work for the Mono Basin Stream and Fisheries Monitoring Program to Accomplish Goals of Chapter 7 of the Synthesis Report” (2013)
4. Monitoring Metrics based on *Synthesis Report* Chapter 7 and Settlement Appendix 3

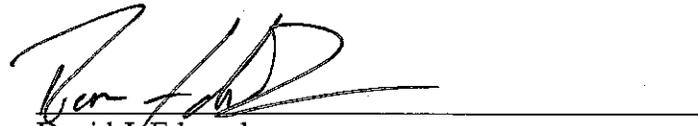
Dated: September 24, 2013


Ronald O. Nichols
General Manager
LOS ANGELES DEPARTMENT OF WATER AND POWER

Approved as to form and legality:

Michael N. Feuer
City Attorney

Dated: September 24, 2013


David J. Edwards
Deputy City Attorney
CITY OF LOS ANGELES

Dated: September ____, 2013

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CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

Approved as to form and legality:

Dated: September ____, 2013

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Dated: September __, 2013

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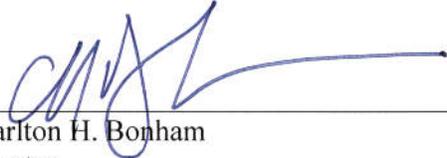
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Dated: September 19, 2013



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Dated: September 17, 2013



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Dated: September 17, 2013



Richard Roos-Collins
WATER AND POWER LAW GROUP PC
Attorneys for CALIFORNIA TROUT

**Mono Basin Settlement Agreement
Attachment 1**

(Separate pdf file due to size)

**Mono Basin Settlement Agreement
Attachment 2**

AUTHORIZED REPRESENTATIVES OF THE PARTIES

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**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD**

In the matter of:)
City of Los Angeles Department of Water and Power,)
Water Right Licenses Nos. 10191 and 10192)

**APPENDIX 1.
PROPOSED AMENDMENTS TO WATER RIGHTS OF LOS ANGELES
DEPARTMENT OF WATER AND POWER**

I.
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Findings of Fact

F1. Based on monitoring results to date, the Stream Monitoring Team recommended stream ecosystem flows (SEFs), modification of Grant Lake Reservoir facilities, and other measures for the protection of fisheries and creeks. See McBain & Trush, Inc. and Ross Taylor and Associates, *Mono Basin Stream Restoration and Monitoring Program: Synthesis of Instream Flow Recommendations to the State Water Resources Control Board and the Los Angeles Department of Water and Power, Final Report* (April 30, 2010) (*Synthesis Report*).

F2. Following the completion of the *Synthesis Report*, Licensee participated in facilitated discussions with California Department of Fish and Wildlife (CDFW), California Trout (CT), and the Mono Lake Committee (MLC) (together, Conservation Parties) to discuss the feasibility of the measures recommended in the *Report* and to resolve related disputes. As a result of these discussions, Licensee and the Conservation Parties entered a Settlement Agreement, which includes proposed amendments to Licensee's Mono Basin Water Rights Licenses. These proposed license amendments will implement all recommendations from the *Synthesis Report*. Licensee and the Conservation Parties agree that implementation of these recommendations is feasible, under the conditions established in the Settlement Agreement. The Board finds that implementation of these proposed amendments is feasible.

F3. The Board further finds that implementation of the proposed license amendments will significantly enhance the conditions of the fisheries and creeks resulting from implementation of the existing requirements in Decision 1631 and Orders 98-05 and 98-07. While such implementation could have incidental impacts on the channel form, water quality, fisheries, or other resources of a given creek, any such impacts will be *de minimis* compared to the benefits resulting from flow schedules which are as consistent as possible with restoring the ecological processes and conditions that benefitted the pre-1941 fishery.

F4. Adaptive management of flow requirements will further enhance their benefits, as monitoring improves our understanding of how best to manage flows to restore ecological processes and beneficial conditions in these creeks.

F5. The Mono Basin Monitoring Administration Team (MAT) will expedite administration of contracts with scientists assigned to conduct monitoring under Decision 1631, Orders 98-05 and 98-07, and Conditions 5 and 6 as approved in this Order.

F6. The proposed license amendments allow LADWP to export water in excess of the amount otherwise allowed by Decision 1631 ¶ 6.a, in order to offset a portion of the capital cost of the Grant Outlet. The Additional Export will be in an amount not to exceed 12,000 acre-feet. The Board finds this Additional Export will not materially delay the date when Mono Lake reaches 6,391 feet MSL.

Appendix 1
Mono Basin Settlement Agreement

F7. Decision 1631 ¶ 6.a(4) requires a hearing if Mono Lake does not reach elevation 6,391 feet MSL by September 28, 2014. The proposed license amendments continue that trigger date until September 28, 2020. Licensee and the Conservation Parties agreed to this continuation as part of a package of proposed license amendments designed to achieve implementation of the *Synthesis Report* expeditiously, without a contested Board hearing, and at a reasonable cost. The lake will continue, on average, to rise towards 6,391 feet MSL, and the trend in lake level remains within the ranges previously forecast by the Board for this transition period.

Conclusions of Law

C1. Adoption of this Order concludes the study process required by Order 98-05 ¶ 1.b(2)(a)-(b), resolves all disputes about the feasibility of implementing the Synthesis Report, and avoids the costs and delay otherwise resulting from administrative and other litigation associated with this process and report. **This Order constitutes the Board's final determination of the magnitude, duration, and frequency of the stream flows necessary for the restoration of Rush, Lee Vining, Parker, and Walker Creeks pursuant to Decision 1631 and Order 98-05, subject to (i) adaptive management and (ii) the Board's general authority.**

C2. LADWP's performance of the measures specified in Appendix 1 as approved in this Order, including funding obligations found below, along with its performance of any preexisting obligations that are not changed by such order, will be deemed to constitute all of LADWP's obligations for stream restoration, fish protection, and the related monitoring program under Decision 1631 and Orders 98-05 and 98-07.

C3. LADWP will not be subject to any additional requirements for stream restoration and fish protection under the authorities of Decision 1631 and Orders 98-05 and 98-07.

C4. The flows specified in Tables 1 and 2 will provide hydrologic variation which advances geomorphic and other ecological processes necessary for stream restoration. Although these flows may also incidentally cause adverse impacts to the channel form, water quality, fisheries, or other resources of a given creek, such impacts are found to be non-significant under CEQA, and LADWP will not be liable for any additional requirement, including release of flow or monetary expenditure, to remedy such impacts under any of the authorities that the Board administers.

C5. LADWP will be subject to the Board's general authorities for stream restoration, fish protection, and other purposes, as recognized by Decision 1631 paragraph 12.

C6. Licensee's bypass of the flows to Walker and Parker Creeks, as described in Section 1.c, below, is a condition of this Order and is not an abandonment, dedication, or donation of Licensee's property.

C7. Given the factual findings set forth above, the Board concludes that adopting the license amendments proposed by Licensee, and approved by the Conservation Parties, is consistent with the public interest in Mono Lake.

II.

PROPOSED CONDITIONS OF WATER RIGHTS

General: Appendix 1 will be reframed in Appendix 1A to redline existing terms and conditions in Decision 1631 and Orders 98-05 and 98-07. What follows is an intermediate form that, via editorial signals, describes how those existing terms are proposed to be modified by the Settlement.

Condition 1 replaces: Stream Restoration Flow (SRF) requirements in Order 98-05 §§ 1(a)(1) - 1(a)(3) and 3, related requirements in Order 98-05 §1.b(2)(a)-(b) and 98-05 2.a, as well as base flow requirements in Decision 1631 §1.

1. Stream Ecosystem Flows

For the protection of streams and fisheries, Licensee shall release the Stream Ecosystem Flows (SEFs) stated in Tables 1 and 2 below. The flows shall remain in the stream channel and shall not be diverted for any other use.

a. General

- (1). **Purpose.** These flow requirements implement the recommendations of the Stream Monitoring Team in *Mono Basin Stream Restoration and Monitoring Program: Synthesis of Instream Flow Recommendation to the State Water Resources Control Board and the Los Angeles Department of Water and Power, Final Report* (April 30, 2010) (Attachment 1) (hereafter, *Synthesis Report*).
- (2). **Minimums.** These flows are minimums unless otherwise specified.
- (3). **Adaptive Management.** Flow requirements in Tables 1 and 2 are subject to adaptive management as provided in Condition 5(b).
- (4). **Ramping.** The ramping rates specified in Tables 1 and 2 apply to flow changes which occur as a result of Licensee's operation of its points of diversion. These rates shall be calculated based on the percentage of change in flow from the average flow over the preceding 24 hours. Licensee shall operate its points of diversion to not exceed maximum ramping rates that are specified in the Mono Basin Operations Plan (MBOP) specified in Condition 3. Licensee shall also operate to achieve the target ramping rates to the extent feasible, taking into account

operational or other limitations. The MBOP or Annual Operations Plan (AOP) shall specify alternative target rates when necessary to address such limitations. Pursuant to Condition 1.a(5), the Licensee is not required to report variance from a target ramping rate that is less than 10% of that rate.

- (5). Unanticipated events. If an unanticipated event, including an emergency, prevents compliance with the SEFs or other requirement for the operation of Licensee's Mono Basin facilities, Licensee shall notify the Division of Water Rights as soon as practical, and not later than 5 business days of actual knowledge of the event. This notice shall include a written explanation of why the requirement was not met and any corrective actions.

b. Rush Creek. Licensee shall release flows from Grant Lake Reservoir as specified in Table 1. Prior to completion of the Grant Outlet as provided in Condition 2, Licensee shall release such flows to the extent possible given existing capacity of Mono Gate One Return Ditch and best efforts to use reservoir spills.

- (1). Stored Water. When necessary in order to meet these flow requirements, Licensee shall release water from storage at Grant Lake Reservoir if storage exceeds 11,500 acre-feet. Licensee shall reduce otherwise allowable export to maintain at least 11,500 acre-feet of storage. If Grant Lake Reservoir is at or below 11,500 acre-feet of storage, Licensee shall release inflow or the flow requirement, whichever is less.
- (2). Storage Rules and Criteria. In order to provide coldwater flow in Rush Creek, Licensee shall follow the following rules and criteria for Grant Lake Reservoir. Licensee shall reduce otherwise allowable export to meet these criteria; flow requirements shall not be so reduced.
 - i. In all years, Licensee shall store at least 20,000 acre-feet of water in Grant Lake Reservoir from July 1 through September 30.
 - ii. If Grant Lake is below 25,000 acre-feet of storage on July 1 in a Dry or Dry-Normal I year (as defined pursuant to Decision 1631), Licensee shall release all available water diverted from Lee Vining Creek through the Five Siphons Bypass to augment coldwater flow in Rush Creek. There shall be no augmentation of Rush Creek in other year types or for other purposes.
 - iii. From October 1 to March 31, Licensee shall undertake to avoid reservoir spills and avoid flows as specified in the MBOP that mobilize the bed of Rush Creek.

- c. Parker and Walker Creeks. Licensee shall continuously bypass the flows of Walker and Parker Creeks as specified in Table 2-16 (p. 61) of the Synthesis Report, except as provided for in Section 1(a)(5) of this Order.
- d. Lee Vining Creek. Licensee shall release bypass flows in Lee Vining Creek as specified in Table 2.
 - (1). Licensee shall release flow below its point of diversion at least equal to the flow specified, or the inflow, whichever is less.
 - (2). Licensee shall measure inflow at the flume upstream of the diversion pond and shall measure bypass flow at the diversion dam.

TABLE 1A			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Extreme-Wet			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – April 30	40 cfs	
Spring Ascension	May 1 through May 14	40 cfs ascending to 80 cfs	Target: 5%
Spring Bench	May 15 through June 11	80 cfs	
Snowmelt Ascension	June 12 through June 21	80 cfs ascending to 220 cfs	Target: 10%
Snowmelt Bench	June 22 through August 10	220 cfs	
Snowmelt Flood and Snowmelt Peak	Starting between June 23 and July 19 with the 5-day peak between June 29 and July 29	220 cfs ascending to 750 cfs, release 750 cfs for 5 days, 750 cfs descending to 220 cfs	Target: 20% ascending and 10% descending
Medium Recession (Node)	August 11 through August 24	220 cfs descending to 90 cfs	Target: 6%
Slow Recession	August 25 through September 30	90 cfs descending to 27 cfs	Target: 3%
Fall and Winter Baseflow	October 1 through March 31	27 cfs target (25 cfs minimum and 29 cfs maximum).	

TABLE 1B			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Wet			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – April 30	40 cfs	
Spring Ascension	May 1 through May 14	40 cfs ascending to 80 cfs	Target: 5%
Spring Bench	May 15 through June 11	80 cfs	
Snowmelt Ascension	June 12 through June 18	80 cfs ascending to 170 cfs	Target: 10%
Snowmelt Bench	June 19 through August 1	170 cfs	
Snowmelt Flood and Snowmelt Peak	Starting between June 20 and July 8 with the 5-day peak between June 27 and July 19	170 cfs ascending to 650 cfs, release 650 cfs for 5 days, 650 cfs descending to 170 cfs	Target: 20% ascending and 10% descending
Medium Recession (Node)	August 2 through August 15	170 cfs descending to 70 cfs	Target: 6%
Slow Recession	August 16 through September 11	70 cfs descending to 30 cfs	Target: 3%
Summer Baseflow	September 12 through September 30	30 cfs target 28 cfs minimum	
Fall and Winter Baseflow	October 1 through March 31	27 cfs target 25 cfs minimum and 29 cfs maximum	

TABLE 1C			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Wet- Normal			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – April 30	40 cfs	
Spring Ascension	May 1 through May 14	40 cfs ascending to 80 cfs	Target: 5%
Spring Bench	May 15 through June 11	80 cfs	
Snowmelt Ascension	June 12 through June 17	80 cfs ascending to 145 cfs	Target: 10%
Snowmelt Bench	June 18 through July 23	145 cfs	
Snowmelt Flood and Snowmelt Peak	Starting between June 19 and July 1 with the 3-day peak between June 26 and July 10	145 cfs ascending to 550 cfs, release 550 cfs for 3 days, 550 cfs descending to 145 cfs	Target: 20% ascending and 10% descending
Medium Recession (Node)	July 24 through August 4	145 cfs descending to 67 cfs	Target: 6%
Slow Recession	August 5 through August 31	67 cfs descending to 30 cfs	Target: 3%
Summer Baseflow	September 1 through September 30	30 cfs target 28 cfs minimum	
Fall and Winter Baseflow	October 1 through March 31	27 cfs target 25 cfs minimum and 29 cfs maximum	

TABLE 1D			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Normal			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – April 30	40 cfs	
Spring Ascension	May 1 through May 14	40 cfs ascending to 80 cfs	Target: 5%
Spring Bench	May 15 through June 11	80 cfs	
Snowmelt Ascension	June 12 through June 15	80 cfs ascending to 120 cfs	Target: 10%
Snowmelt Bench	June 16 through July 14	120 cfs	
Snowmelt Flood and Snowmelt Peak	Starting between June 17 and June 25 with the 3-day peak between June 23 and July 3	120 cfs ascending to 380 cfs, release 380 cfs for 3 days, 380 cfs descending to 120 cfs	Target: 20% ascending and 10% descending
Medium Recession (Node)	July 15 through July 26	120 cfs descending to 58 cfs	Target: 6%
Slow Recession	July 27 through August 16	58 cfs descending to 30 cfs	Target: 3%
Summer Baseflow	August 17 through September 30	30 cfs target 28 cfs minimum	
Fall and Winter Baseflow	October 1 through March 31	27 cfs target 25 cfs minimum and 29 cfs maximum	

TABLE 1E			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Dry- Normal II			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – May 18	40 cfs	
Spring Ascension	May 19 through May 31	40 cfs ascending to 80 cfs	Target: 5%
Snowmelt Bench	June 1 through June 30	80 cfs	
Snowmelt Flood and Snowmelt Peak	Starting between June 2 and June 15 with the 3-day peak between June 6 and June 21 coinciding with Parker and Walker Creek peaks	80 cfs ascending to 200 cfs, release 200 cfs for 3 days, 200 cfs descending to 80 cfs	Target: 20% ascending and 10% descending
Medium Recession (Node)	July 1 through July 8	80 cfs descending to 48 cfs	Target: 6%
Slow Recession	July 9 through July 23	48 cfs descending to 30 cfs	Target: 3%
Summer Baseflow	July 24 through September 30	30 cfs target 28 cfs minimum	
Fall and Winter Baseflow	October 1 through March 31	27 cfs target 25 cfs minimum and 29 cfs maximum	

TABLE 1F			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Dry- Normal I			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – April 30	40 cfs	
Spring Ascension	May 1 through May 14	40 cfs ascending to 80 cfs	Target: 5%
Snowmelt Bench	May 15 through July 3	80 cfs	
Medium Recession (Node)	July 4 through July 9	80 cfs descending to 45 cfs	Target: 6%
Slow Recession	July 10 through July 27	45 cfs descending to 30 cfs	Target: 3%
Summer Baseflow	July 28 through September 30	30 cfs target 28 cfs minimum	
Fall and Winter Baseflow	October 1 through March 31	27 cfs target 25 cfs minimum and 29 cfs maximum	

TABLE 1G			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Dry			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – April 30	30 cfs	
Spring Ascension	May 1 through May 17	30 cfs ascending to 70 cfs	Target: 5%
Snowmelt Bench	May 18 through July 6	70 cfs	
Medium Recession (Node)	July 7 through July 12	70 cfs descending to 45 cfs	Target: 6%
Slow Recession	July 13 through July 27	45 cfs descending to 30 cfs	Target: 3%
Summer Baseflow	July 28 through September 30	30 cfs target 28 cfs minimum	
Fall and Winter Baseflow	October 1 through March 31	27 cfs target 25 cfs minimum and 29 cfs maximum	

TABLE 2A																																																																																																																																																																																																																																																																									
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TABLE 2B

LEE VINING CREEK STREAM ECOSYSTEM FLOWS

Timing: April 1 – September 30 Year-type: Dry-Normal I, Dry

TIMING	INFLOW	FLOW REQUIREMENT																																																																																																																																																																																																																																																																							
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TABLE 2C				
LEE VINING CREEK STREAM ECOSYSTEM FLOWS				
Timing: October 1 – March 31 Year-type: All				
Maximum ramping at the beginning and end of this period is 20%.				
TIMING	FLOW REQUIREMENT			
	Extreme-Wet, Wet	Wet-Normal	Normal	Dry-Normal II, Dry-Normal I, Dry
October 1 through October 15	30 cfs	28 cfs	20 cfs	16 cfs
October 16 through October 31	28 cfs	24 cfs	18 cfs	
November 1 through November 15	24 cfs	22 cfs		
November 16 through March 31	20 cfs	20 cfs		

Condition 2 replaces the provision in Order 98-05 ¶ 1.b(2)(b)(2) requiring study of modifying Grant Dam.

2. Grant Outlet

LADWP shall modify the Grant Lake Reservoir Facilities to include an outlet which assures reliable delivery of the flow requirements specified in Table 1 (Grant Outlet).

- a. Further Approvals of Design. Licensee shall undertake further due diligence to choose among designs capable of reliably releasing the flows specified in Table 1. Within 18 months, Licensee shall petition the Division of Water Rights to approve a design, including engineering specifications, for the Grant Outlet. That petition shall include any environmental analysis of that design required under the California Environmental Quality Act. By that date, it shall also apply for any other regulatory approvals necessary for construction, operation, and maintenance of this facility, including any necessary environmental analysis. Licensee shall request and take all reasonable steps to obtain such further approvals so as to permit Licensee to complete construction, and begin operation, within four years of the Final Order.
- b. Construction and Operation. Licensee shall begin construction of the Grant Outlet within 12 months of receiving necessary regulatory approvals. Licensee shall complete construction and begin to operate Grant Outlet within 18 months of receiving such final regulatory approvals.
- c. Progress Reports. Licensee shall submit quarterly progress reports to the Division of Water Rights during the design, permitting, and construction of Grant Outlet. If it cannot achieve a deadline for reasons beyond its control, Licensee shall timely request an extension of time from the Division of Water Rights, and other Parties may reply.
- d. Funding. In order to offset the capital cost of Grant Outlet, Licensee may divert up to 12,000 acre-feet of water from the Mono Basin additional to the amount otherwise permitted by D-1631 ¶ 6.a(3) for the period when Mono Lake is at or above 6,380 feet and below 6,391 feet MSL (“Additional Export”).
 - (1). Compliance. Licensee shall not divert Additional Export in a manner that causes a variance from the flow and minimum storage requirements specified in Condition 1.
 - (2). Schedule. The additional export will become available on the following schedule:
 - i. 4,000 acre-feet upon receipt of final permits to construct the Grant Outlet;

- ii. 4,000 acre-feet upon active construction of the Grant Outlet;
 - iii. 2,000 acre-feet subsequent to the first wet year in which the outlet is operated to release the flows specified in Table 1; and
 - iv. 2,000 acre-feet subsequent to the second wet year in which the outlet is operated to release the flows specified in Table 1.
- (3). Adjustment. The schedule and amount of Additional Export are subject to adjustment in four circumstances:
- i. By further agreement between the Parties and the further approval of the Division of Water Rights.
 - ii. If non-licensee funds are timely secured to pay for all or part of the capital cost of the Grant Outlet. In that event, the Additional Export shall be reduced by an acre-foot amount equivalent to value of the funding using the current Metropolitan Water District Full Service Untreated Volumetric Cost Tier II rate.
 - iii. If the total value of the Additional Export, as measured by the current Metropolitan Water District Full Service Untreated Volumetric Cost Tier II rate, exceeds 50% of the capital cost of the Grant Outlet. In that event, the Additional Export shall be reduced to ensure that the value of the Additional Export does not exceed 50% of the capital cost.
 - iv. If, for any reason, Grant Outlet does not begin operation within four years of the date of the Final Order. In that event, Licensee shall not be allowed any Additional Export and shall compensate for any Additional Export that has already occurred, by reducing further allowable export by an equivalent amount.
- (4). Planning. Licensee shall develop the schedule and other specifications for Additional Export in the Mono Basin Operation Plan and Annual Operations Plan.

