

**CALENDAR ITEM
C92**

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06/29/15
503-1921
P. Griggs

**CONSIDER APPROVAL OF A TEMPORARY MODIFICATION
OF THE JULY 11, 2007, STIPULATION AND ORDER IMPLEMENTING
THE 1997 MEMORANDUM OF AGREEMENT'S PERMANENT BASEFLOW
CRITERIA AND MONITORING REGIMEN FOR LOWER OWENS RIVER PROJECT
TO ALLOW
ONE-TIME TEMPORARY DROUGHT RELIEF TO MITIGATE
SEVERE LOCAL WATER SUPPLY CONSEQUENCES**

PARTIES:

The California State Lands Commission (Commission), Los Angeles Department of Water and Power (LADWP), Inyo County, California Department of Fish and Wildlife (CDFW, formerly known as the California Department of Fish and Game), the Sierra Club, and the Owens Valley Committee.

BACKGROUND:

The Parties listed above reached