Condition 3 replaces the requirement in Order 98-05 ¶ 2(a)-(b) for a Grant Lake Operations and Management Plan.

Mono Basin Operations Plan

Licensee shall develop, implement, and periodically revise a Mono Basin Operations Plan (MBOP). The MBOP shall specify the rules, guidelines, and criteria for operation

of Licensee's Mono Basin facilities to meet all applicable requirements across all year-types.

- a. Content. Licensee shall base the MBOP on the Licensee's *Grant Lake Operations and Management Plan* (Feb. 29, 1996) as approved in Order 98-05 ¶ 2, taking into account the flow requirements in Condition 1, the capabilities of the Grant Outlet, and other subsequent requirements and information. MBOP shall: (1) be consistent with the outline attached as Appendix 2, (2) provide for development of Annual Operations Plans (AOP); and (3) supplement the rules and criteria for storage in Grant Lake Reservoir as specified in Condition 1.b(2) as necessary to assure reliable operation of the Grant Outlet to deliver the flow requirements in Table 1.
- b. Initial Planning Process. Within one year, Licensee shall develop the MBOP and submit it to the Division of Water Rights, for approval.
 - (1). Licensee shall consult with Stream Monitoring Team and Parties in the development of the initial MBOP and any revision thereto. It shall provide a draft plan for their review and comment. Licensee shall convene a meeting to address such comments. A representative of the Division of Water Rights may attend.
 - (2). Licensee shall use eSTREAM or an equivalent daily planning tool for this purpose. Licensee shall grant Parties permission to use the model, including any update, to assist with the development of the plan or revision.
 - (3). The Division of Water Rights shall review and approve the plan, subject to appropriate modifications.
- c. Revisions. Following such initial approval, Licensee shall develop and submit appropriate revisions to the MBOP when construction of Grant Outlet is complete, and every five years following such completion of construction, or more frequently if recommended by the Stream Monitoring Team, to take into account operating experience for Grant Outlet. For such revisions, the Licensee shall follow the procedures specified in Condition 3.b.

Condition 4 revises Order 98-05 ¶3.

4. Annual Operations Plan

Licensee shall develop and implement Annual Operations Plans consistent with MBOP.

- a. Content. AOP shall specify Licensee's plans to operate its Mono Basin facilities for the runoff year to reliably release flow requirements and meet all other

applicable requirements, taking into account the year-type and other specific circumstances.

- (1). It shall be consistent with the MBOP.
 - (2). It shall incorporate any adaptive management of flow requirements recommended by the Stream Monitoring Team, as provided in Condition 5.b.
 - (3). It shall provide for electronic reporting to the Stream Monitoring Team and Parties describing the implementation of specified plan of operation, including actual runoff, exports, and bypass flows.
- b. Development. By May 15 of each year, Licensee shall develop and submit an AOP to the Division of Water Rights for review and approval.
- (1). By March 31 of each year, the Licensee shall convene a meeting to prepare for developing the AOP, and specifically to address any adaptive management of SEFs, monitoring results, and forecasts of hydrology and exports. The meeting shall include: Stream Monitoring Team, Parties, and others as appropriate.
 - (2). By April 15, Licensee shall distribute a draft AOP to the Stream Monitoring Team and Parties for review and comment. Not later than May 5 Licensee shall convene an in-person meeting to discuss and resolve such comments. A representative of the Division of Water Rights may attend.
 - (3). By May 15, Licensee shall submit the final AOP. The Division of Water Rights shall review and approve the AOP, subject to appropriate modifications.
- c. Reporting. Following approval, Licensee shall report implementation of the AOP.
- (1). Licensee shall submit a monthly report to the Stream Monitoring Directors and the other Parties, not later than ten calendar days after the end of the month. Each report shall include actual runoff and operations data by comparison to the AOP forecasts, and actual and projected adjustments in operations necessary to respond to changed or unanticipated conditions.
 - (2). Licensee shall meet and confer with the Stream Monitoring Team and other Parties to address projections of significant adjustments in operations.

- (3). Licensee shall submit a quarterly report to the Division of Water Rights. This report shall describe actions taken by the Licensee that relate to implementation of the AOP.

Condition 5 revises Order 98-05 ¶ 1.b, as amended by Order 98-07, as follows. Condition 5.a(1) replaces the requirements in pp. 93 - 110 in the Licensee's Stream and Stream Channel Restoration Plan (January 1997) as approved in Orders 98-05 and 98-07. Condition 5.a(2) replaces the termination criteria in Order 98-07 ¶ 1.b(5). Condition 5.b-c revises (supplements) the requirements in Order 98-05 ¶ 1.b(2)(c) for Annual Monitoring Reports. Condition 5.d replaces Order 98-05 ¶ 1.b(2)(a). Condition 5.e revises Order 98-05 ¶ 1.e.

5. Stream Monitoring and Restoration Program

- a. Stream Monitoring. The Stream Monitoring Team shall monitor pursuant to the following requirements.
 - (1). The team shall conduct those tasks specified in Appendix 3, which implements Chapter 7 of the *Synthesis Report*. The team may adjust the priorities and other details for such tasks, on the basis of recommendation as provided in Condition 5.c.
 - (2). The Stream Monitoring Team shall apply the metrics stated in Appendix 4. The results of monitoring shall be used to:
 - i. inform adaptive management of the SEFs, restoration program, and operations of Licensee's Mono Basin facilities;
 - ii. inform the Board and the public of the status of stream and fishery restoration in light of the factors stated in Order 98-05 ¶ 1.b(4); and
 - iii. serve as the basis for any further revisions to or termination of the monitoring program.
- b. Adaptive Management. The flow requirements in Condition 1 are subject to adaptive (including real-time) management to achieve the goals specified in Order 98-05 ¶ 1.b(4).
 - (1). Form. The Stream Monitoring Team may recommend adaptive management of flow requirements in one of two ways:
 - i. In the Annual Monitoring Report and in comments on the AOP, for implementation in the following year.

- ii. On a real-time basis in response to unforeseen circumstances, especially during wetter than average years. Such recommendations shall be made by written notice to the Division of Water Rights. Such recommendations shall be developed in consultation with Licensee and Parties, each of whom shall designate representatives with the qualifications and authority necessary to assist in such adaptive management.
- (2). Implementation. The Licensee shall implement such recommendation unless timely disputed pursuant to the procedure specified in Order 98-05 ¶ 5 and Condition 9.
- (3). Range. Such adaptive management may modify the flow requirements specified in Table 1 or 2, by:
 - i. Modifying the start or end dates, duration, or ramping rate of a hydrograph component, or specifying the timing or magnitude of a flow release in excess of Table 1 or 2 due to other license requirements, in order to improve ecological functions; or
 - ii. Temporarily reducing flow for safety during stream monitoring activities.
- (4). Limitations. Such adaptive management, including the range specified in paragraph (3), shall not materially: (i) increase the volume of water required to meet the flow requirements in the applicable table and the requirements of Decision 1631 ¶ 6, (ii) reduce allowable export, or (iii) increase Licensee's operational or capital costs. Further, such adaptive management does not authorize Licensee to take any action otherwise prohibited by its Licenses.
- c. Annual Monitoring Reports. By February 1 of each year, the Stream Monitoring Team shall submit to the Licensee the Annual Monitoring Report specified by Order 98-07 ¶ 1.b(2)(c).
 - (1). The team shall consult with Licensee and the other Parties in the preparation of these reports. It shall provide draft reports for their review and comment.
 - (2). By May 15 of each year, Licensee shall submit these annual reports to the Division of Water Rights. Its submittal may include comments on the final report's findings and recommendations.
- d. Periodic Overview Report. The Stream Monitoring Team shall develop a Periodic Overview Report on the Stream Monitoring and Restoration Program.

This shall occur after Licensee has operated Grant Outlet to release SEFs in two above-Normal runoff years, at least one of which is Wet or Extreme Wet.

- (1). The report shall evaluate trends in stream conditions relative to the metrics stated in Condition 5.a(2), Appendix 4, and Order 98-05 ¶ 1.b(4). It shall make recommendations for changes to the stream monitoring and restoration program to increase effectiveness or reduce cost of the program, or for termination thereof.
 - (2). In the development of the Periodic Overview Report, the Stream Monitoring Team shall consult with Licensee and Parties and shall provide a draft plan for their review and comment.
 - (3). The Stream Monitoring Team shall submit the Periodic Overview Report to the Division of Water Rights. In response to this report, Licensee may move for changes in the program or termination thereof. After considering any motion, responses thereto, or other comments by the Licensee or other Parties, the Division shall review and take final action on the recommendations in the report.
- e. Channel Maintenance. Stream Monitoring Team shall reopen and maintain side-channel entrances as recommended on pp. 129 – 131 of the *Synthesis Report*. The team or subconsultant shall be responsible to comply with any permitting requirements, and Licensee shall support such permitting and provide land access as necessary.

Condition 6 revises Order 98-05 ¶ 4, as follows. Condition 6.a revises Order 98-05 ¶ 4.d.1. Condition 6.b revises the requirement in Order 98-05 ¶ 4.d(3) that Licensee file an annual report by April 1. It adds the requirement that the Limnology and Waterfowl Directors prepare scientific reports, conforming to the existing requirement for the Stream Monitoring Program. Condition 6.c revises (supplements) the requirements in Order 98-05 ¶ 4.d(3). Condition 6.d revises Order 98-05 ¶ 4.b.

6. Waterfowl Habitat Restoration Program.

- a. Directors.
 - (1). Dr. John Melack (University of California Santa Barbara) shall direct and conduct the limnology monitoring described in Licensee's *Waterfowl Habitat Restoration Plan* (February 1996) as approved in Order 98-05 ¶4.d. The Division of Water Rights shall designate any successor, who shall have expertise in the limnology of saline lakes, after considering the recommendations of the Parties.

- (2). Within 6 months of the Final Order, the Licensee and the Parties shall jointly nominate a director of the waterfowl population monitoring described in *Waterfowl Habitat Restoration Plan*. In the event of a dispute, the Division of Water Rights shall designate the director pursuant to the procedure provided in Order 98-05 ¶ 5.
- b. Monitoring Program. The Limnology and Waterfowl Directors shall continue the previously authorized monitoring programs, as may be modified by the Division of Water Rights on the basis of the Periodic Overview Report, in response to a motion by Licensee or another Party, or as otherwise determined.
- c. Annual Monitoring Report. By March 1 of each year, the Limnology and Waterfowl Directors shall each submit an Annual Monitoring Report to the Licensee, including evaluation of results and any recommendations for changes in the Waterfowl Habitat Restoration Program.
 - (1). In the development of their respective annual reports, the Limnology and Waterfowl Directors shall consult with the Licensee and other Parties and shall provide drafts for their review and comment.
 - (2). By May 15 of each year, Licensee shall submit the final Annual Monitoring Reports to the Division of Water Rights. Its submittal may include comments on the findings and recommendations stated in the reports. After considering any comments by Licensee or other Parties, the Division shall review and take final action on any recommendations stated in the reports.
- d. Periodic Overview Report. Every five years, the Waterfowl and Limnology Directors shall jointly develop a Periodic Overview Report on the Waterfowl Program. The report shall evaluate trends and make recommendations for changes to the Waterfowl Program to increase effectiveness or reduce cost.
 - (1). In the development of the Periodic Overview Review, the Waterfowl and Limnology Monitoring Directors shall consult with Licensee and Parties and shall provide a draft report for their review and comment.
 - (2). The Waterfowl and Limnology Directors shall submit their Periodic Overview Report to the Division of Water Rights. In response to this report, Licensee may move for changes in the program or termination thereof. After considering any motion, responses thereto, or other comments by Licensee or other Parties, the Division shall review and take final action on any recommendations stated in the report.
- e. Habitat Improvements. The Waterfowl Monitoring Director may recommend use of the funds authorized by Order 98-05 ¶ 4.b, for the purpose of improving

waterfowl habitat on U.S. Forest Service lands or elsewhere in the Mono Basin. This director or subconsultants shall be responsible to comply with any permitting requirements, and Licensee shall support such permitting and provide land access as necessary.

Condition 7 revises Order 98-05 1.b.(1) and 4.d, by establishing a new agency for the purpose of contracting with the Monitoring Directors.

7. Mono Basin Monitoring Administration Team.

- a. **Purposes.** The Mono Basin Monitoring Administration Team (MAT) shall be established to: (1) develop an annual Expenditure Plan for monitoring and specified restoration actions; and (2) oversee a Fiscal Administrator's contracts with the Stream Monitoring Team, Limnology, and Waterfowl Directors (collectively, Monitoring Directors), for the performance of their respective monitoring tasks, and any contract for administrative services necessary for the MAT carry out its purposes.
- b. **Governance.** The MAT shall consist of: CDFW, Mono Lake Committee, California Trout (with respect to the stream monitoring and restoration program only), and the Licensee.
 - (1). Within 6 months after the Final Order, the MAT members shall enter into an agreement specifying meeting and governance procedures, including procedures that provide for timely resolution of any disputes.
 - i. Under these procedures, the MAT shall carry out all actions approved by a majority of its members unless and until directed otherwise by the Division of Water Rights pursuant to Order 98-05 ¶ 5 and Condition 9. A MAT member may not delay or prevent action by inaction or failure to participate in votes.
 - ii. These procedures shall permit an independent annual audit under standard procedures used for a non-profit corporation. The cost of an audit shall be covered from a mutually agreeable source other than the funding provided by Licensee under Section 7.f.
 - (2). Each member shall designate a representative who shall participate in the MAT's deliberations and votes, as follows: (i) for Licensee, the Aqueduct Manager or higher; (ii) for CDFW, an Environmental Scientist or higher; (iii) for Mono Lake Committee, the Eastern Sierra Policy Director or higher; and (iv) for California Trout, the Eastern Sierra Program Manager or higher.

- (3). The MAT shall conduct the tasks below in a manner that assures that funds are managed and used as authorized here and by further order of the Division of Water Rights.
- c. Fiscal Administrator. The MAT shall select and supervise a Fiscal Administrator, who shall be responsible: to (1) enter into and administer contracts with Monitoring Directors, (2) pay their invoices, and (3) perform certain other administrative duties.
- d. Administration of Monitoring Account.
 - (1). Account. The Fiscal Administrator shall establish and administer a Mono Basin Monitoring Account at a bank or similar financial institution.
 - (2). Contracting with Monitoring Directors.
 - i. The Fiscal Administrator shall prepare contracts and annual task orders with the Monitoring Directors, for the MAT's review and approval. Upon such approval, the Fiscal Administrator shall execute a contract or work order, as applicable.
 - ii. At the request of the applicable Monitoring Director, the Fiscal Administrator may enter into a conforming contract with a subconsultant for the performance of a monitoring task or a restoration project.
 - iii. The Monitoring Directors may assign tasks to Licensee's employees for performance, subject to the Licensee's approval and provided Licensee is responsible for the costs associated with such performance.
 - (3). Invoices. The MAT shall review invoices for consistency with the approved Expenditure Report and Plan and applicable work orders. Upon its approval of an invoice, MAT shall instruct Fiscal Administrator to pay the invoice.
- e. Other Administration. The Fiscal Administrator, directly or through a contractor acceptable to the MAT, shall: (1) assist the Licensee, MAT, and Monitoring Directors in convening meetings related to the preparation of required plans and report, (2) report to the MAT on all contracts and expenditures, and (3) assist MAT in preparation of the Expenditure Report and Plan and related matters.
- f. Funding. Licensee shall fund the Mono Basin Monitoring Account, as follows.

- (1). Within 30 days of the Final Order, Licensee shall make one-time payments of: (i) \$500,000 for stream restoration projects as specified in Condition 5.e; and (ii) \$275,000, pursuant to Order 98-05 ¶ 4.b as amended by Condition 6.e.
 - (2). By November 1 of each year, Licensee shall make an annual payment to the Monitoring Account for the purpose of next year's monitoring and associated administrative costs. This payment shall be \$575,000 (2013), of which \$299,000 shall be for stream monitoring, and \$276,000 for waterfowl and limnology monitoring. This payment shall be adjusted annually by CPI (Los Angeles-Riverside).
 - (3). Not later than September 1, the Licensee shall notify the Division of Water Rights if it disputes its obligation to provide such funding as required by Condition 7.f(2). Any such dispute shall be limited to the issue whether the MAT has performed as required by this condition. The Division shall undertake to resolve such dispute not later than November 1. Licensee shall not withhold any required payment to the Mono Basin Monitoring Account unless and until the Division authorizes such action following resolution of Licensee's dispute.
 - (4). The Division of Water Rights shall amend or end this funding obligation upon its termination of some or all of the monitoring programs, respectively. Under authority of Decision 1631 and Orders 98-05 and 98-07, the Division shall not increase the amount of funding required to be provided by Licensee.
- g. Expenditure Report and Plan. By May 15 of each year, the MAT shall submit an Expenditure Report and Plan to the Division of Water Rights. The MAT, in consultation with the Monitoring Directors and the Fiscal Administrator, shall prepare a draft 30 days before final submittal.
- (1). The report shall include an accounting of all expenditures, contracts, and related matters in that year.
 - (2). The plan shall propose a plan for expenditure of the annual funding for the following year's monitoring tasks. It may propose: priorities for monitoring within the scope of the approved monitoring programs, the carry-over of funds to subsequent years for non-annual monitoring tasks, and the use of funds to cover the necessary costs of administration, including the Fiscal Administrator.
 - (3). The Division of Water Rights shall review and approve the expenditure plan, subject to any appropriate modifications.

- h. Termination of MAT. At any time after 10 years from the date of the Final Order, Licensee may request termination of MAT, and Division of Water Rights shall approve such termination upon approval of an alternative method to implement required monitoring programs. At any time, the Division may terminate the MAT on its own initiative, or on motion demonstrating that the MAT has not performed as required in this Condition 7, or that the MAT's continuing administration of the monitoring programs will not be cost-effective. Termination of the MAT shall not terminate Licensee's obligations under the Final Order. Any funds remaining in the Mono Basin Monitoring Account upon termination of the MAT shall revert to Licensee.
- i. Limitations. The Licensee shall operate its Mono Basin facilities in compliance with all applicable requirements. It shall not delegate any such responsibility to the MAT.

Condition 8 amends Decision 1631 ¶ 6.a(4).

8. Lake Hearing

In the event that the water level of Mono Lake has not reached an elevation of 6,391 feet by September 28, 2020, the Board will hold a hearing to consider the condition of the lake and the surrounding area, and will determine if any further revisions to this license are appropriate.

Condition 9 amends (supplements) Order 98-05 ¶ 5.

9. Dispute Resolution and Hearing Procedures.

- a. Parties. For the purpose of Order 98-05 ¶ 5, Parties means: CDFW, Mono Lake Committee, and California Trout.
- b. Service. Any notice or other document submitted to the Division of Water Rights pursuant to these conditions shall be simultaneously served to the Parties by electronic mail or equivalent method.
- c. Informal Dispute Resolution. The Division of Water Rights shall encourage and assist the Parties to undertake informal dispute resolution.

**Mono Basin Settlement Agreement
Appendix 2**

Mono Basin Operations Plan Outline

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1.0 INTRODUCTION

Plan for management of Mono Basin streams (Lee Vining, Rush, Walker, Parker) and aqueduct facilities including Grant Lake Reservoir. Plan presents the Stream Ecosystem Flows (SEFs) and Mono Lake level requirements and identifies operational rules and procedures necessary to reliably deliver SEFs, follow lake level rules, and export water.

1.1 Background

Discuss D1631, GLOMP, Order 98-05, Synthesis Report.

1.2 Synthesis of Instream Flow Recommendations Report

Brief description & reason for the report. Briefly describe CAMMP modeling subgroup and insights gained from collaborative effort. That team reconstituted to develop MBOP.

1.3 Changes from GLOMP

Brief discussion of changes. More detailed discussions in body of report. Direct reader to sections where major changes are discussed. Include overview of revised hydrographs. Include overview of new infrastructure to support implementation of SEFs.

1.4 Document Organization

Include each chapter title, plus brief description of chapter. Brief description can be intro paragraph to chapter.

2.0 MONO BASIN HYDROLOGY

This section discusses Mono Basin hydrology. Year types are redefined based on the period of record and 50-year average runoff is updated every 5 years upon approval of MBOP revisions by the Chief of Division of Water Rights. Discussion of additional factors that may affect Mono Basin hydrology.

2.1 Mono Basin Overview

Provide overview of streams draining to Mono Lake. Streams are snowmelt-driven, and most of the contributing precipitation occurs in winter. Upstream SCE reservoirs also affect the timing of runoff, but usually there is little effect on volume over the course of the runoff year. Include revised projections of when Mono Lake will reach 6,391.

2.2 Recurrence Intervals

Analysis of overall annual runoff for period of record vs. the last 50 years. Compare with what was used in D1631.

2.3 Year Types

Define year types based on period of record and recurrence interval analysis.

2.4 Climate Change

Long-term changes observed and expected. Summarize already observed and probable future effects of climate change. Discuss findings of LADWP 2011 Eastern Sierra Climate Study.

3.0 LADWP MONO BASIN FACILITIES

Overview of operations, facilities, and limitations. Much of this (except Lee Vining facilities and planned Grant Outlet upgrade) can be taken from GLOMP with some revision.

3.1 Operations Overview

3.2 Mono Basin Facilities

3.2.1 Lee Vining Diversion Facility

Diverts water from Lee Vining Creek into Lee Vining Conduit. Langemann gate provides greater operating efficiency. Discuss in detail the different ways the facility can be managed and the pros and cons of each strategy.

3.2.2 Lee Vining Conduit

Runs from Lee Vining Creek at the Diversion Facility to Grant Lake Reservoir.

3.2.3 Walker Creek Diversion Facility

Provides capability to divert to Lee Vining Conduit, but no water is currently diverted during most year-types. Discuss in detail the sediment bypass procedures.

3.2.4 Parker Creek Diversion Facility

Provides capability to divert to Lee Vining Conduit, but no water is currently diverted during most year-types. Discuss in detail the sediment bypass procedures.

3.2.5 Lee Vining Conduit Siphon Bypass Facility

Allows diversion of Lee Vining water to Rush Creek. Used to achieve water temperatures in Rush Creek in Dry and Dry-Normal I years. Discuss in detail the operations procedures.

3.2.6 Grant Lake Reservoir

Regulates flow on Rush Creek, receives flow from Lee Vining Creek, and stores water for SEF, export, fishery, recreation, and marina purposes. Grant Lake Reservoir allows LADWP to provide higher peak flows to Rush Creek and lower base flows to Rush Creek and Lee Vining Creek than would otherwise occur from the regulated SCE flows.

3.2.7 Grant Lake Reservoir Outlet Facility (existing)

Regulates flow released from Grant Lake Reservoir. Flow goes to export or to Rush Creek through MGORD. Discuss in detail the operations procedures.

3.2.8 Grant Lake Reservoir Outlet Facility (new)

This is the new larger Grant Lake Reservoir outlet that delivers SEF flows to Rush Creek.

3.2.8.1 Facility Location

3.2.8.2 Facility Design and Specifications

3.2.8.3 Facility Construction

3.2.8.4 Facility Operation

3.2.9 Mono Gate One

Used to divert water released from Grant Lake Reservoir down Rush Creek through MGORD. Formerly difficult to operate and imprecise in regulating flow, but upgraded in 2009 and tested in 2011. Discuss upgrades and current operations in detail.

3.2.10 Mono Gate One Return Ditch

Returns flow from Grant Lake Reservoir to Rush Creek. Capacity is 380 cfs but maintenance and monitoring are needed in order to use that capacity. Ditch was tested in 2004 and 2011, and the tests provided some valuable data discussed in other sections. Discuss in detail the operations, maintenance, and monitoring procedures.

3.2.11 Mono Tunnels

Export passes from West Portal to East Portal through the Mono Craters Tunnel. Discuss in detail the operations, maintenance, and monitoring procedures.

3.3 Operational Limitations

Facilities are limited in their precision, which affects DWP's ability to regulate flows. SCE reservoirs regulate flow in Rush Creek upstream of Grant Lake Reservoir and in Lee Vining Creek. Discuss the operational limitations and accuracy of each facility.

4.0 MANAGEMENT RESOURCES

Resources available to effectively manage LADWP facilities, Mono Basin streams, reservoirs, and Mono Lake. (Portions of data and models sections can be taken from GLOMP with some revision.)

4.1 Data

4.1.1 Snow Surveys/Pillows

4.1.2 Field Reconnaissance

4.1.3 Flow Monitoring

All measuring stations post same-day information on the Internet. Discuss each measuring device and its accuracy. Discuss Website, Daily Aqueduct Report, and procedures and sources of error or down-time in detail. Discuss plans for upgrades or changes. Daily average data is included in annual reporting; discuss other sources of data (AS400) and the types of data and period of record. Discuss availability of different data sources.

4.2 Models

4.2.1 Runoff Forecast Model

The runoff forecast model is used to predict the annual runoff for the four streams and the monthly distribution of runoff. Operations are based on the year type predicted by the runoff forecast model on February 1, March 1, and April 1 and updated on May 1. Discuss the May 1 forecast protocol developed in 2011 and implemented in 2012.

4.2.2 Mono Basin Operational Model -- eSTREAM

The Grant Lake model previously was used for annual operations only. It did not have the capability to run useful multi-year simulations. eSTREAM, a MS-Excel-based model, was developed by Watercourse Engineering and has been improved by a collaborative effort between the parties. eSTREAM is a key tool that will be used each year to plan releases, exports, and reservoir levels specified in the AOP. Monthly runs will allow AOP adjustments based on actual events

4.2.3 Peak Snowmelt Prediction Model

The timing of the release of peak flows in Rush Creek should coincide, if possible, with the peaks in Parker and Walker Creeks. Rush Creek peak can be timed to coincide with seeding of riparian species in certain years. A peak snowmelt prediction model allows the timing of these peaks to be more accurately predicted, contributing to more efficient operations.

4.2.4 Degree-day Model for Predicting Cottonwood Seeding

This model was developed by McBain & Trush and used (?) by LADWP to predict peak seed release from cottonwoods. This model can be used in conjunction with the peak snowmelt prediction model in order to time Rush Creek's peak for each year's optimum ecological opportunities.

4.3 LADWP Personnel

4.3.1 Watershed Resources

4.3.2 Hydrographers

4.3.3 Water Operation Engineers

4.4 Other Entities

4.4.1 Mono Lake Committee, Cal Trout, California Dept. of Fish and Wildlife

4.4.2 Monitoring Administration Team (MAT)

4.4.3 Southern California Edison

4.4.4 US Forest Service

5.0 MONO BASIN STREAMFLOW HYDROGRAPHS

Contains SEFs. Discuss each hydrograph component, ramping rates, and other relevant elements. Discuss effects and considerations for successive year types.

5.1 Overview of SEF Hydrographs

Approach, what they accomplish.

5.2 Base Flows

Base flows provide fish habitat, BMI habitat, and groundwater and vegetation maintenance.

5.2.1 Spring Base Flow

5.2.2 Summer Base Flow

5.2.3 Fall Base Flow

5.2.4 Winter Base Flow

5.3 Rising Limb

5.3.1 Spring Ascension

5.3.2 Spring Bench

5.3.3 Snowmelt Ascension

5.4 Snowmelt Bench

The snowmelt bench provides a starting and ending point for the release of a snowmelt flood.

5.5 Snowmelt Flood

5.5.1 Peak Timing

5.5.2 Peak Magnitude and Frequency

5.5.2.1 Ecological Functions

Peak magnitude does geomorphic work and/or inundates floodplain for vegetation growth. Moves LWD etc. (get list from Synthesis Report), discuss instantaneous vs. daily average

5.5.2.2 Ecological Functions of Winter Floods

5.5.3 Peak Duration

5.5.3.1 Ecological Functions

Peak duration affects sediment movement and vegetation germination. Suspended sediment experiments in 2005 contributed to understanding.

5.5.4 Fast Recession

5.6 Recession Limb

5.6.1 Medium Recession (Node)

5.6.2 Slow Recession

5.7 Temperature Management

How to manage required temperature control releases from Lee Vining Creek into Rush Creek.

5.8 Ramping Rates

Purposes of Synthesis Report ramping rates. Ramping rate options for achieving better timing of Rush Creek peaks with Parker/Walker peaks and/or seedling germination, depending on whether maximum geomorphic work or maximum vegetation rooting is the goal for the year. Ramping guidance, targets, and minima from Synthesis Report.

Flexibility for quick reaction to opportunities/events and operational and facility limitations.

5.9 October 1 – March 31 Rush Creek flow limitations

Review license conditions designed to avoid negative fishery impacts during this time of year

5.10 Successive Year Type Effects

Successive dry years. Successive wet years. How operations are affected in these situations. Less runoff than predicted may be available after multiple dry years, and what actions to take at what thresholds as reservoir declines each year.

5.11 Adaptive Management of SEFs

Describe how SEFs may be adaptively managed, the limits on adjustments, and how annual adaptive management adjustments are determined and reported.

5.12 Interim Rush Creek SEF

Described modified Rush Creek SEFs that apply until the new Grant Lake Outlet is placed into service.

5.13 Streamflow Hydrographs

The complete SEF hydrographs for Rush, Lee Vining, Walker, and Parker creeks

6.0 GRANT LAKE RESERVOIR MANAGEMENT

6.1 Reservoir minimums

6.1.1 Minimum pool: 11,500 acre feet

6.1.2 Temperature minimum: 20,000 acre-feet July 1 – September 30

6.1.3 Trigger for temperature releases at five siphons: below 25,000 acre-feet July 1

6.2 Reservoir management approach required for new Grant Lake Outlet to function

Discuss how reservoir level management is integral to new Outlet having capability to reliably deliver Rush Creek SEF. Refer to reservoir management targets and rules in the “Operational Planning Guidelines” section.

7.0 MONO LAKE LEVELS

Streamflow planning should include water in addition to SEFs, when required, to meet lake level requirements. Describe lake level rules affecting exports. Provide forecast for lake level rise.

7.1 Lake Maintenance Water

Water needed to reach target lake level and maintain long-term management level. During transition period, and in certain post-transition period situations, flow in excess of the SEFs are released to achieve lake level requirements and comply with export rules. There are better and worse times of year to release that water. General guidance for releasing lake maintenance water to maximum benefit will be described here. The Annual Operation Plan will incorporate specific annual adaptively managed release schedules that specify when to release lake level maintenance water

7.2 Lake Level rules for exports

7.2.1 Transition Period

7.2.2 Post-transition period

7.3 Lake Level transition period

Provides current modeling forecast for the time needed for Mono Lake to achieve the 6,391 trigger elevation.

8.0 MONO BASIN EXPORTS

Discuss available exports. Discuss Upper Owens requirements. Describe desired schedule – timing and magnitude by year type--for exports from Grant Reservoir.

8.1 Available Exports

Exports are limited by Mono Lake levels, SEFs, GLR levels, Upper Owens flow cap, and downstream aqueduct constraints. Water available to export is managed throughout the year to maintain GLR levels and provide export.

8.2 Upper Owens River

Review export rules related to Upper Owens and their effect on scheduling exports.

8.3 Export scheduling

Review desired time pattern for exports. Review LADWP export goals for different year types. The export plan for each specific year will be developed in the Annual Operation Plan.

9.0 OPERATIONAL PLANNING GUIDELINES

This is the section of the report which will be used by operators and planners to schedule the releases and exports. Planning guidelines cover stream releases and export for each runoff year type. .

9.1 SEF schedules by year type for all four creeks

Adaptive management of the SEF schedule is also possible; how developed and how to incorporate into planning

9.2 SEF Adjustments for Interim Operation period

Modified Rush Creek rules until Grant Lake Reservoir outlet is operational including any temporary Reservoir rules necessary during construction.

9.3 Guidelines for additional release for Mono Lake level maintenance

Provides guidelines in tabular form for scheduling additional water releases to achieve and maintain Mono Lake levels. The timing of these flows may be also be identified in annual adaptive management specifications.

9.4 Grant Lake Reservoir Targets/Rules by Year Type

Detailed reservoir rules and targets necessary to assure reliable delivery of Rush Creek SEF utilizing new Grant Lake Outlet. Describe how these rules and targets were developed via modeling and other techniques. Describe compliance check points and prioritized corrective actions if targets not met.

9.4.1 Extreme Wet

9.4.2 Wet

9.4.3 Wet-Normal

9.4.4 Normal

9.4.5 Dry-Normal II

9.4.6 Dry-Normal I

9.4.7 Dry

9.5 Extenuating circumstances

10.0 ANNUAL OPERATIONS PLAN

Describe the purpose and goals of the Annual Operations Plan (AOP). Outline the procedure and timeline for development and submission to the State Water Board.

10.1 Purpose and goals

The AOP will describe how operations will work for the current year-type to accomplish exports and stream releases in accordance with the provisions of the water license. The goal is to develop the AOP in a collaborative manner with the involved parties to avoid disputes and assure smooth and efficient operations during the course of the year.

10.2 Contents

The AOP will provide specific daily and other information about the flow schedule, export, and all facility operations for the year ahead. The AOP will also review the prior year's plan and compare it to actual runoff and operations.

10.3 Adaptive Management

The AOP will incorporate adaptive management adjustments to the SEFs.

10.4 Development and update process

The AOP is created yearly. A draft plan is created in April and a final is completed in May. The final is submitted to the SWRCB by May 15.

Drafts will be circulated among the parties with meetings and phone calls as necessary to facilitate development of the final plan. An early May in-person meeting will be held to review the draft plan and resolve any issues.

In June, July, August, September, and October, updates of actual runoff, inflows, releases, exports, and reservoir levels for the previous month will be sent to the parties, evaluating forecast accuracy and identifying any necessary changes to the plan.

10.5 Annual Meeting

An annual in-person meeting will be conducted in early May or other convenient time to review the draft AOP and resolve outstanding questions before submission of the final AOP to SWRCB. Meetings will be in Bishop unless an alternate location is preferred by the parties.

10.6 Disputes

The goal is to produce an AOP that has support of LADWP and the settlement parties. Reasonable efforts will be made by all parties to resolve disagreements during AOP development process. Unresolved issues may be taken up with the Chief, Division of Water Rights when the AOP is submitted.

11.0 MONO BASIN OPERATIONS PLAN REVISIONS AND UPDATES

MBOP is a living document that should contain up to date information to maximize efficiency of LADWP operations, assure compliance, and facilitate communications with involved parties.

11.1 Revision Schedule

MBOP to be developed and revised consistent with the terms of the settlement agreement.

11.2 Revision Process

Revisions will be developed in collaboration with interested parties with goal of preparing a jointly supported document. Revision process to include circulation of changes, comment period, discussion meeting. Revised document will be submitted to Water Board for review, comment period, and final approval.

12.0 REFERENCES AND APPENDICES

12.1 (Final only) Comments and Responses to Comments on 2014 MBOP

12.2 2010 Synthesis Report

12.3 1996 Grant Lake Operations and Management Plan

Technical Memorandum

Scope of Future Work For the Mono Basin Stream and Fisheries Monitoring Program to Accomplish Goals of Chapter 7 of the Synthesis Report

Ross Taylor and Bill Trush

From April 26, 2013 Technical Memorandum

Ross Taylor met with LADWP, California Department of Fish and Wildlife, the Mono Lake Committee, and California Trout (the 'Parties' group) on February 12, 2013 to discuss Chapter 7 (topic: future monitoring) of the Stream Scientists' 2010 Synthesis Report. Chapter 7 outlines development of a stream and fisheries monitoring program and an adaptive management plan once the SEFs have been finalized operationally. Chapter 7 has been the focus of settlement discussions between the Parties regarding future monitoring goals and responsibilities, given the absence of the Stream Scientists from the Parties process. At this meeting, the Parties concluded that the Stream Scientists needed to recommend a monitoring package using Chapter 7 as a framework, and should consider how their recommended tasks would be incorporated into an adaptive management program, as well as budget each monitoring task. The Stream Scientists' recommendations would be considered part of a larger, overall monitoring plan that also recommends waterfowl surveys and Mono Lake limnology monitoring.

The February 12th meeting concluded with the Stream Scientists (Ross Taylor and Bill Trush) tasked with developing a recommended monitoring package based on tasks listed in Chapter 7. This package was to include information on how recommended tasks would be incorporated into an adaptive management program.

Ross Taylor and Bill Trush met jointly with the Parties on March 18, 2013 and presented a draft Technical Memorandum detailing a package of monitoring tasks. Discussion and review at the meeting and subsequent work by the Stream Scientists resulted in revisions to the package culminating in a finalized Technical Memorandum dated April 26, 2013. The Stream Scientists believe that the monitoring tasks in that Memorandum are suitable to accomplish the goals of Chapter 7 of the Synthesis Report, and they are listed here.

Future monitoring fell into three categories:

Compliance Monitoring to assure the State Water Resources Control Board (SWRCB) that LADWP is releasing the Rush, Parker, Walker, and Lee Vining Creek SEFs as specified in a new Order. LADWP staff

would be responsible for funding and executing the compliance monitoring, including Grant Lake Reservoir limnology.

Performance Monitoring informs all parties that the SEFs are achieving what they were expected to accomplish (i.e., performance) relative to the Desired Ecological Outcomes in Table 3.1 of the Synthesis Report. Performance monitoring could be used adaptively to fine-tune the SEFs.

Research Investigations Requiring Monitoring to improve/challenge our quantitative insight into key ecological processes—upon which the Synthesis Report was based—that could lead to innovative recovery actions.

Performance Monitoring

The stream and fisheries monitoring presented in Chapter 7 of the Synthesis Report outlined tasks that would guide an adaptive management program and focused on: (1) validating the SEF regimes were providing the intended ecological benefits and (2) assisting in fine-tuning the flow regimes within the recommended SEF hydrographs.

The Stream Scientists envision that recommended performance monitoring tasks would commence in the summer–fall of 2014 and would occur either annually or would be water-year triggered. Each year’s monitoring efforts would be presented in report-format to the SWRCB. For example, an annual fisheries report would be drafted, similar to the annual compliance report developed by the Fisheries Stream Scientist. The Stream Scientists suggest meeting in-person for at least one of the two recommended semi-annual meetings. At year-8, it is recommended that an instream flow study be considered (in part depending on how well channel complexity has advanced) to re-evaluate expected changes in streamflow-habitat relationships in Rush and Lee Vining creeks. After year-10, the final reports would be summarized into a final review of the SEFs and recommendations regarding which performance monitoring tasks should continue.

The following section briefly describes each monitoring task’s justification and concludes with a summary table of the tasks.

Fisheries-Based Performance Monitoring Tasks

Fisheries Monitoring Task #1: Annual Fisheries Sampling

Fisheries sampling should continue annually due to the short lifespan of brown and rainbow trout in Rush and Lee Vining creeks, as well as the quick response in growth and condition factors as related to water-year type and flow regimes. Annual fisheries sampling should commence in September of 2014 to maintain the continuous data set (started in 1999). Future monitoring should include mark-recapture estimates on Upper and Bottomlands reaches of Rush Creek and mainstem Lee Vining Creek. Depletion estimates should be made on the Lee Vining Creek side-channel and on Walker Creek. The MGORD section of Rush Creek should be sampled for a mark-recapture estimate in even years (two electrofishing passes) and for RSD and condition factors in odd years (one electrofishing pass). Finally, PIT tagging should be continued on an annual basis to track specific growth rates.

Fisheries Monitoring Task #1a: Single-pass Fisheries Sampling in Odd Years

An alternative to conducting the fisheries sampling every year for the generation of population estimates, is in odd-years to conduct only single-pass electrofishing in all sections of Rush, Lee Vining, and Walker creeks (as we currently do in the MGORD section of Rush Creek). Single-pass electrofishing in all sections results in a significantly reduced budget in the post-Synthesis Report monitoring period, but will still provide valuable information on an annual basis. Single-pass electrofishing in odd-years would still accomplish the following tasks:

1. Condition factor analysis based on weight and length data.
2. Length-frequency histograms to evaluate age-class structure.
3. RSD calculations to evaluate proportions of catchable-sized trout.
4. Annual growth calculations based on recaptures of previously PIT tagged fish.
5. Implanting of PIT tags in new fish.

Task #1a: Odd-year/Single-pass Fisheries Sampling Assumptions

This task's work-plan includes the following assumptions (1) Single-pass sampling will be conducted by a five-person crew comprised of two consultants (Principal and Senior fisheries biologists) and three employees (field technicians); (2) block fences will be used at the lower boundaries to prevent downstream fish movement at end of sections; (3) PIT tagging will continue to be used to track specific growth rates; (4) new PIT tags will be implanted during single-pass sampling; (5) single-pass effort would only require five field sampling days and two travel days; and (6) reporting costs for odd-year, single-pass sampling will also be reduced.

Fisheries Monitoring Task #2: Annual Fisheries Report

The annual report will present the data and provide an analysis and interpretation for each year's fisheries monitoring. Additional sub-tasks include entering and proofing data. These annual reports will

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continue providing population estimates, age-class structure analysis, density estimates, condition factors and RSD-value calculations. The Task #2 work-plan assumes that the report is distributed as a PDF.

Fisheries Monitoring Task #2a: Single-pass Sampling Fisheries Report

The sub-tasks to prepare the fisheries reports for single-pass sampling events are similar to those described for Task #2. The numbers of hours for Task #2a report preparation are reduced because mark-recapture and depletion estimates would not be generated. The Task #2a work plan also assumes that the report is distributed as a PDF.

Fisheries Monitoring Task #3: Pool and Habitat Typing Surveys

One channel response to higher flow events is the production/maintenance of important habitats for brown trout in Rush and Lee Vining creeks. The pool and habitat typing surveys should be conducted the summer after above-normal runoffs, or every five years. During the next 10 years of monitoring, no more than three (3) pool surveys would be conducted. The work-plan was based on the following assumptions: (1) surveyed by the Principal and Senior fisheries biologists when they are already in the Mono Basin for the annual fisheries sampling to minimize travel costs, (2) four (10-hour) days to complete Rush Creek and two (10-hour) days to complete Lee Vining Creek, (3) surveys would cover the same reaches completed in RY2011, and (4) for report development, the work-plan assumes 20 hours for the Principal fisheries biologist and 60 hours for the Senior fisheries biologist.

Fisheries Monitoring Task #4: Monitor Water Temperatures

Future collection of water temperature data will be especially important on Rush Creek, both to track conditions during construction phases on GLR Dam and to track changes in temperature due to GLR management and climate change. Continuation of Lee Vining Creek temperature monitoring would be a lower priority than Rush Creek because the past long-term data have shown water temperatures in Lee Vining Creek are not a concern regarding fish growth and condition factor. Work-plan assumes downloading of data loggers four times per year.

Geomorphic and Woody Riparian-Based Performance Monitoring Tasks

Geomorphic Monitoring Task #1: Overall Main Channel Complexity in Rush Creek and Lee Vining Creek

Manning's Coefficient (n) is an empirically derived, unit-less measure of overall hydraulic roughness of the stream channel. In the Plan for Monitoring the Recovery of Mono Basin Streams (Blue Book: Analysis & Evaluation of Monitoring Data (January 12, 1997, p.8)), Manning's n was considered an important monitoring variable:

"Similarly, changes in channel roughness, principally from riparian colonization, will be plotted through time (accomplished back-calculating Manning's n for specific flows on monitored cross-sections). A positive correlation of increasing roughness (now the dependent variable) with increasing floodplain deposition for a given flow magnitude and duration is expected, quantitatively demonstrating an important feedback loop for recovery."

Annual Reports projected the significance of increasing roughness (measured as Manning's n) on key geomorphic recovery processes (also specified in the Desired Ecological Outcomes on the Synthesis Report in Table 3-1, p. 66). The desirability of re-incorporating Manning's n back into long-term monitoring resides in its universality (collectively sensitive to many forms of roughness), relative ease of measurement given what it measures, and usefulness for predicting mainstem stage heights affected by greater roughness (e.g., in the future, lower streamflows will be needed to enter side-channels).

Eight channel reaches in Rush Creek and 3 channel reaches in Lee Vining Creek would be monitored for trends in Manning's n at bankfull discharge (approximately 350 cfs Rush Creek and 250 cfs Lee Vining Creek) and greater. For the initial set-up, each reach selected will need 1 to 3 cross-sections surveyed depending on local channel complexity, with passive peak stage recorders and stage plates installed. Once a reach's cross-sections have been surveyed and monumented, an estimate for reach-long slope must be surveyed. Reach selection would be coupled with Geomorphic Monitoring Task #2 --- occupying previous cross sections would be a priority. Fieldwork requirements for the set-up in RY2014 would be 12 field days with Principal investigator and two field technicians. Following average to wetter years, six field days with a Principal investigator and two field technicians are necessary for annual monitoring.

Geomorphic Monitoring Task #2: Floodplain Deposition in Lower Rush Creek and Lee Vining Creek

Three Desired Ecological Outcomes in Table 3-1 of the Synthesis Report specify emergent, intermediate, and advanced floodplain deposition as important recovery processes. Trend monitoring will require relatively short segments of channel cross-sections within the floodplain from Monitoring Task #1 that will receive detailed surveying of their floodplain surfaces for documenting long-term, net floodplain aggradation. Floodplain depositional processes in Lower Rush Creek often included initial scour during a

peak event with subsequent deposition all within the same flood event resulting in no net deposition. For long-term monitoring, we would only measure net deposition.

Geomorphic Monitoring Task #3: Establish and operate a continuous stream gaging station in Lower Rush Creek

Bill Trush has explored several feasible strategies for the installation and operation of an affordable flow gaging station on lower Rush Creek within the vicinity of the County Road crossing, as specified in the Synthesis Report. A flow gaging station at this location in lower Rush Creek is important because it would account for accretions from Parker and Walker Creeks as well as flow losses documented in past synoptic flow measurements.

Geomorphic Monitoring Task #4: Hydraulic Connectivity of Mainstem Channel to Floodplains

Desired Ecological Outcomes (Table 3-1, p.66 Synthesis Report): (1) Minimum streamflows recharging shallow groundwater and saturating emergent floodplain surfaces, (2) Off-channel spring/early-summer streamflow connectivity, and (3) Protect vigor of established riparian species along the mainstem and side-channel margins as well as on the floodplain.

This task is included in the Performance Monitoring, but bridges Compliance Monitoring, for keeping side-channels hydraulically connected to the mainstem channel as discussed in the Synthesis Report (p. 129 sets no timetable for terminating side-channel maintenance but does provide an inundation depth threshold) that requires groundwater/surface water monitoring and side-channel surveying/maintenance.

The 4-Floodplain and 8-Floodplain complex in Lower Rush Creek will need to be surveyed in RY2014 to establish a physical monitoring infrastructure. This will include high-end GPS monitoring for surveying riffle crest thalweg elevations in the mainstem, floodplains, and side-channels. A series of well-positioned benchmarks will make subsequent surveys easier to accomplish using more traditional surveying methods. Stage plates will be installed in the back of the 4-Floodplain and in the 4-Floodplain's side-channel; another gage plate will be installed in the first deep pool of the side-channel in the 8-Floodplain. This infrastructure of existing piezometers, a few a new additions, stage monitoring on floodplains and side-channels, riffle crest and 2 existing piezometers on Lee Vining Creek also will be monitored but the infrastructure can be made using traditional surveying.

1ST Year Set-Up in RY2014: Establish piezometer network, floodplain stage plates, side-channel invert benchmarks, and riffle crest elevations from the top of elevations, and side-channel entrance invert elevations will be monitored by an MLC intern in one day. Survey the B-1 Connector of the 4-Floodplain downstream to the bottom of the 4-Floodplain using high-grade GPS surveying methods (elevational error 1 to 2 cm). This task would require 5 field days for three field technicians plus office analyses and overlay of GPS data onto aerial photographs to make a master map from which to direct annual monitoring.

Geomorphic Monitoring Task #5: Photo Point Monitoring

During the Synthesis Report preparation, ground-based photos of distinct geomorphic features at several streamflows were almost as valuable as cross-section data for documenting and interpreting geomorphic change. The utility of photo point monitoring relies on a disciplined routine. The Principal investigators will need to spend a total of 10 hours re-occupying re-established photo-points at selected streamflows during the first year of fieldwork, then meet with MLC to schedule future photographic sessions. Photo management is critical. One technician will catalogue the photographs and provide a listing of new photographs in the annual report.

Woody Riparian Vegetation Monitoring Task #1: Measuring Cottonwood Vigor

Table 3-1 Desired Ecological Outcomes: *Protect vigor of established riparian species along the mainstem and side-channel margins as well as on the floodplain.*

1st Year Set-Up: Select floodplain locations and trees for sampling. Measure 10 years of stem growth at 10 floodplain locations within Lower Rush Creek and four locations within Lee Vining Creek; averaging 50 cottonwood branches measured for annual growth per floodplain location. This 1ST Year set-up will require 12 field days with a principal investigator and two field technicians.

Annual Monitoring of cottonwood vigor at 10 floodplain locations within Lower Rush Creek and four locations within Lee Vining Creek; 50 cottonwood branches measured for annual growth per floodplain location. Annual monitoring will require 6 field days with a principal investigator and two field technicians.

Woody Riparian Vegetation Monitoring Task #2: Woody Riparian Vegetation Acreage and Composition

Woody Riparian Vegetation Recovery – measure woody riparian vegetation acreage and composition last done in 2009 by John Bair, adding another column to Table 7-1, p. 130 of the Synthesis Report for RY2020.

Geomorphic/Woody Riparian Vegetation Monitoring Task #3

Prepare an Annual Report. Data presentation, analyses, reporting, and interpretation would culminate in an annual report. This task would require 40 hours of Principal investigator time and 2 technical assistants for 60 hours each for data management, directed analyses, and publishing.

Joint Fisheries and Geomorphic/Riparian-Based Performance Monitoring Tasks

Joint Monitoring Task #1: Semi-annual Meetings

Semi-Annual Meetings will be required for scientists to keep the Parties and SWRCB informed. The Stream Scientists recommend meeting twice yearly, similar to when the semi-annual restoration meetings used to occur. A meeting in the late-fall (November) would allow reporting of all the year's activities prior to drafting an annual report. A spring meeting (April-May) would focus on planning for the upcoming season's activities. Typically the type of water-year has been forecasted by the time the spring meeting is held, so flow-triggered monitoring activities could be anticipated and discussed at this meeting.

Joint Monitoring Task #2: Instream Flow Study

This task would re-evaluate streamflow/habitat relationships in the evolving stream channels of Rush and Lee Vining creeks. Instream flow studies conducted prior to the development of the Synthesis Report were considered necessary because the channels had experienced considerable change since the instream flow studies conducted in the late-1980s. We expect that further evolution of the channels will increase channel roughness and increase habitat complexity at lower baseflows.

Summary of Performance-Based Monitoring Tasks

TASK	FREQUENCY
Fisheries Task #1 and 1a: Population (two-pass) sampling in even years and single-pass sampling in odd-years	Annual
Fisheries Task #2 and 2a: Annual Reports for population sampling and single-pass sampling	Annual
Fisheries Task #3: Pool/Habitat Surveys	Every 5 years or after wetter years – 3 surveys max.
Fisheries Task #4: Water Temp Monitoring	Annual
Geomorphic Task #1a: Main Channel Complexity	One-time set-up RY2014
Geomorphic Task #1b: Main Channel Complexity	Normal RY's and wetter
Geomorphic Task #2: Floodplain Deposition	Normal RY's or wetter years
Geomorphic Task #3a: Lower Rush Creek Continuous Streamflow Gaging Station Establishment	One-time Site Selection and Installation
Geomorphic Task #3b: Lower Rush Creek Continuous Streamflow Gaging Station Operation	Annual
Geomorphic Task #4a: Hydraulic Connectivity of Mainstem Channel to Floodplains	One-time RY2014 Monitoring Set-up
Geomorphic Task #4b: Hydraulic Connectivity of Mainstem Channel to Floodplains	Annual
Geomorphic Task #5: Photo Point Monitoring	Annual
Woody Riparian Task #1a: Measuring Cottonwood Vigor	One-time set-up in RY2014 and 1st Year's Stem Growth Data
Woody Riparian Task #1b: Measuring Cottonwood Vigor	Annual
Woody Riparian Task #2: Re-assess Woody Riparian Acreage Recovery	Once in RY2020
Geomorphic and Woody Riparian Vegetation Task #3. Field Data Summary and Preliminary Analyses in Annual Report	Annual
Joint Task #1: Semi-Annual Meetings with Trust Committee	Twice a year in person – both principal scientists
Joint Task #2: Instream Flow Study - Streamflow/Habitat Relationships	Once at Year-8 or 9 of Monitoring Program

**Mono Basin Settlement Agreement
Appendix 4**

**Monitoring Metrics Based upon
Synthesis Report Chapter 7 and Settlement Appendix 3**

Monitoring Category	Metric	Units
Grant Lake Reservoir	elevation above sea level	feet (ft)
	storage volume	acre-feet
	water temperature	degrees F or C
Hydrology	stream flow	cubic feet per second (cfs)
	depth to groundwater	feet (ft)
	stream temperature	degrees F or C
	streamflow gains and losses	cubic feet per second (cfs)
Geomorphic	main channel complexity	Manning's n
	net floodplain aggradation	feet (ft)
	main channel length	feet (ft)
	riffle crest elevations	feet (ft)
	side channel stage heights	feet (ft)
	deep pool frequency	feet per pool per reach
	run frequency	feet per run per reach
	pool residual depth and channel width	feet (ft)
	pool cover	percent (%)
	bed topography of Parker and Walker diversion pond deltas and forebays	feet (ft)
Riparian vegetation	woody vegetation acreage	acres per reach (ac/reach)
	cottonwood shoot length	centimeters of growth per year (cm)/yr
Fisheries	trout biomass	kilograms per hectare (kg/ha)
	trout density	trout/kilometer (trout/km)
	trout relative condition factor	No units, 1.00 considered fish in average condition, <1.00 in poor condition. $K = W_a/L^b$
	relative stock density of catchable trout >225 mm	percent x 100
	relative stock density of trout >300 mm	percent x 100

ATTACHMENT 2

Los Angeles  Department of Water & Power

ERIC GARCETTI
Mayor

Commission
MEL LEVINE, *President*
WILLIAM W. FUNDERBURK JR., *Vice President*
JILL BANKS BARAD
MICHAEL F. FLEMING
CHRISTINA E. NOONAN
BARBARA E. MOSCHOS, *Secretary*

RONALD O. NICHOLS
General Manager

November 8, 2013

Ms. Barbara Evoy, Deputy Director
Division of Water Rights
State Water Resources Control Board
1001 I Street, 14th Floor
Sacramento, CA 95814

Dear Ms. Evoy:

Subject: Change Petition to the State Water Resources Control Board (SWRCB)
under Section II.5 of the Mono Basin Settlement Agreement

As you are aware, the Los Angeles Department of Water and Power (LADWP), along with California Trout Inc., the Mono Lake Committee, and the California Department of Fish and Wildlife, have fully executed the "Settlement Agreement Regarding Continuing Implementation of Water Rights Orders 98-05 and 98-07" (Agreement). The Agreement is on-file with your office and has been posted on your agency's website.

Pursuant to Section II.5 of the Agreement, LADWP "shall file a petition with the SWRCB to amend its Licenses as provided...". Per Section II.5, the enclosed petition package is LADWP's request to SWRCB that it begin regulatory action to revise LADWP's Water Right Licenses 10191 and 10192 as provided in the Agreement. The necessary filing fees are also enclosed.

Los Angeles Aqueduct Centennial Celebrating 100 Years of Water 1913-2013

111 N. Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles, CA 90051-5700
Telephone: (213) 367-4211 www.LADWP.com

Ms. Barbara Evoy
Page 2
November 8, 2013

If you have any questions, please contact my staff, Dr. Paul Pau at (213) 367-1187
or Mr. Bruk Moges at (213) 367-1792.

Sincerely,

A handwritten signature in blue ink that reads "James G. Yannotta". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

James G. Yannotta
Manager of Aqueduct

PCP:jmm

Enclosures

c/enc: Mono Basin Settlement Agreement Distribution List

Mr. Jon Regelbrugge, U.S. Forest Service

Mr. Greg Brown, SWRCB

Ms. Katherine Mwroka, SWRCB

Dr. Paul Pau, LADWP

Mr. Bruk Moges, LADWP

**Mono Basin Settlement Agreement
Distribution List**

<p>Mr. Charlton H. Bonham, Director Department of Fish and Wildlife 1416 Ninth Street , 12th Floor Sacramento, CA 95814 director@wildlife.ca.gov</p>	<p>Mr. Thomas Gibson, General Counsel Department of Fish and Wildlife 1416 Ninth Street , 12th Floor Sacramento, CA 95814 thomas.gibson@wildlife.ca.gov</p>
<p>Ms. Nancee Murray Office of General Counsel California Department of Fish and Wildlife 1416 Ninth Street Sacramento, CA 95814 nancee.murray@wildlife.ca.gov</p>	<p>Ms. Heidi Sickler California Department of Fish and Wildlife Bishop Field Office 407 West Line Street Bishop, CA 93514 heidi.sickler@wildlife.ca.gov</p>
<p>Mr. Steve Parmenter California Department of Fish and Wildlife Bishop Field Office 407 West Line Street Bishop, CA 93514 steve.parmenter@wildlife.ca.gov</p>	<p>Mr. Geoffrey McQuilkin Mono Lake Committee P.O. Box 29 Lee Vining, California 93541 geoff@monolake.org</p>
<p>Ms. Lisa Cutting Mono Lake Committee P.O. Box 29 Lee Vining, California 93541 lisa@monolake.org</p>	<p>Ms. Winter King Attorneys for Mono Lake Committee Shute, Mihaly & Weinberger LLP 396 Hayes Street San Francisco, CA 94102 king@smwlaw.com</p>
<p>Mr. Bruce Dodge Attorneys for Mono Lake Committee Shute, Mihaly & Weinberger LLP 396 Hayes Street San Francisco, CA 94102 fbdodge@gmail.com</p>	<p>Mr. Mark Drew California Trout Inc. P.O. Box 3442 Mammoth Lakes, CA 93546 mdrew@caltrout.org</p>
<p>Mr. Jeff Thompson, Executive Director California Trout Inc. 360 Pine Street, 4th Floor San Francisco, CA 94104 jthompson@caltrout.org</p>	<p>Mr. Richard Roos-Collins Attorneys for California Trout Inc. Water and Power Law Group 2140 Shattuck Avenue, Ste. 801 Berkeley, CA 94704-1229 rrcollins@waterpowerlaw.com</p>
<p>Mr. Ronald O. Nichols, General Manager Los Angeles Department of Water and Power 111 North Hope Street, Room 1550 Los Angeles, CA 90012 ron.nichols@ladwp.com</p>	<p>Mr. David J. Edwards Deputy City Attorney Los Angeles Department of Water and Power 111 North Hope Street, Room 340 Los Angeles, CA 90012 david.edwards@ladwp.com</p>
<p>Mr. Martin L. Adams Water System Los Angeles Department of Water and Power 111 North Hope Street, Room 1550 Los Angeles, CA 90012 martin.adams@ladwp.com</p>	

Please indicate County where your project is located here:

MAIL FORM AND ATTACHMENTS TO:
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Tel: (916) 341-5300 Fax: (916) 341-5400
<http://www.waterboards.ca.gov/waterrights>

PETITION FOR CHANGE

Separate petitions are required for each water right. Mark all areas that apply to your proposed change(s). Incomplete forms may not be accepted. Location and area information must be provided on maps in accordance with established requirements. (Cal. Code Regs., tit. 23, § 715 et seq.) Provide attachments if necessary.

Point of Diversion
Wat. Code, § 1701

Point of Rediversion
Cal. Code Regs., tit. 23, § 791(e)

Place of Use
Wat. Code, § 1701

Purpose of Use
Wat. Code, § 1701

Distribution of Storage
Cal. Code Regs., tit. 23, § 791(e)

Temporary Urgency
Wat. Code, § 1435
Please see Attachment 1

Instream Flow Dedication
Wat. Code, § 1707

Waste Water
Wat. Code, § 1211

Split
Cal. Code Regs., tit. 23, § 836

Terms or Conditions
Cal. Code Regs., tit. 23, § 791(e)

Other

Application

Permit

License

Statement

I (we) hereby petition for change(s) noted above and described as follows:

Point of Diversion or Rediversion – Provide source name and identify points using both Public Land Survey System descriptions to ¼-¼ level and California Coordinate System (NAD 83).

Present:

Proposed:

Place of Use – Identify area using Public Land Survey System descriptions to ¼-¼ level; for irrigation, list number of acres irrigated.

Present:

Proposed:

Purpose of Use

Present:

Proposed:

Split

Provide the names, addresses, and phone numbers for all proposed water right holders.

In addition, provide a separate sheet with a table describing how the water right will be split between the water right holders: for each party list amount by direct diversion and/or storage, season of diversion, maximum annual amount, maximum diversion to offstream storage, point(s) of diversion, place(s) of use, and purpose(s) of use. Maps showing the point(s) of diversion and place of use for each party should be provided.

Distribution of Storage

Present:

Proposed:

Temporary Urgency

This temporary urgency change will be effective from [] to []

Include an attachment that describes the urgent need that is the basis of the temporary urgency change and whether the change will result in injury to any lawful user of water or have unreasonable effects on fish, wildlife or instream uses.

Instream Flow Dedication – Provide source name and identify points using both Public Land Survey System descriptions to ¼-¼ level and California Coordinate System (NAD 83).

Upstream Location: []
Downstream Location: []

List the quantities dedicated to instream flow in either: cubic feet per second or gallons per day:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec

Will the dedicated flow be diverted for consumptive use at a downstream location? Yes No
If yes, provide the source name, location coordinates, and the quantities of flow that will be diverted from the stream.
[]

Waste Water

If applicable, provide the reduction in amount of treated waste water discharged in cubic feet per second.

Will this change involve water provided by a water service contract which prohibits your exclusive right to this treated waste water? Yes No

Will any legal user of the treated waste water discharged be affected? Yes No

General Information – For all Petitions, provide the following information, if applicable to your proposed change(s).

Will any current Point of Diversion, Point of Storage, or Place of Use be abandoned? Yes No

I (we) have access to the proposed point of diversion or control the proposed place of use by virtue of:
 ownership lease verbal agreement written agreement

If by lease or agreement, state name and address of person(s) from whom access has been obtained.
[]

Give name and address of any person(s) taking water from the stream between the present point of diversion or rediversion and the proposed point of diversion or rediversion, as well as any other person(s) known to you who may be affected by the proposed change.
[]

All Right Holders Must Sign This Form: I (we) declare under penalty of perjury that this change does not involve an increase in the amount of the appropriation or the season of diversion, and that the above is true and correct to the best of my (our) knowledge and belief. Dated 11/8/13 at Los Angeles

Right Holder or Authorized Agent Signature
JAMES G. YANNOTTA

Right Holder or Authorized Agent Signature

NOTE: All petitions must be accompanied by:
(1) the form Environmental Information for Petitions, including required attachments, available at: http://www.waterboards.ca.gov/waterrights/publications_forms/forms/docs/pet_info.pdf
(2) Division of Water Rights fee, per the Water Rights Fee Schedule, available at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/fees/
(3) Department of Fish and Wildlife fee of \$850 (Pub. Resources Code, § 10005)

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Tel: (916) 341-5300 Fax: (916) 341-5400
<http://www.waterboards.ca.gov/waterrights>

ENVIRONMENTAL INFORMATION FOR PETITIONS

This form is required for all petitions.

Before the State Water Resources Control Board (State Water Board) can approve a petition, the State Water Board must consider the information contained in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA). This form is not a CEQA document. If a CEQA document has not yet been prepared, a determination must be made of who is responsible for its preparation. As the petitioner, you are responsible for all costs associated with the environmental evaluation and preparation of the required CEQA documents. Please answer the following questions to the best of your ability and submit any studies that have been conducted regarding the environmental evaluation of your project. If you need more space to completely answer the questions, please number and attach additional sheets.

DESCRIPTION OF PROPOSED CHANGES OR WORK REMAINING TO BE COMPLETED

For a petition for change, provide a description of the proposed changes to your project including, but not limited to, type of construction activity, structures existing or to be built, area to be graded or excavated, increase in water diversion and use (up to the amount authorized by the permit), changes in land use, and project operational changes, including changes in how the water will be used. For a petition for extension of time, provide a description of what work has been completed and what remains to be done. Include in your description any of the above elements that will occur during the requested extension period.

Insert the attachment number here, if applicable:

Coordination with Regional Water Quality Control Board

For change petitions only, you must request consultation with the Regional Water Quality Control Board regarding the potential effects of your proposed change on water quality and other instream beneficial uses. (Cal. Code Regs., tit. 23, § 794.) In order to determine the appropriate office for consultation, see: http://www.waterboards.ca.gov/waterboards_map.shtml. Provide the date you submitted your request for consultation here, then provide the following information.

Date of Request

Will your project, during construction or operation, (1) generate waste or wastewater containing such things as sewage, industrial chemicals, metals, or agricultural chemicals, or (2) cause erosion, turbidity or sedimentation?

Yes No

Will a waste discharge permit be required for the project?

Yes No

If necessary, provide additional information below:

Insert the attachment number here, if applicable:

Local Permits

For temporary transfers only, you must contact the board of supervisors for the county(ies) both for where you currently store or use water and where you propose to transfer the water. (Wat. Code § 1726.) Provide the date you submitted your request for consultation here.

Date of Contact

For change petitions only, you should contact your local planning or public works department and provide the information below.

To be determined during project design phase

Person Contacted:

Date of Contact:

Department:

Phone Number:

County Zoning Designation:

Are any county permits required for your project? If yes, indicate type below.

Yes No

To be determined during project design phase

Grading Permit

Use Permit

Watercourse

Obstruction Permit

Change of Zoning

General Plan Change

Other (explain below)

If applicable, have you obtained any of the permits listed above? If yes, provide copies.

Yes No

If necessary, provide additional information below:

Insert the attachment number here, if applicable:

Federal and State Permits

Check any additional agencies that may require permits or other approvals for your project:

- Regional Water Quality Control Board Department of Fish and Game
- Dept of Water Resources, Division of Safety of Dams California Coastal Commission
- State Reclamation Board U.S. Army Corps of Engineers U.S. Forest Service
- Bureau of Land Management Federal Energy Regulatory Commission
- Natural Resources Conservation Service

Have you obtained any of the permits listed above? If yes, provide copies. Yes No

For each agency from which a permit is required, provide the following information:

Agency	Permit Type	Person(s) Contacted	Contact Date	Phone Number
--------	-------------	---------------------	--------------	--------------

If necessary, provide additional information below:

Insert the attachment number here, if applicable:

Construction or Grading Activity

Does the project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed, bank or riparian habitat of any stream or lake? Yes No

If necessary, provide additional information below:

Insert the attachment number here, if applicable:

Archeology

to be determined by Environmental Planning group

Has an archeological report been prepared for this project? If yes, provide a copy. Yes No

Will another public agency be preparing an archeological report? Yes No

Do you know of any archeological or historic sites in the area? If yes, explain below. Yes No

If necessary, provide additional information below:

Insert the attachment number here, if applicable:

Photographs

Please see Attachment 3

For all petitions other than time extensions, attach complete sets of color photographs, clearly dated and labeled, showing the vegetation that exists at the following three locations:

- Along the stream channel immediately downstream from each point of diversion
- Along the stream channel immediately upstream from each point of diversion
- At the place where water subject to this water right will be used

Maps

Please see Attachment 4

For all petitions other than time extensions, attach maps labeled in accordance with the regulations showing all applicable features, both present and proposed, including but not limited to: point of diversion, point of redirection, distribution of storage reservoirs, point of discharge of treated wastewater, place of use, and location of instream flow dedication reach. (Cal. Code Regs., tit. 23, §§ 715 et seq., 794.)

Pursuant to California Code of Regulations, title 23, section 794, petitions for change submitted without maps may not be accepted.

All Water Right Holders Must Sign This Form:

I (we) hereby certify that the statements I (we) have furnished above and in the attachments are complete to the best of my (our) ability and that the facts, statements, and information presented are true and correct to the best of my (our) knowledge. Dated 11/8/13 at Los Angeles.



Water Right Holder or Authorized Agent Signature

JAMES G. YANNOTTA

Water Right Holder or Authorized Agent Signature

NOTE:

- Petitions for Change may not be accepted unless you include proof that a copy of the petition was served on the Department of Fish and Game. (Cal. Code Regs., tit. 23, § 794.)
- Petitions for Temporary Transfer may not be accepted unless you include proof that a copy of the petition was served on the Department of Fish and Game and the board of supervisors for the county(ies) where you currently store or use water and the county(ies) where you propose to transfer the water. (Wat. Code § 1726.)

Attachment 1

**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD**

In the matter of:)
City of Los Angeles Department of Water and Power,)
Water Right Licenses Nos. 10191 and 10192)

APPENDIX 1.
PROPOSED AMENDMENTS TO WATER RIGHTS OF LOS ANGELES
DEPARTMENT OF WATER AND POWER

I.
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Findings of Fact

F1. Based on monitoring results to date, the Stream Monitoring Team recommended stream ecosystem flows (SEFs), modification of Grant Lake Reservoir facilities, and other measures for the protection of fisheries and creeks. See *Mono Basin Stream Restoration and Monitoring Program: Final Report on Synthesis of Instream Flow Recommendations to the State Water Resources Control Board and the Los Angeles Department of Water and Power* (April 30, 2010) (*Synthesis Report*).

F2. Following the completion of the *Synthesis Report*, Licensee participated in facilitated discussions with California Department of Fish and Wildlife (DFW), California Trout (CT), and the Mono Lake Committee (MLC) (together, Conservation Parties) to discuss the feasibility of the measures recommended in the *Report* and to resolve related disputes. As a result of these discussions, Licensee and the Conservation Parties entered a Settlement Agreement, which includes proposed amendments to Licensee's Mono Basin Water Rights Licenses. These proposed license amendments will implement all recommendations from the *Synthesis Report*. Licensee and the Conservation Parties agree that implementation of these recommendations is feasible, under the conditions established in the Settlement Agreement. The Board finds that implementation of these proposed amendments is feasible.

F3. The Board further finds that implementation of the proposed license amendments will significantly enhance the conditions of the fisheries and creeks resulting from implementation of the existing requirements in Decision 1631 and Orders 98-05 and 98-07. While such implementation could have incidental impacts on the channel form, water quality, fisheries, or other resources of a given creek, any such impacts will be *de minimis* compared to the benefits resulting from flow schedules which are as consistent as possible with restoring the ecological processes and conditions that benefitted the pre-1941 fishery.

F4. Adaptive management of flow requirements will further enhance their benefits, as monitoring improves our understanding of how best to manage flows to restore ecological processes and beneficial conditions in these creeks.

F5. The Mono Basin Monitoring Administration Team (MAT) will expedite administration of contracts with scientists assigned to conduct monitoring under Decision 1631, Orders 98-05 and 98-07, and Conditions 5 and 6 as approved in this [order].

F6. The proposed license amendments allow LADWP to export water in excess of the amount otherwise allowed by Decision 1631 ¶ 6.a, in order to offset a portion of the capital cost of the Grant Outlet. The Additional Export will be in an amount not to exceed 12,000 acre-feet. The Board finds this Additional Export will not materially delay the date when Mono Lake reaches 6,391 feet MSL.

Appendix 1
Mono Basin Settlement Agreement

F7. Decision 1631 ¶ 6.a(4) requires a hearing if Mono Lake does not reach elevation 6,391 feet MSL by September 28, 2014. The proposed license amendments continue that trigger date until September 28, 2020. Licensee and the Conservation Parties agreed to this continuation as part of a package of proposed license amendments designed to achieve implementation of the *Synthesis Report* expeditiously, without a contested Board hearing, and at a reasonable cost. The lake will continue, on average, to rise towards 6,391 feet MSL, and the trend in lake level remains within the ranges previously forecast by the Board for this transition period.

Conclusions of Law

C1. Adoption of this Order concludes the study process required by Order 98-05 ¶ 1.b(2)(a)-(b), resolves all disputes about the feasibility of implementing the Synthesis Report, and avoids the costs and delay otherwise resulting from administrative and other litigation associated with this process and report. **This Order constitutes the Board's final determination of the magnitude, duration, and frequency of the stream flows necessary for the restoration of Rush, Lee Vining, Parker, and Walker Creeks pursuant to Decision 1631 and Order 98-05, subject to (i) adaptive management and (ii) the Board's general authority.**

C2. LADWP's performance of the measures specified in [Appendix 1 as approved], including funding obligations found below, along with its performance of any preexisting obligations that are not changed by such [order], will be deemed to constitute all of LADWP's obligations for stream restoration, fish protection, and the related monitoring program under Decision 1631 and Orders 98-05 and 98-07.

C3. LADWP will not be subject to any additional requirements for stream restoration and fish protection under the authorities of Decision 1631 and Orders 98-05 and 98-07.

C4. The flows specified in Tables 1 and 2 will provide hydrologic variation which advances geomorphic and other ecological processes necessary for stream restoration. Although these flows may also incidentally cause adverse impacts to the channel form, water quality, fisheries, or other resources of a given creek, such impacts are found to be non-significant under CEQA, and LADWP will not be liable for any additional requirement, including release of flow or monetary expenditure, to remedy such impacts under any of the authorities that the Board administers.

C5. LADWP will be subject to the Board's general authorities for stream restoration, fish protection, and other purposes, as recognized by Decision 1631 paragraph 12.

C6. Licensee's bypass of the flows to Walker and Parker Creeks, as described in Section 1.c, below, is a condition of this Order and is not an abandonment, dedication, or donation of Licensee's property.

C6. Given the factual findings set forth above, the Board concludes that adopting the license amendments proposed by Licensee, and approved by the Conservation Parties, is consistent with the public interest in Mono Lake.

II.

PROPOSED CONDITIONS OF WATER RIGHTS

General: Appendix 1 will be reframed, before submittal to SWRCB, to redline existing terms and conditions in Decision 1631 and Orders 98-05 and 98-07. What follows is an intermediate form that, via editorial signals, describes how those existing terms are proposed to be modified by the Settlement.

Condition 1 replaces: Stream Restoration Flow (SRF) requirements in Order 98-05 ¶¶ 1(a)(1) - 1(a)(3) and 3, related requirements in Order 98-05 ¶1.b(2)(a)-(b) and 98-05 2.a, as well as base flow requirements in Decision 1631 ¶1.

1. Stream Ecosystem Flows

For the protection of streams and fisheries, Licensee shall release the Stream Ecosystem Flows (SEFs) stated in Tables 1 and 2 below. The flows shall remain in the stream channel and shall not be diverted for any other use.

a. General

- (1). **Purpose.** These flow requirements implement the recommendations of the Stream Monitoring Team in *Mono Basin Stream Restoration and Monitoring Program: Final Report on Synthesis of Instream Flow Recommendation to the State Water Resources Control Board and the Los Angeles Department of Water and Power* (April 30, 2010) (Ex. [number]) (hereafter, *Synthesis Report*).
- (2). **Minimums.** These flows are minimums unless otherwise specified.
- (3). **Adaptive Management.** Flow requirements in Tables 1 and 2 are subject to adaptive management as provided in Condition 5(b).
- (4). **Ramping.** The ramping rates specified in Tables 1 and 2 apply to flow changes which occur as a result of Licensee's operation of its points of diversion. These rates shall be calculated based on the percentage of change in flow from the average flow over the preceding 24 hours. Licensee shall operate its points of diversion to not exceed maximum ramping rates that are specified in the Mono Basin Operations Plan (MBOP) specified in Condition 3. Licensee shall also operate to achieve the target ramping rates to the extent feasible, taking into account

operational or other limitations. The MBOP or Annual Operations Plan (AOP) shall specify alternative target rates when necessary to address such limitations. Pursuant to Condition 1.a(5), the Licensee is not required to report variance from a target ramping rate that is less than 10% of that rate.

- (5). Unanticipated events. If an unanticipated event, including an emergency, prevents compliance with the SEFs or other requirement for the operation of Licensee's Mono Basin facilities, Licensee shall notify the Division of Water Rights as soon as practical, and not later than 5 business days of actual knowledge of the event. This notice shall include a written explanation of why the requirement was not met and any corrective actions.

b. Rush Creek. Licensee shall release flows from Grant Lake Reservoir as specified in Table 1. Prior to completion of the Grant Outlet as provided in Condition 2, Licensee shall release such flows to the extent possible given existing capacity of Mono Gate One Return Ditch and best efforts to use reservoir spills.

- (1). Stored Water. When necessary in order to meet these flow requirements, Licensee shall release water from storage at Grant Lake Reservoir if storage exceeds 11,500 acre-feet. Licensee shall reduce otherwise allowable export to maintain at least 11,500 acre-feet of storage. If Grant Lake Reservoir is at or below 11,500 acre-feet of storage, Licensee shall release inflow or the flow requirement, whichever is less.
- (2). Storage Rules and Criteria. In order to provide coldwater flow in Rush Creek, Licensee shall follow the following rules and criteria for Grant Lake Reservoir. Licensee shall reduce otherwise allowable export to meet these criteria; flow requirements shall not be so reduced.
 - i. In all years, Licensee shall store at least 20,000 acre-feet of water in Grant Lake Reservoir from July 1 through September 30.
 - ii. If Grant Lake is below 25,000 acre-feet of storage on July 1 in a Dry or Dry-Normal I year (as defined pursuant to Decision 1631), Licensee shall release all available water diverted from Lee Vining Creek through the Five Siphons Bypass to augment coldwater flow in Rush Creek. There shall be no augmentation of Rush Creek in other year types or for other purposes.
 - iii. From October 1 to March 31, Licensee shall undertake to avoid reservoir spills and avoid flows as specified in the MBOP that mobilize the bed of Rush Creek.

- c. Parker and Walker Creeks. Licensee shall continuously bypass the flows of Walker and Parker Creeks as specified in Table 2-16 (p. 61) of the Synthesis Report, except as provided for in Section 1(a)(5) of this Order.
- d. Lee Vining Creek. Licensee shall release bypass flows in Lee Vining Creek as specified in Table 2.
 - (1). Licensee shall release flow below its point of diversion at least equal to the flow specified, or the inflow, whichever is less.
 - (2). Licensee shall measure inflow at the flume upstream of the diversion pond and shall measure bypass flow at the diversion dam.

TABLE 1A			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Extreme-Wet			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – April 30	40 cfs	
Spring Ascension	May 1 through May 14	40 cfs ascending to 80 cfs	Target: 5%
Spring Bench	May 15 through June 11	80 cfs	
Snowmelt Ascension	June 12 through June 21	80 cfs ascending to 220 cfs	Target: 10%
Snowmelt Bench	June 22 through August 10	220 cfs	
Snowmelt Flood and Snowmelt Peak	Starting between June 23 and July 19 with the 5-day peak between June 29 and July 29	220 cfs ascending to 750 cfs, release 750 cfs for 5 days, 750 cfs descending to 220 cfs	Target: 20% ascending and 10% descending
Medium Recession (Node)	August 11 through August 24	220 cfs descending to 90 cfs	Target: 6%
Slow Recession	August 25 through September 30	90 cfs descending to 27 cfs	Target: 3%
Fall and Winter Baseflow	October 1 through March 31	27 cfs target (25 cfs minimum and 29 cfs maximum).	

TABLE 1B			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Wet			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – April 30	40 cfs	
Spring Ascension	May 1 through May 14	40 cfs ascending to 80 cfs	Target: 5%
Spring Bench	May 15 through June 11	80 cfs	
Snowmelt Ascension	June 12 through June 18	80 cfs ascending to 170 cfs	Target: 10%
Snowmelt Bench	June 19 through August 1	170 cfs	
Snowmelt Flood and Snowmelt Peak	Starting between June 20 and July 8 with the 5-day peak between June 27 and July 19	170 cfs ascending to 650 cfs, release 650 cfs for 5 days, 650 cfs descending to 170 cfs	Target: 20% ascending and 10% descending
Medium Recession (Node)	August 2 through August 15	170 cfs descending to 70 cfs	Target: 6%
Slow Recession	August 16 through September 11	70 cfs descending to 27 cfs	Target: 3%
Summer Baseflow	September 12 through September 30	30 cfs target 28 cfs minimum and 32 cfs maximum	
Fall and Winter Baseflow	October 1 through March 31	27 cfs target 25 cfs minimum and 29 cfs maximum	

TABLE 1C			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Wet- Normal			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – April 30	40 cfs	
Spring Ascension	May 1 through May 14	40 cfs ascending to 80 cfs	Target: 5%
Spring Bench	May 15 through June 11	80 cfs	
Snowmelt Ascension	June 12 through June 17	80 cfs ascending to 145 cfs	Target: 10%
Snowmelt Bench	June 18 through July 23	145 cfs	
Snowmelt Flood and Snowmelt Peak	Starting between June 19 and July 1 with the 3-day peak between June 26 and July 10	145 cfs ascending to 550 cfs, release 550 cfs for 3 days, 550 cfs descending to 145 cfs	Target: 20% ascending and 10% descending
Medium Recession (Node)	July 24 through August 4	145 cfs descending to 67 cfs	Target: 6%
Slow Recession	August 5 through August 31	67 cfs descending to 30 cfs	Target: 3%
Summer Baseflow	September 1 through September 30	30 cfs target 28 cfs minimum	
Fall and Winter Baseflow	October 1 through March 31	27 cfs target 25 cfs minimum and 29 cfs maximum	

TABLE 1D			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Normal			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – April 30	40 cfs	
Spring Ascension	May 1 through May 14	40 cfs ascending to 80 cfs	Target: 5%
Spring Bench	May 15 through June 11	80 cfs	
Snowmelt Ascension	June 12 through June 15	80 cfs ascending to 120 cfs	Target: 10%
Snowmelt Bench	June 16 through July 14	120 cfs	
Snowmelt Flood and Snowmelt Peak	Starting between June 17 and June 25 with the 3-day peak between June 23 and July 3	120 cfs ascending to 380 cfs, release 380 cfs for 3 days, 380 cfs descending to 120 cfs	Target: 20% ascending and 10% descending
Medium Recession (Node)	July 15 through July 26	120 cfs descending to 58 cfs	Target: 6%
Slow Recession	July 27 through August 16	58 cfs descending to 30 cfs	Target: 3%
Summer Baseflow	August 17 through September 30	30 cfs target 28 cfs minimum	
Fall and Winter Baseflow	October 1 through March 31	27 cfs target 25 cfs minimum and 29 cfs maximum	

TABLE 1E			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Dry- Normal II			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – May 18	40 cfs	
Spring Ascension	May 19 through May 31	40 cfs ascending to 80 cfs	Target: 5%
Snowmelt Bench	June 1 through June 30	80 cfs	
Snowmelt Flood and Snowmelt Peak	Starting between June 2 and June 15 with the 3-day peak between June 6 and June 21 coinciding with Parker and Walker Creek peaks	80 cfs ascending to 200 cfs, release 200 cfs for 3 days, 200 cfs descending to 80 cfs	Target: 20% ascending and 10% descending
Medium Recession (Node)	July 1 through July 8	80 cfs descending to 49 cfs	Target: 6%
Slow Recession	July 9 through July 23	48 cfs descending to 30 cfs	Target: 3%
Summer Baseflow	July 24 through September 30	30 cfs target 28 cfs minimum	
Fall and Winter Baseflow	October 1 through March 31	27 cfs target 25 cfs minimum and 29 cfs maximum	

TABLE 1F			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Dry- Normal I			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – April 30	40 cfs	
Spring Ascension	May 1 through May 14	40 cfs ascending to 80 cfs	Target: 5%
Snowmelt Bench	May 15 through July 3	80 cfs	
Medium Recession (Node)	July 4 through July 9	80 cfs descending to 45 cfs	Target: 6%
Slow Recession	July 10 through July 27	45 cfs descending to 30 cfs	Target: 3%
Summer Baseflow	July 28 through September 30	30 cfs target 28 cfs minimum	
Fall and Winter Baseflow	October 1 through March 31	27 cfs target 25 cfs minimum and 29 cfs maximum	

TABLE 1G			
RUSH CREEK STREAM ECOSYSTEM FLOWS			
Year-type: Dry			
HYDROGRAPH COMPONENT	TIMING	FLOW REQUIREMENT	RAMPING RATE
Spring Baseflow	April 1 – April 30	30 cfs	
Spring Ascension	May 1 through May 17	30 cfs ascending to 70 cfs	Target: 5%
Snowmelt Bench	May 18 through July 6	70 cfs	
Medium Recession (Node)	July 7 through July 12	70 cfs descending to 45 cfs	Target: 6%
Slow Recession	July 13 through July 27	45 cfs descending to 30 cfs	Target: 3%
Summer Baseflow	July 28 through September 30	30 cfs target 28 cfs minimum	
Fall and Winter Baseflow	October 1 through March 31	27 cfs target 25 cfs minimum and 29 cfs maximum	

TABLE 2A												
LEE VINING CREEK STREAM ECOSYSTEM FLOWS												
Timing: April 1 – September 30 Year-type: Extreme-Wet, Wet, Wet-Normal, Normal, Dry-Normal II												
TIMING	INFLOW	FLOW REQUIREMENT										
April 1 through September 30	30 cfs or less	Licensee shall bypass inflow.										
	31 – 250 cfs	Licensee shall release flow in the amount corresponding to inflow which is displayed as blocks of 10 cfs (left-hand vertical column) and 1 cfs increments within such blocks (top horizontal row).										
		Inflow	0	1	2	3	4	5	6	7	8	9
		30		30	30	30	30	30	31	32	33	34
		40	30	31	32	33	34	35	36	37	38	39
		50	35	36	37	38	39	40	41	42	43	44
		60	45	46	47	48	49	50	51	52	53	54
		70	55	56	57	58	59	60	61	62	63	64
		80	60	61	62	63	64	65	66	67	68	69
		90	70	71	72	73	74	75	76	77	78	79
		100	75	76	77	78	79	80	81	82	83	84
		110	85	86	87	88	89	90	91	92	93	94
		120	95	96	97	98	99	100	101	102	103	104
		130	100	101	102	103	104	105	106	107	108	109
		140	110	111	112	113	114	115	116	117	118	119
		150	120	121	122	123	124	125	126	127	128	129
		160	130	131	132	133	134	135	136	137	138	139
		170	135	136	137	138	139	140	141	142	143	144
		180	145	146	147	148	149	150	151	152	153	154
		190	155	156	157	158	159	160	161	162	163	164
		200	160	161	162	163	164	165	166	167	168	169
		210	170	171	172	173	174	175	176	177	178	179
		220	180	181	182	183	184	185	186	187	188	189
		230	190	191	192	193	194	195	196	197	198	199
		240	195	196	197	198	199	200	201	202	203	204

TABLE 2A												
			250	200								
	251 cfs and greater	Licensee shall bypass inflow.										

TABLE 2B												
LEE VINING CREEK STREAM ECOSYSTEM FLOWS												
Timing: April 1 – September 30 Year-type: Dry-Normal I, Dry												
TIMING	INFLOW	FLOW REQUIREMENT										
April 1 through September 30	30 cfs or less	Licensee shall bypass inflow.										
	31 – 250 cfs	Licensee shall release flow in the amount corresponding to inflow which is displayed as blocks of 10 cfs (left-hand vertical column) and 1 cfs increments within such blocks (top horizontal row).										
		Inflow	0	1	2	3	4	5	6	7	8	9
		30		30	30	30	30	30	30	30	30	30
		40	30	30	30	30	30	30	30	30	30	30
		50	30	30	30	30	30	30	30	30	31	32
		60	32	33	34	34	35	36	36	37	38	38
		70	39	40	41	41	42	43	43	44	45	45
		80	46	47	47	48	49	49	50	51	52	52
		90	53	54	54	55	56	56	57	58	59	59
		100	60	61	61	62	63	64	64	65	66	66
		110	67	68	69	69	70	71	72	72	73	74
		120	74	75	76	77	77	78	79	80	80	81
		130	82	82	83	84	85	85	86	87	88	88
		140	89	90	91	91	92	93	94	94	95	96
		150	97	97	98	99	100	100	101	102	103	103
		160	104	105	106	106	107	108	109	109	110	111
		170	112	112	113	114	115	115	116	117	118	118
		180	119	120	121	121	122	123	124	124	125	126
		190	127	128	128	129	130	131	131	132	133	134
		200	134	135	136	137	138	138	139	140	141	141
		210	142	143	144	144	145	146	147	148	148	149
		220	150	151	151	152	153	154	155	155	156	157
		230	158	158	159	160	161	162	162	163	164	165
		240	165	166	167	168	169	169	170	171	172	172

TABLE 2B												
			250	173								
	251 cfs and greater	Licensee shall bypass inflow.										

TABLE 2C				
LEE VINING CREEK STREAM ECOSYSTEM FLOWS				
Timing: October 1 – March 31 Year-type: All				
Maximum ramping at the beginning and end of this period is 20%.				
TIMING	FLOW REQUIREMENT			
	Extreme-Wet, Wet	Wet-Normal	Normal	Dry-Normal II, Dry-Normal I, Dry
October 1 through October 15	30 cfs	28 cfs	20 cfs	16 cfs
October 16 through October 31	28 cfs	24 cfs	18 cfs	
November 1 through November 15	24 cfs	22 cfs		
November 16 through March 31	20 cfs	20 cfs		

Condition 2 replaces the provision in Order 98-05 ¶ 1.b(2)(b)(2) requiring study of modifying Grant Dam.

2. Grant Outlet

LADWP shall modify the Grant Lake Reservoir Facilities to include an outlet which assures reliable delivery of the flow requirements specified in Table 1 (Grant Outlet).

- a. Further Approvals of Design. Licensee shall undertake further due diligence to choose among designs capable of reliably releasing the flows specified in Table 1. Within 18 months, Licensee shall petition the Division of Water Rights to approve a design, including engineering specifications, for the Grant Outlet. That petition shall include any environmental analysis of that design required under the California Environmental Quality Act. By that date, it shall also apply for any other regulatory approvals necessary for construction, operation, and maintenance of this facility, including any necessary environmental analysis. Licensee shall request and take all reasonable steps to obtain such further approvals so as to permit Licensee to complete construction, and begin operation, within four years of the [order approving this Settlement].
- b. Construction and Operation. Licensee shall begin construction of the Grant Outlet within 12 months of receiving necessary regulatory approvals. Licensee shall complete construction and begin to operate Grant Outlet within 18 months of receiving such final regulatory approvals. .
- c. Progress Reports. Licensee shall submit quarterly progress reports to the Division of Water Rights during the design, permitting, and construction of Grant Outlet. If it cannot achieve a deadline for reasons beyond its control, Licensee shall timely request an extension of time from the Division of Water Rights, and other Parties may reply.
- d. Funding. In order to offset the capital cost of Grant Outlet, Licensee may divert up to 12,000 acre-feet of water from the Mono Basin additional to the amount otherwise permitted by D-1631 ¶ 6.a for the period when Mono Lake is at or above 6,380 feet and below 6,391 feet MSL (“Additional Export”).
 - (1). Compliance. Licensee shall not divert Additional Export in a manner that causes a variance from the flow and minimum storage requirements specified in Condition 1.
 - (2). Schedule. The additional export will become available on the following schedule:
 - i. 4,000 acre-feet upon receipt of final permits to construct the Grant Outlet;

- ii. 4,000 acre-feet upon active construction of the Grant Outlet;
 - iii. 2,000 acre-feet subsequent to the first wet year in which the outlet is operated to release the flows specified in Table 1; and
 - iv. 2,000 acre-feet subsequent to the second wet year in which the outlet is operated to release the flows specified in Table 1.
- (3). Adjustment. The schedule and amount of Additional Export are subject to adjustment in four circumstances:
- i. By further agreement between the Parties and the further approval of the Division of Water Rights.
 - ii. If non-licensee funds are timely secured to pay for all or part of the capital cost of the Grant Outlet. In that event, the Additional Export shall be reduced by an acre-foot amount equivalent to value of the funding using the current Metropolitan Water District Full Service Untreated Volumetric Cost Tier II rate.
 - iii. If the total value of the Additional Export, as measured by the current Metropolitan Water District Full Service Untreated Volumetric Cost Tier II rate, exceeds 50% of the capital cost of the Grant Outlet. In that event, the Additional Export shall be reduced to ensure that the value of the Additional Export does not exceed 50% of the capital cost.
 - iv. If, for any reason, Grant Outlet does not begin operation within four years of the date of this [order]. In that event, Licensee shall not be allowed any Additional Export and shall compensate for any Additional Export that has already occurred, by reducing further allowable export by an equivalent amount.
- (4). Planning. Licensee shall develop the schedule and other specifications for Additional Export in the Mono Basin Operation Plan and Annual Operations Plan.

Condition 3 replaces the requirement in Order 98-05 ¶ 2(a)-(b) for a Grant Lake Operations and Management Plan.

Mono Basin Operations Plan

Licensee shall develop, implement, and periodically revised a Mono Basin Operations Plan (MBOP). The MBOP shall specify the rules, guidelines, and criteria for operation

of Licensee's Mono Basin facilities to meet all applicable requirements across all year-types.

- a. Content. Licensee shall base the MBOP on the Licensee's *Grant Lake Operations and Management Plan* (Feb. 29, 1996) as approved in Order 98-05 ¶ 2, taking into account the flow requirements in Condition 1, the capabilities of the Grant Outlet, and other subsequent requirements and information. MBOP shall: (1) be consistent with the outline attached as Attachment [number], (2) provide for development of Annual Operations Plans (AOP); and (3) supplement the rules and criteria for storage in Grant Lake Reservoir as specified in Condition 1.b(2) as necessary to assure reliable operation of the Grant Outlet to deliver the flow requirements in Table 1.
- b. Initial Planning Process. Within one year, Licensee shall develop the MBOP and submit it to the Division of Water Rights, for approval.
 - (1). Licensee shall consult with Stream Monitoring Team and Parties in the development of the initial MBOP and any revision thereto. It shall provide a draft plan for their review and comment. Licensee shall convene a meeting to address such comments. A representative of the Division of Water Rights may attend.
 - (2). Licensee shall use eSTREAM (Ex. [number]) or an equivalent daily planning tool for this purpose. Licensee shall grant Parties permission to use the model, including any update, to assist with the development of the plan or revision.
 - (3). The Division of Water Rights shall review and approve the plan, subject to appropriate modifications.
- c. Revisions. Following such initial approval, Licensee shall develop and submit appropriate revisions to the MBOP when construction of Grant Outlet is complete, and every five years following such completion of construction, or more frequently if recommended by the Stream Monitoring Team, to take into account operating experience for Grant Outlet. For such revisions, the Licensee shall follow the procedures specified in Condition 3.b.

Condition 4 revises Order 98-05 ¶3.

4. Annual Operations Plan

Licensee shall develop and implement Annual Operations Plans consistent with MBOP.

- a. Content. AOP shall specify Licensee's plans to operate its Mono Basin facilities for the runoff year to reliably release flow requirements and meet all other

applicable requirements, taking into account the year-type and other specific circumstances.

- (1). It shall be consistent with the MBOP.
 - (2). It shall incorporate any adaptive management of flow requirements recommended by the Stream Monitoring Team, as provided in Condition 5.b.
 - (3). It shall provide for electronic reporting to the Stream Monitoring Team and Parties describing the implementation of specified plan of operation, including actual runoff, exports, and bypass flows.
- b. Development. By May 15 of each year, Licensee shall develop and submit an AOP to the Division of Water Rights for review and approval.
- (1). By March 31 of each year, the Licensee shall convene a meeting to prepare for developing the AOP, and specifically to address any adaptive management of SEFs, monitoring results, and forecasts of hydrology and exports. The meeting shall include: Stream Monitoring Team, Parties, and others as appropriate.
 - (2). By April 15, Licensee shall distribute a draft AOP to the Stream Monitoring Team and Parties for review and comment. Not later than May 5 Licensee shall convene an in-person a meeting to discuss and resolve such comments. A representative of the Division of Water Rights may attend.
 - (3). By May 15, Licensee shall submit the final AOP. The Division of Water Rights shall review and approve the AOP, subject to appropriate modifications.
- c. Reporting. Following approval, Licensee shall report implementation of the AOP.
- (1). Licensee shall submit a monthly report to the Stream Monitoring Directors and the other Parties, not later than ten calendar days after the end of the month. Each report shall include actual runoff and operations data by comparison to the AOP forecasts, and actual and projected adjustments in operations necessary to respond to changed or unanticipated conditions.
 - (2). Licensee shall meet and confer with the Stream Monitoring Team and other Parties to address projections of significant adjustments in operations.

- (3). Licensee shall submit a quarterly report to the Division of Water Rights. This report shall describe actions taken by the Licensee that relate to implementation of the AOP.

Condition 5 revises Order 98-05 ¶ 1.b, as amended by Order 98-07, as follows. Condition 5.a(1) replaces the requirements in pp. 93 - 110 in the Licensee's Stream and Stream Channel Restoration Plan (January 1997) as approved in Orders 98-05 and 98-07. Condition 5.a(2) replaces the termination criteria in Order 98-07 ¶ 1.b(5). Condition 5.b-c revises (supplements) the requirements in Order 98-05 ¶ 1.b(2)(c) for Annual Monitoring Reports. Condition 5.d replaces Order 98-05 ¶ 1.b(2)(a). Condition 5.e revises Order 98-05 ¶ 1.e.

5. Stream Monitoring and Restoration Program

- a. Stream Monitoring. The Stream Monitoring Team shall monitor pursuant to the following requirements,
 - (1). The team shall conduct those tasks specified in Appendix 2, which implements Chapter 7 of the *Synthesis Report*. The team may adjust the priorities and other details for such tasks, on the basis of recommendation as provided in Condition 5.c.
 - (2). The Stream Monitoring Team shall apply the metrics stated in Appendix 3. The results of monitoring shall be used to:
 - i. inform adaptive management of the SEFs, restoration program, and operations of Licensee's Mono Basin facilities;
 - ii. inform the Board and the public of the status of stream and fishery restoration in light of the factors stated in Order 98-05 ¶ 1.b(4); and
 - iii. serve as the basis for any further revisions to or termination of the monitoring program.
- b. Adaptive Management. The flow requirements in Condition 1 are subject to adaptive (including real-time) management to achieve the goals specified in Order 98-05 ¶ 1.b(4).
 - (1). Form. The Stream Monitoring Team may recommend adaptive management of flow requirements in one of two ways:
 - i. In the Annual Monitoring Report and in comments to the AOP, for implementation in the following year.

- ii. On a real-time basis in response to unforeseen circumstances, especially during wetter than average years. Such recommendations shall be made by written notice to the Division of Water Rights. Such recommendations shall be developed in consultation with Licensee and Parties, each of whom shall designate representatives with the qualifications and authority necessary to assist in such adaptive management.
- (2). Implementation. The Licensee shall implement such recommendation unless timely disputed pursuant to the procedure specified in Order 98-05 ¶ 5 and Condition 9.
- (3). Range. Such adaptive management may modify the flow requirements specified in Table 1 or 2, by:
 - i. Modifying the start or end dates, duration, or ramping rate of a hydrograph component, or specifying the timing or magnitude of a flow release in excess of Table 1 or 2 due to other license requirements, in order to improve ecological functions; or
 - ii. Temporarily reducing flow for safety during stream monitoring activities.
- (4). Limitations. Such adaptive management, including the range specified in paragraph (3), shall not materially: (i) increase the volume of water required to meet the flow requirements in the applicable table and the requirements of Decision 1631 ¶ 6, (ii) reduce allowable export, or (iii) increase Licensee's operational or capital costs. Further, such adaptive management does not authorize Licensee to take any action otherwise prohibited by its Licenses.
- c. Annual Monitoring Reports. By [date], the Stream Monitoring Team shall submit to the Licensee the Annual Monitoring Report specified by Order 98-07 ¶¶ 1.b(2)(c).
 - (1). The team shall consult with Licensee and the other Parties in the preparation of these reports. It shall provide draft reports for their review and comment.
 - (2). Licensee shall submit these annual reports to the Division of Water Rights. Its submittal may include comments on the final report's findings and recommendations.
- d. Periodic Overview Report. The Stream Monitoring Team shall develop a Periodic Overview Report on the Stream Monitoring and Restoration Program.

This shall occur after Licensee has operated Grant Outlet to release SEFs in two above-Normal runoff years, at least one of which is Wet or Extreme Wet.

- (1). The report shall evaluate trends in stream conditions relative to the metrics stated in Condition 5.a(2) and Order 98-05 ¶ 1.b(4). It shall make recommendations for changes to the stream monitoring and restoration program to increase effectiveness or reduce cost of the program, or for termination thereof.
 - (2). In the development of the Periodic Overview Report, the Stream Monitoring Team shall consult with Licensee and Parties and shall provide a draft plan for their review and comment.
 - (3). The Stream Monitoring Team shall submit the Periodic Overview Report to the Division of Water Rights. In response to this report, Licensee may move for changes in the program or termination thereof. After considering any motion, responses thereto, or other comments by the Licensee or other Parties, the Division shall review and take final action on the recommendations in the report.
- e. Channel Maintenance. Stream Monitoring Team shall reopen and maintain side-channel entrances as recommended on pp. 129 – 131 of the *Synthesis Report*. The team or subconsultant shall be responsible to comply with any permitting requirements, and Licensee shall support such permitting and provide land access as necessary.

Condition 6 revises Order 98-05 ¶¶ 4 and 6, as follows. Condition 6.a revises Order 98-05 ¶ 6.d.1. Condition 6.b revises the requirement in Order 98-05 ¶ 6.d(3) that Licensee file an annual report by April 1. It adds the requirement that the Limnology and Waterfowl Directors prepare scientific reports, conforming to the existing requirement for the Stream Monitoring Program. Condition 6.c revises (supplements) the requirements in Order 98-05 ¶ 6.d(3). Condition 6.d revises Order 98-05 ¶ 4.b.

6. Waterfowl Habitat Restoration Program.

- a. Directors.
 - (1). Dr. John Melack (University of California Santa Barbara) shall direct and conduct the limnology monitoring described in Licensee's *Waterfowl Habitat Restoration Plan* (February 1996) as approved in Order 98-05 ¶4.d. The Division of Water Rights shall designate any successor, who shall have expertise in the limnology of saline lakes, after considering the recommendations of the Parties.

- (2). By [date], the Licensee and the Parties shall jointly nominate a director of the waterfowl population monitoring described in *Waterfowl Habitat Restoration Plan*. In the event of a dispute, the Division of Water Rights shall designate the director pursuant to the procedure provided in Order 98-05 ¶ 5.
- b. Monitoring Program. The Limnology and Waterfowl Directors shall continue the previously authorized monitoring programs, as may be modified by the Division of Water Rights on the basis of the Periodic Overview Report, in response to a motion by Licensee or another Party, or as otherwise determined.
- c. Annual Monitoring Report. By [date] each year, the Limnology and Waterfowl Directors shall each submit an Annual Monitoring Report to the Licensee, including evaluation of results and any recommendations for changes in the Waterfowl Habitat Restoration Program.
 - (1). In the development of their respective annual reports, the Limnology and Waterfowl Directors shall consult with the Licensee and other Parties and shall provide drafts for their review and comment.
 - (2). Licensee shall submit the final Annual Monitoring Reports to the Division of Water Rights. Its submittal may include comments on the findings and recommendations stated in the reports. After considering any comments by Licensee or other Parties, the Division shall review and take final action on any recommendations stated in the reports.
- d. Periodic Overview Report. Every five years, the Waterfowl and Limnology Directors shall jointly develop a Periodic Overview Report on the Waterfowl Program. The report shall evaluate trends and make recommendations for changes to the Waterfowl Program to increase effectiveness or reduce cost.
 - (1). In the development of the Periodic Overview Review, the Waterfowl and Limnology Monitoring Directors shall consult with Licensee and Parties and shall provide a draft report for their review and comment.
 - (2). The Waterfowl and Limnology Directors shall submit their Periodic Overview Report to the Division of Water Rights. In response to this report, Licensee may move for changes in the program or termination thereof. After considering any motion, responses thereto, or other comments by Licensee or other Parties, the Division shall review and take final action on any recommendations stated in the report.
- e. Habitat Improvements. The Waterfowl Monitoring Director may recommend use of the funds authorized by Order 98-05 ¶ 4.b, for the purpose of improving waterfowl habitat on U.S. Forest Service lands or elsewhere in the Mono Basin.

This director or subconsultants shall be responsible to comply with any permitting requirements, and Licensee shall support such permitting and provide land access as necessary.

Condition 7 revises Order 98-05 1.b.(1) and 4.d, by establishing a new agency for the purpose of contracting with the Monitoring Directors.

7. Mono Basin Monitoring Administration Team.

- a. **Purposes.** The Mono Basin Monitoring Administration Team (MAT) shall be established to: (1) develop an annual Expenditure Plan for monitoring and specified restoration actions; and (2) oversee a Fiscal Administrator’s contracts with the Stream Monitoring Team, Limnology, and Waterfowl Directors (collectively, Monitoring Directors), for the performance of their respective monitoring tasks, and any contract for administrative services necessary for the MAT carry out its purposes.
- b. **Governance.** The MAT shall consist of: California Department of Fish and Wildlife, Mono Lake Committee, California Trout (with respect to the stream monitoring and restoration program only), and the Licensee.
 - (1). Within 6 months after [the order approving Appendix 1], the MAT members shall enter into an agreement specifying meeting and governance procedures, including procedures that provide for timely resolution of any disputes.
 - i. Under these procedures, the MAT shall carry out all actions approved by a majority of its members unless and until directed otherwise by the Division of Water Rights pursuant to Order 98-05 ¶ 5 and Condition 9. A MAT member may not delay or prevent action by inaction or failure to participate in votes.
 - ii. These procedures shall permit an independent annual audit under standard procedures used for a non-profit corporation. The cost of an audit shall be covered from a mutually agreeable source other than the funding provided by Licensee under Section 7.f.
 - (2). Each member shall designate a representative who shall participate in the MAT’s deliberations and votes, as follows: (i) for Licensee, the Aqueduct Manager or higher; (ii) for DFW, an Environmental Scientist or higher; (iii) for Mono Lake Committee, the Eastern Sierra Policy Director or higher; and (iv) for California Trout, the Eastern Sierra Program Manager or higher.

- (3). The MAT shall conduct the tasks below in a manner that assures that funds are managed and used as authorized here and by further order of the Division of Water Rights.
- c. Fiscal Administrator. The MAT shall select and supervise a Fiscal Administrator, who shall be responsible: to (1) enter into and administer contracts with Monitoring Directors, (2) pay their invoices, and (3) perform certain other administrative duties.
- d. Administration of Monitoring Account.
 - (1). Account. The Fiscal Administrator shall establish and administer a Mono Basin Monitoring Account at a bank or similar financial institution.
 - (2). Contracting with Monitoring Directors.
 - i. The Fiscal Administrator shall prepare contracts and annual task orders with the Monitoring Directors, for the MAT's review and approval. Upon such approval, the Fiscal Administrator shall execute a contract or work order, as applicable.
 - ii. At the request of the applicable Monitoring Director, the Fiscal Administrator may enter into a conforming contract with a subconsultant for the performance of a monitoring task or a restoration project.
 - iii. The Monitoring Directors may assign tasks to Licensee's employees for performance, subject to the Licensee's approval and provided Licensee is responsible for the costs associated with such performance.
 - (3). Invoices. The MAT shall review invoices for consistency with the approved Expenditure Report and Plan and applicable work orders. Upon its approval of an invoice, MAT shall instruct Fiscal Administrator to pay the invoice.
- e. Other Administration. The Fiscal Administrator, directly or through a contractor acceptable to the MAT, shall: (1) assist the Licensee, MAT, and Monitoring Directors in convening meetings related to the preparation of required plans and report, (2) report to the MAT on all contracts and expenditures, and (3) assist MAT in preparation of the Expenditure Report and Plan and related matters.
- f. Funding. Licensee shall fund the Mono Basin Monitoring Account, as follows.

- (1). Within 30 days of [order approving settlement], Licensee shall make one-time payments of: (i) \$500,000 for stream restoration projects as specified in Condition 5.e; and (ii) \$275,000, pursuant to Order 98-05 ¶ 4.b as amended by Condition 6.e.
 - (2). By November 1 of each year, Licensee shall make an annual payment to the Monitoring Account for the purpose of next year's monitoring and associated administrative costs. This payment shall be \$575,000 (2013), of which \$299,000 shall be for stream monitoring, and \$276,000 for waterfowl and limnology monitoring. This payment shall be adjusted annually by CPI (Los Angeles-Riverside).
 - (3). Not later than September 1, the Licensee shall notify the Division of Water Rights if it disputes its obligation to provide such funding as required by Condition 7.f(2). Any such dispute shall be limited to the issue whether the MAT has performed as required by this condition. The Division shall undertake to resolve such dispute not later than November 1. Licensee shall not withhold any required payment to the Mono Basin Monitoring Account unless and until the Division authorizes such action following resolution of Licensee's dispute.
 - (4). The Division of Water Rights shall amend or end this funding obligation upon its termination of some or all of the monitoring programs, respectively. Under authority of Decision 1631 and Orders 98-05 and 98-07, the Division shall not increase the amount of funding required to be provided by Licensee.
- g. Expenditure Report and Plan. By [date], the MAT shall submit an Expenditure Report and Plan to the Division of Water Rights. The MAT, in consultation with the Monitoring Directors and the Fiscal Administrator, shall prepare a draft 30 days before [date].
- (1). The report shall include an accounting of all expenditures, contracts, and related matters in that year.
 - (2). The plan shall propose a plan for expenditure of the annual funding for the following year's monitoring tasks. It may propose: priorities for monitoring within the scope of the approved monitoring programs, the carry-over of funds to subsequent years for non-annual monitoring tasks, and the use of funds to cover the necessary costs of administration, including the Fiscal Administrator.
 - (3). The Division of Water Rights shall review and approve the expenditure plan, subject to any appropriate modifications.

- h. Termination of MAT. At any time after 10 years from [date of this order], Licensee may request termination of MAT, and Division of Water Rights shall approve such termination upon approval of an alternative method to implement required monitoring programs. At any time, the Division may terminate the MAT on its own initiative, or on motion demonstrating that the MAT has not performed as required in this Condition 7, or that the MAT's continuing administration of the monitoring programs will not be cost-effective. Termination of the MAT shall not terminate Licensee's obligations under this [order]. Any funds remaining in the Mono Basin Monitoring Account upon termination of the MAT shall revert to Licensee.
- i. Limitations. The Licensee shall operate its Mono Basin facilities in compliance with all applicable requirements. It shall not delegate any such responsibility to the MAT.

Condition 8 amends Decision 1631 ¶ 6.a(4).

8. Lake Hearing

In the event that the water level of Mono Lake has not reached an elevation of 6,391 feet by September 28, 2020, the Board will hold a hearing to consider the condition of the lake and the surrounding area, and will determine if any further revisions to this license are appropriate.

Condition 9 amends Order 98-05 ¶ 5.

9. Dispute Resolution and Hearing Procedures.

- a. Parties. For the purpose of Order 98-05 ¶ 5, Parties means: California Department of Fish and Wildlife, Mono Lake Committee, California Trout, [and].
- b. Service. Any notice or other document submitted to the Division of Water Rights pursuant to these conditions shall be simultaneously served to the Parties by electronic mail or equivalent method.
- c. Informal Dispute Resolution. The Division of Water Rights shall encourage and assist the Parties to undertake informal dispute resolution.

Attachment 2. Background of the Mono Basin Settlement Agreement
("Settlement Agreement Regarding Continuing Implementation of Water Rights
Orders 98-05 and 98-07")

After several years of litigation concerning the State's responsibilities relating to the Los Angeles Department of Water Power (LADWP)'s Mono Basin Water Right Licenses (Licenses 10191 and 10192), the State Water Resources Control Board (SWRCB) conducted hearings in 1993 and 1994 to modify LADWP's two licenses. At the close of these hearings, the SWRCB found that LADWP water diversion activities in the Mono Basin had decreased the water levels of Mono Lake. On September 28, 1994, the SWRCB adopted the Mono Lake Basin Water Right Decision 1631 (Decision), which amended LADWP's Water Right Licenses in order to protect the public trust resources in the area.

This Decision, along with a subsequent Mono Lake settlement agreement, and SWRCB Water Rights Order (Order) Nos. 98-05 and 98-07, restricted water exports and required LADWP to undertake restoration activities in the Mono Basin. These documents also directed LADWP, inter alia, to fund and implement a stream monitoring program under the direction of two stream scientists and their team.

As directed by Order No. 98-05 ¶ 1.b(2)(a) – (b), the stream scientists evaluated the magnitude, duration, and frequency of flows necessary for the restoration of Mono Basin ecosystem, the need for an outlet to Grant Lake to achieve such flows, and related matters. Following a 12-year period of study and analysis, the stream scientists presented their recommendations in April 2010 in final report titled "*Mono Basin Stream Restoration and Monitoring Program: Final Report on Synthesis of Instream Flow Recommendation to the State Water Resources Control Board and the Los Angeles Department of Water and Power*" (hereafter, Synthesis Report).

LADWP expressed concern that certain recommendations in the Synthesis Report were not feasible due to cost and physical limitations, although there was no negative impact to Los Angeles' annual export right itself. The rest of the Parties, Cal Trout, the Mono Lake Committee, and California Department of Fish and Wildlife, expressed a strong desire to implement all aspects of the Synthesis Report. As an avenue to develop a mutually agreeable strategy to implement the Synthesis Report, LADWP along with the rest of the Parties requested SWRCB's permission to enter into a facilitated process to negotiate and resolve differences of opinion on several key issues of the Synthesis Report recommendations. The SWRCB authorized such negotiations, and by subsequent letters, extended the deadline for completion until September 30, 2013.

The Mono Basin Settlement Agreement resolves all differences between the Parties and provides a mutually-accepted approach to implementing the Synthesis Report recommendations.

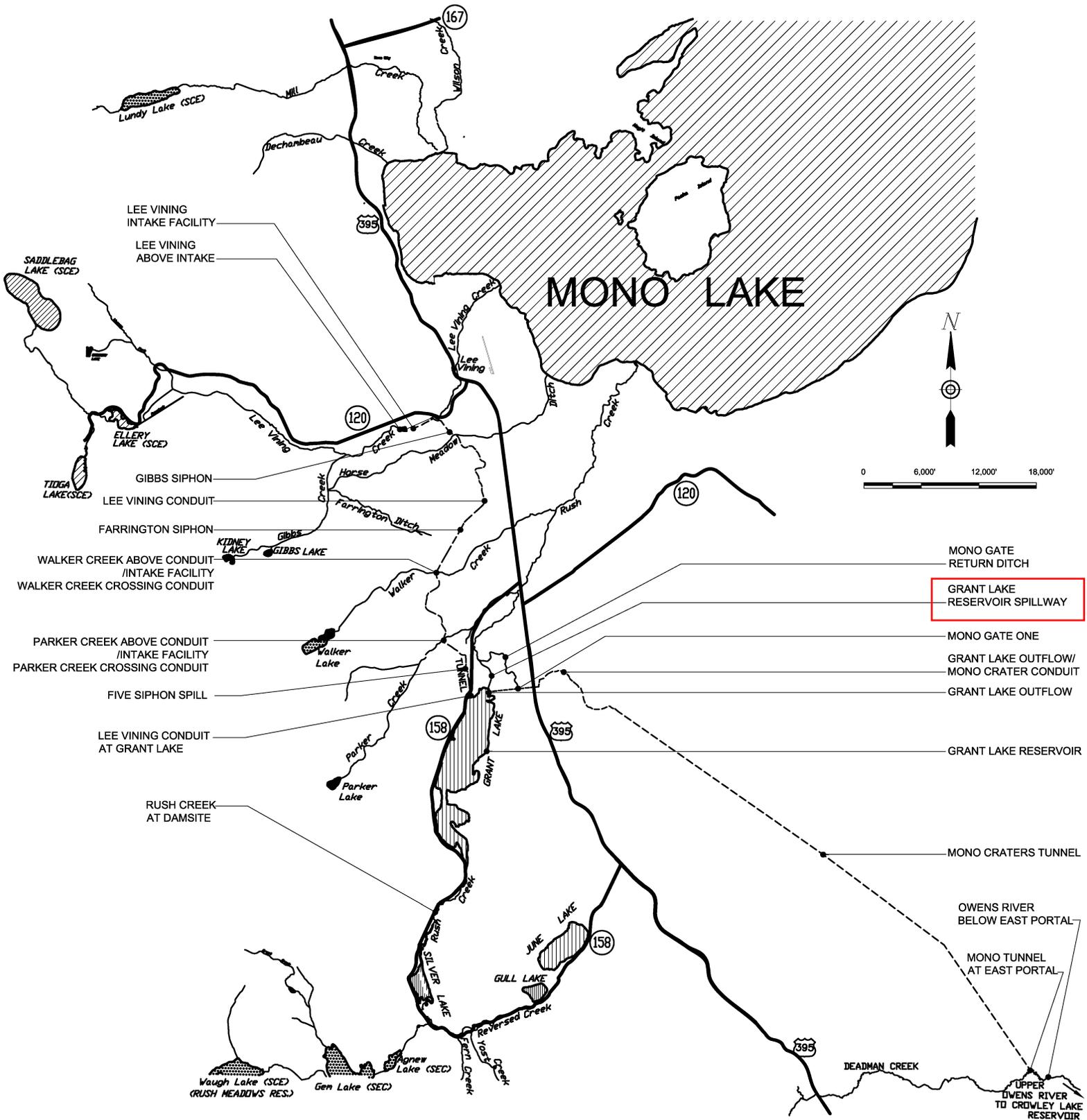


Mono Lake

~7 miles

Grant Lake Spillway

Attachment 4. Map



LEE VINING
INTAKE FACILITY

LEE VINING
ABOVE INTAKE

MONO LAKE



SADDLEBAG
LAKE (SCE)

ELLERY
LAKE (SCE)

TIDGA
LAKE (SCE)

GIBBS SIPHON

LEE VINING CONDUIT

FARRINGTON SIPHON

WALKER CREEK ABOVE CONDUIT
/INTAKE FACILITY

WALKER CREEK CROSSING CONDUIT

PARKER CREEK ABOVE CONDUIT
/INTAKE FACILITY

PARKER CREEK CROSSING CONDUIT

FIVE SIPHON SPILL

LEE VINING CONDUIT
AT GRANT LAKE

RUSH CREEK
AT DAMSITE

MONO GATE
RETURN DITCH

**GRANT LAKE
RESERVOIR SPILLWAY**

MONO GATE ONE

GRANT LAKE OUTFLOW/
MONO CRATER CONDUIT

GRANT LAKE OUTFLOW

GRANT LAKE RESERVOIR

MONO CRATERS TUNNEL

OWENS RIVER
BELOW EAST PORTAL

MONO TUNNEL
AT EAST PORTAL

UPPER
OWENS RIVER
TO CROWLEY LAKE
RESERVOIR

ATTACHMENT 3

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May 18, 2020

Via E-Mail

Erik Ekdahl
Deputy Director
State Water Resources Control Board
Erik.Ekdahl@waterboards.ca.gov

Re: History of Mono Basin Stream Restoration Settlement Agreement

Dear Mr. Ekdahl:

At the April 24 meeting of the Mono Basin stream restoration settlement agreement parties with you and your staff, you requested that the Mono Lake Committee provide you with a history of the stream restoration settlement. We have prepared this history on behalf of our client, the Mono Lake Committee (“MLC”).

As you know, the Mono Basin stream restoration settlement agreement (“Settlement Agreement” or “Agreement”)¹ is a significant milestone in the State Water Board’s 25-year effort to restore the streams tributary to Mono Lake and their fisheries, which were heavily damaged by Los Angeles Department of Water and Power’s (“LADWP”) past water diversions.

Review of the settlement terms by the State Water Resources Control Board (“Board”) and incorporation of these terms into revised Mono Basin licenses has been underway for over six years and involved considerable delays. However, almost exactly one year ago, at a May 31, 2019 meeting with the settlement parties, you set a schedule of deliverables that would have allowed the Board to conclude this process by mid-2020. That schedule required LADWP to finalize the mitigated negative declaration (“MND”) for the license revisions, circulate it for public comment in January, and deliver the certified document and Notice of Determination to you by May 2020.

¹ The title of the Settlement Agreement is “Settlement Agreement Regarding Continuing Implementation of Water Rights Orders 98-05 and 98-07.”

Unfortunately, despite initial progress, LADWP has not delivered the MND as scheduled. Of greater concern, at our recent phone meetings, LADWP has indicated it will not finalize and deliver the MND unless the settling parties and the Board satisfy additional conditions that were not part of the settlement agreement.

You indicated that it would be helpful to have a history of the events leading up to the Settlement Agreement to better understand this apparent impasse. MLC has been deeply involved in the Board's Mono Basin stream restoration mandates since their origins in the 1990s and is pleased to provide the following history in response. As this history makes clear, and as was noted at the April meeting, LADWP's latest demands attempt to move the goalposts on the stream restoration process and reinterpret the requirements that the Board mandated over 25 years ago.

I. In 1994, the Board issued the landmark Mono Lake decision D-1631, which required LADWP to restore the Mono Basin streams damaged by its diversions, in violation of Fish and Game Codes 5937 and 5946 and the Public Trust.

In 1940, LADWP obtained permits to divert water from Mono Lake's four tributaries: Walker, Parker, Lee Vining, and Rush Creeks. Export of water from the Mono Basin commenced in 1941. Soon after, LADWP diverted virtually all of the flows from these creeks, which, by the 1970s, averaged 83,000 acre-feet per year. These diversions severely impacted the ecosystem in the Mono Basin, drying up the streams, destroying fisheries, and dramatically lowering the level of Mono Lake.

The lowered lake level, in turn, caused significant environmental impacts. Deprived of any inflow from its tributaries, the Lake's salinity increased, impacting the alkali fly and brine shrimp, both major food sources for the Lake's millions of migratory and nesting birds. Negit island—once a safe nesting spot for California gulls—became connected to the shore by a landbridge that provided access for coyotes and other predators. Newly exposed lakebed caused periodic, severe dust storms, which impacted air quality in the Mono Basin and violated federal air quality standards.

Several lawsuits were filed seeking to halt these impacts. In resolving these claims, the courts held that the Board had violated statutory fish and stream protection requirements as well as its constitutional public trust obligations by allowing LADWP to divert all of the Mono Basin flows without providing sufficient flows for fish below Grant Lake or considering the impacts to the streams and Mono Lake's public trust resources.

To comply with these decisions, in 1989, the Board began proceedings to amend LADWP's Mono Basin water rights licenses. The purpose of these proceedings was to determine the stream flows necessary to protect fish and address and mitigate other impacts to public trust resources caused by LADWP's diversions.² To that end, the Board prepared an environmental impact report and conducted a lengthy evidentiary hearing on the history and current state of Mono Lake and its surroundings.³ Following this hearing, the Board issued Decision 1631 ("D-1631"), "Decision and Order Amending Water Right Licenses to Establish Fishery Protection Flows in Streams Tributary to Mono Lake and to Protect Public Trust Resources at Mono Lake and in the Mono Lake Basin."

D-1631 provided a detailed summary of the evidence and arguments presented during the license amendment proceedings. It divided this summary into four categories: (1) Restoration and Protection of Fishery Resources in the Mono Basin; (2) Protection of Other Public Trust Resources and Beneficial Uses of Water within the Mono Basin; (3) Beneficial Uses Served by Water Diversion; and (4) Potential Adverse Environmental Impacts of Reduced Mono Basin Water Diversions.

After considering all of this evidence, the Board concluded that it was necessary to amend LADWP's water rights licenses in the following three ways:

² The Board framed its approach to the amendment proceedings as follows: "In accordance with the judicial decisions discussed above, the SWRCB's approach is to determine what flows are needed for protection of fish. Then the decision addresses the need for additional water and other measures to protect public trust resources at Mono Lake and the surrounding area in view of the competing uses of water by Los Angeles. Finally, the California Environmental Quality Act ("CEQA," Public Resources Code Section 21000, et seq.) requires addressing how best to mitigate or avoid potential adverse environmental impacts that may occur as a result of the changes in Mono Basin water diversions required by this decision." D-1631.

³ The parties who participated in the evidentiary hearing were the California Air Resources Board, the California Department of Fish and Game (now, CDFW), the California State Lands Commission, the California Department of Parks and Recreation, California Trout, Inc., LADWP, the Great Basin Unified Air Pollution Control District, Haselton Associates, the National Audubon Society and the Mono Lake Committee, the Sierra Club, the Metropolitan Water District of Southern California, the United States Fish and Wildlife Service, the United States Forest Service, and the United States Environmental Protection Agency.

First, the license would be amended to “include establishment of minimum instream flows for protection of fish . . . as well as periodic higher flows for channel maintenance and flushing purposes similar to what occurred under natural conditions.” D-1631, Section 9.0, Summary and Conclusions.

Second, the license would be amended to “include specified water diversion criteria which are intended to gradually restore the average water elevation of Mono Lake to approximately 6,392 feet above mean sea level in order to protect public trust resources at Mono Lake,” including nesting habitat for California gulls and air quality. *Id.*⁴

Third, LADWP would be required to develop plans, in consultation with CDFW and other parties, for stream and waterfowl habitat restoration. *Id.* “The specific work that will be required will be determined following the [Board’s] review of the restoration Plans. *Id.*

The Board implemented these conclusions in its Order. Paragraphs 1 through 4 of the Order established minimum instream flows for Lee Vining, Walker, Parker, and Rush Creeks “[f]or protection of fish in the specified streams,” and imposed requirements to ensure compliance with these flows. These requirements included two key actions:

Water diversion criteria. Paragraph 6 states, “[i]n addition to the instream flow requirements for fishery protection, channel maintenance and flushing purposes, diversion of water under this license is subject to the limitations specified below.” The Board prohibited diversions any time the Lake level was projected to drop below 6,377 feet during a runoff year, and limited diversions when the Lake level was between 6,377 and 6,391. Order ¶ 9(a)(3). It is in this Paragraph of the Order that the Board required a further hearing to revisit these public trust issues: “In the event that the water level of Mono Lake has not reached an elevation of 6,391 by September 28, 2014, the SWRCB will hold a hearing to consider the condition of the lake and the surrounding area, and

⁴ The public trust resources that would benefit from restoring the lake level were described as follows: “Among other things, the increased water level will protect nesting habitat for California gulls and other migratory birds, maintain the long-term productivity of Mono Lake brine shrimp and brine fly populations, maintain public accessibility to the most widely visited tufa sites in the Mono Lake Tufa State Reserve, enhance the scenic aspects of the Mono Basin, lead to compliance with water quality standards, and reduce blowing dust in order to comply with federal air quality standards.” D-1631, Section 9.0, Summary and Conclusions.

will determine if any further revisions to this license are appropriate.” *See also* D-1631, ¶ 6.8 (subsequent hearing on lake condition would be required to “[r]econsider[] ... water diversion criteria if lake level does not reach 6,391 feet in 20 years”).

Restoration plans. Paragraph 8 required LADWP to prepare two restoration plans, one for streams and stream channels, the other for waterfowl habitat. Paragraph 8 established a schedule for the preparation of the plans and guidelines for Board review, and noted that the Board “shall have continuing authority to require modification of restoration activities as appropriate and to modify streamflow requirements as necessary to implement restoration activities.” Paragraph 12 reiterated the Board’s continuing jurisdiction to modify the conditions of LADWP’s water rights license.^{5,6}

II. In 1998, following a hearing on LADWP’s proposed restoration plans, the Board adopted stream restoration goals and a detailed plan of restoration actions in Order 98-05.

D-1631 required LADWP to develop and submit to the Board proposed stream and waterfowl habitat restoration plans. The purpose of these plans, as stated by the Board, was “to restore, preserve, and protect the streams and fisheries in Rush Creek, Lee Vining Creek, Walker Creek, and Parker Creek, and to help mitigate for the loss of waterfowl habitat due to the diversion of water under this license. . . . The restoration plans shall include elements for improving instream habitat for maintaining fish in good condition.” D-1631, ¶ 8.

LADWP submitted its proposed plans on February 29, 1996. MLC, California Department of Fish and Wildlife (“CDFW”), and California Trout

⁵ “Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.” D-1631, Order ¶ 12.

⁶ Paragraph 5 prohibited livestock grazing in riparian corridors for a minimum of 10 years. Paragraph 7 regulated the rate of diversion through the Mono Craters Tunnel. Paragraphs 9 and 10 required a cultural resources investigation and treatment plan. Paragraph 11 required LADWP to provide copies of documents to the Chief of the Division of Water Rights upon request.

(“CalTrout”), among others, objected to the completeness of the plans, and the Board held a hearing to determine whether they were adequate. Shortly after the hearing concluded, these groups and LADWP (together, “Settlement Parties”) submitted a settlement agreement to the Board proposing modifications to LADWP’s plans. The Board considered the evidence presented at the hearing and the proposed settlement agreement and issued Order 98-05.

The scope of Order 98-05 was much narrower than D-1631. According to Section 7.0, Summary and Conclusions:

Decision 1631 substantially resolved the long-standing debate over imposing restrictions on water diversions from the Mono Basin in order to protect environmental and public trust resources. In recent years, attention has shifted to examining other actions that could be taken to help restore various resources damaged through years of water diversions and in-basin development. *The focus of this order is on the still narrower issue of determining the stream and waterfowl habitat restoration measures that Los Angeles should be required to implement or participate in*

Id. (emphasis added).

With respect to stream and stream channel restoration, Order 98-05 ordered LADWP to provide specific “Stream Restoration Flows” or “SRFs.” It also ordered DWP to fund and implement a stream monitoring program, to be carried out by independent scientists approved by the Chief of the Division of Water Rights. The objective of this stream monitoring program was to “evaluate and make recommendations . . . regarding the magnitude, duration and frequency of the SRFs necessary for the restoration of Rush Creek; and the need for a Grant Lake bypass to reliably achieve the flows needed for restoration of Rush Creek below its confluence with the Rush Creek Return Ditch.” Order ¶ 1(b)(2)(a). The Order further required the stream monitoring team to evaluate “(1) the reliability of attaining the specified SRFs in Rush Creek through augmentation with water from Lee Vining Creek; and (2) *the need for a Grant Lake outlet.*” Order ¶ 1(b)(2)(b) (emphasis added).

The Order specified that this evaluation “shall take place . . . no less than 8 years nor more than 10 years after the monitoring program begins.” Order 98-05, Order ¶¶ 1(b)(2)(a) & (b). It then set forth a process for implementing the stream scientists’ recommendations:

Licensee shall implement the recommendation of the monitoring team unless it determines that the recommendation is not feasible. Licensee shall have 120 days after receiving the recommendation from the monitoring team to determine whether to implement the recommendation of the monitoring team. If any party disagrees with the Licensee's determination regarding implementation of the monitoring team's recommendation, the party may request review by the Chief of the Division of Water Rights who shall then decide the matter.

Id.

The Board subsequently amended Order 98-05, also pursuant to a settlement agreement among the Settling Parties. However, Order 98-07 did not change the terms of Paragraphs 1(b)(2)(a) or (b).

III. In 2010, the Board's independent scientists completed extensive studies as directed and recommended stream flow patterns and actions to improve stream restoration. They concluded that a Grant Lake outlet was necessary to restore Rush Creek, the largest stream in the Mono Basin.

In April 2010, after twelve years of monitoring and analysis, the stream monitoring scientific team presented its recommendations on stream flows and the necessity of a Grant Lake outlet in *Mono Basin Stream Restoration and Monitoring Program: Synthesis of Instream Flow Recommendation to the State Water Resources Control Board and the Los Angeles Department of Water and Power, Final Report* (April 30, 2010) ("Synthesis Report"). Consistent with the Board's orders, the Synthesis Report described the studies that had been conducted, recommended changes to flows to better restore Mono Lake's tributaries, and concluded that a Grant Lake outlet was necessary to reliably provide the recommended peak flows in Rush Creek.

As noted above, Order 98-05 directed the independent Stream Scientists, as agents of the Board, to resolve specific restoration questions through scientific studies, which they did in the Synthesis Report. The parties to the 1997 settlement agreed that the results would be determinative. Order 98-05 thus required that, once this report was issued, LADWP would implement the recommendations without further Board action, unless it determined that they were infeasible, in which case other stakeholders could request review by the Chief of the Division of Water Rights, "who shall then decide the matter."

IV. In 2010, LADWP protested the feasibility of the recommendations. The Conservation Parties disagreed, and the Board launched a facilitated process to resolve these concerns.

In accordance with this process set forth in Order 98-05, LADWP submitted a letter to the Board on July 28, 2010, claiming that certain recommendations in the Synthesis Report were not feasible. CDFW, MLC, and CalTrout (together, “Conservation Parties”) all raised concerns with the adequacy of the LADWP analysis. As an alternative to disputing that determination, LADWP proposed that the Board allow the parties to undertake a facilitator-led process to resolve “differences of opinion between LADWP and the stakeholders regarding the Synthesis Report and the [LADWP] Feasibility Letter.”

MLC and other stakeholders supported this approach as an effective way to advance the restoration program and identify a feasible approach for constructing an outlet structure at Grant Lake Reservoir. As the LADWP letter highlighted, “of particular challenge is the outstanding question of whether or not modifications to existing LADWP facilities will need to occur in order to meet the Stream Scientists’ proposed flows.” LADWP letter, October 6, 2010. By letter dated November 1, 2010, the Board authorized these negotiations, deferred the comment deadline on the Feasibility Letter, and, by subsequent letters, extended the deadline for completion until September 30, 2013.

The settlement process took three years, rather than the 12 months anticipated by the Board, but the parties did remarkably well at staying focused on the assigned topic: how to implement the Synthesis Report in ways that resolved LADWP’s feasibility concerns. Indeed, the charter document developed by the Center for Collaborative Process with the Parties specifically stated that this was the goal.

V. In September 2013, a settlement was reached, which resolved LADWP’s feasibility concerns and committed LADWP to implementing the stream monitoring team’s recommendations.

In September 2013, the Settlement Parties finally reached a resolution. The resulting Settlement Agreement “*resolve[d] all disputes between the Parties related to the feasibility of measures set forth in the Synthesis Report.*” Settlement Agreement ¶ 2.3 (emphasis added).

The Settlement Agreement was intended to definitively state LADWP’s stream restoration obligations resulting from the process the Board initiated in Order 98-

05, without the need for further Board hearings on the issue. The purposes of the Agreement are set forth in Paragraph 3:

The purposes of this Settlement are: (i) resolution of disputes between the Parties related to the Synthesis Report; (ii) provision and adaptive management of flows sufficient to complete stream restoration and fish protection required by Decision 1631, Orders 98-05 and 98-07 and relevant case law, including modification of Grant Lake Reservoir to release such flows; (iii) re-focusing the stream monitoring program on adaptive management and related improvements in the limnology and waterfowl monitoring programs; and (iv) reduction in LADWP's costs associated with modification of Grant Lake Reservoir and ongoing monitoring programs.

The agreed-upon revisions to LADWP's licenses are contained in Appendix 1 to the Agreement, along with proposed findings of fact and conclusions of law in support. The Parties' principal obligation under the Settlement Agreement is to pursue and support a final Board order approving the revisions contained in Appendix 1. Agreement ¶ 5. To that end, the Parties agreed to incorporate these revisions into LADWP's water rights licenses and submit the revised licenses to the Board for approval. The Parties further agreed, "[i]n any comments or testimony submitted to [the Board] or other Regulatory Agency, . . . [to] support the approval of Appendix 1 without Material Modification." Agreement ¶5.2 (emphasis added). "Material Modification" is defined to mean a modification of the agreed-upon license revisions that has "the effect of materially reducing the bargained for benefits of a Party, in that Party's sole judgment." Agreement ¶ 4.9.

The Parties' "bargained for benefits" can be described as follows:

- **MLC, CDFW, and CalTrout** stood to gain assurances that LADWP would implement the recommendations contained in the Synthesis Report, including the construction of an outlet at Grant Lake. This implementation would advance the Conservation Parties' interest in the restoration of the streams and fisheries to heal the damage caused by excessive water diversions, and assure compliance with the Board's mandates without a lengthy dispute process. If the Board approved the license amendments, the Conservation Parties would play a role in the planning process for the Mono Basin Operations Plan, the Annual Operations Plan, and the newly

formed Mono Basin Monitoring Administration Team, the purpose of which is to implement annual monitoring and specified restoration activities.

- **LADWP** stood to gain a final Board determination of the stream flows necessary for the restoration of Rush, Lee Vining, Parker, and Walker Creeks pursuant to D-1631 and Order 98-05, subject to the Board's general authority. Agreement, Appendix 1 ¶ C1. In order to offset the costs of the Grant Outlet, LADWP would also be allowed to divert 12,000 acre-feet of water from the Mono Basin, additional to the amount otherwise permitted by D-1631 ¶ 6.a(3). Agreement, Appendix 1, ¶ 2(d). LADWP would also obtain a six-year delay in the trigger date for the hearing required by D-1631, in which the Board will "consider the condition of the lake and the surrounding area, and will determine if any further revisions to this license are appropriate." Agreement, Appendix 1 ¶ 8. This change in the hearing trigger date was considered a benefit by LADWP because it effectively locked into place for another six years the diversion criteria of D-1631, delaying the Board's planned consideration of whether to reduce or otherwise modify LADWP's exports.

Even though the Board has not yet taken action on the proposed license amendments, LADWP has already obtained one of the main benefits of its bargain: delaying the hearing on the condition of the Lake by six years.

VI. In 2013, the Board received the Settlement Agreement and began the process of revising LADWP's licenses, including directing LADWP to prepare a CEQA document.

LADWP submitted the Settlement Agreement to the Board in 2013. Shortly thereafter, LADWP submitted a change petition, asking the Board to amend its water rights licenses consistent with the terms of Settlement Agreement Appendix 1. The Settlement Parties then set about drafting an updated water rights license document that set forth all of the existing conditions from D-1631, Order 98-05, Order 98-07, and subsequent Board communications, along with the new settlement requirements from Appendix 1. The Settlement Parties presented this document, called a "living license," to the Board in December 2013.

Early in this process, the Board informed the Settlement Parties that LADWP would be responsible for CEQA compliance, and would therefore serve as lead agency for any required environmental review document. In August 2015, LADWP

circulated an administrative draft version of an MND to the Settlement Parties and the Board. MLC reviewed the MND and provided detailed comments, suggested edits, and additional support for the documents conclusions. In particular, MLC focused on adding analysis of the impacts resulting from the proposed streamflow changes, to ensure the MND covered all aspects of the Settlement Agreement, not just construction of the outlet. LADWP made further revisions and circulated that MND for public review and comment in August 2016. While several comment letters were received, none objected to the project or identified any flaws in the analysis. LADWP informed the Board and Conservation Parties that it intended to present the MND to the LADWP Commission for final approval in November 2016, so that it could begin construction of the Grant Lake Outlet the following spring.

VII. In early 2017, LADWP halted the CEQA process and unilaterally commissioned new stream studies, causing a two-year delay in the Board's water license revision process.

Between 2014 and 2016, the Settlement Parties and Board staff worked together on final language for the amended water rights licenses and the findings and conclusions of law the Board would consider adopting in support. While most of the proposed language had been worked out, Board staff expressed some concern about the wording of proposed conclusion “C4,” which provided: “The flows specified in [the Agreement] will provide hydrologic variation which advances geomorphic and other ecological processes necessary for stream restoration. Although these flows may also incidentally cause adverse impacts to the channel form, water quality, fisheries, or other resources of a given creek, such impacts are found to be non-significant under CEQA, and LADWP will not be liable for any additional requirement, including release of flow or monetary expenditure, to remedy such impacts under any of the authorities that the Board administers.” Board staff supported the intent of the finding, but noted that it could be problematic for the Board to make the finding as written, given the Board's continuing jurisdiction over LADWP's water rights license, its ongoing public trust obligations, and the requirements of CEQA.

Board staff proposed a number of possible changes to the proposed finding to address this concern while maintaining the Settlement Parties' intent in proposing C4. The Conservation Parties also presented a number of possible alternatives. In January 2017, LADWP informed the other parties that these revised findings were not sufficient. LADWP then informed the Conservation Parties it would not take the final step of adopting the MND it had already prepared and circulated for review, but instead would independently conduct new studies of certain impacts from high flows. MLC objected strenuously to this course of action, noting it was unnecessary for completion of the

MND and encouraging the parties and the Board to work together to revise C4 in a way that worked for all parties. LADWP declined these requests. LADWP subsequently commissioned new studies from the same consultants that had helped LADWP prepare its objections to the Synthesis Report without discussing the content or purpose of the consultant work with the Board or Settlement Parties despite repeated requests for the assigned scope of work.

LADWP did not present the results of these studies until December 2018, nearly two years later. Following that presentation, the Board and Settlement Parties returned to discussing the best way to deliver a final CEQA document. Initially, LADWP insisted that the CEQA document would need to be an environmental impact report (“EIR”) rather than an MND, and that the EIR would take another two years to complete. After five more months of discussion, LADWP agreed that an MND would suffice. At that time, Board staff set forth a schedule for drafting, obtaining comments on, and completing the MND that would have allowed for Board action on the amended water rights licenses by mid-2020. Board staff, concerned about the prior two years of delay, established a monthly reporting procedure to assure progress proceeded on schedule.

VIII. As of April 2020, LADWP is now refusing to complete the CEQA document on the Board’s revised timeline unless additional unilateral demands are fulfilled, effectively halting the Board’s stream restoration process.

In November 2019, LADWP presented Board staff and the Parties with yet another draft MND that incorporated the results of LADWP’s intervening studies. The Conservation Parties reviewed the revised, draft MND and provided comments to LADWP on November 27, 2019. At the January 2020 meeting, LADWP asserted that the MND was “basically done.”

Nonetheless, at meetings on March 30 and April 24, 2020, LADWP asserted that it would not finalize the MND (i.e., circulate for public comment and present to its board for approval) until the Board holds the hearing required by D-1631 analyzing the condition of the Lake. LADWP further suggested that, if the Board reduces LADWP’s exports as a result of that hearing, LADWP might withdraw its proposed license amendment, withhold the MND, or otherwise effectively terminate the Settlement Agreement.

LADWP is once again delaying the restoration of damaged Mono Basin streams. MLC is concerned LADWP’s actions conflict with the Settlement Agreement’s terms, which clearly require all Parties to support Board adoption of the proposed license amendments as agreed to by the Parties and set forth in Appendix 1 to the Agreement.

Nothing in the Agreement or Appendix 1 suggests that the proposed amendments—which resolve LADWP’s longstanding stream restoration obligations—should not be adopted until the Board holds the subsequent lake condition hearing required by D-1631, much less that the amendments depend on the perpetual maintenance of D-1631’s diversion criteria.

Indeed, what LADWP is asking the Board and Conservation Parties to do is to set aside resolution of LADWP’s stream restoration obligations and venture into the entirely separate matter of LADWP’s obligations with respect to the condition of *Mono Lake*. Any discussion of the condition of the Lake will necessarily involve a discussion of LADWP’s exports, as is clear from the specifications of D-1631. Moreover, LADWP has suggested that the Conservation Parties must endorse the current export rules set forth in D-1631, without examination or change, in order to get the benefit of the bargain they struck related to stream restoration.

Contrary to LADWP’s recent assertions, as part of the stream restoration Settlement Agreement process, the Parties did not study of how much (or little) progress the lake is making toward the target elevation established by the Board in D-1631. No studies of the condition of public trust resources—such as the health of alkali flies, brine shrimp, or California gulls—were conducted. Nor did the parties analyze the air quality impacts of exposed lakebed, much less consult with the regional air pollution control district on this matter. As a result, we find it difficult to understand why LADWP believes the stream restoration Settlement Agreement ever considered, let alone resolved, these issues.

In fact, any hearing on “the condition of the lake” would necessarily involve the participation of numerous additional stakeholders, and the consideration of scientific studies and analysis that have yet to be designed, much less completed. MLC looks forward to a future discussion of Mono Lake’s progress toward its target elevation. However, it is reasonable to expect that this will be a complex and lengthy process that should not be allowed to further delay the Board’s stream restoration program.

IX. The Board’s plan for the restoration of Mono Basin streams and fisheries should proceed without delay.

In sum, the history and terms of the Settlement Agreement clearly show that it is designed to resolve an important but narrow issue: the development and implementation of a stream restoration plan to heal the damage caused by decades of water diversions. In D-1631, the Board treated this issue as distinct from the issue of how the export rules were impacting lake level. The Board, Stream Scientists, and Settlement

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Parties have already spent over two decades working on stream restoration in a scientific, orderly fashion. There is simply no reason to delay resolution of these issues for even one more month, much less until after the Board tackles the even thornier issues involved in achieving its ordered management lake level to protect public trust resources, as LADWP now proposes. We look forward to working with the Board and other Settlement Parties to resolve this issue expeditiously.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

A handwritten signature in blue ink, appearing to read "W. King", is written over the typed name.

Winter King

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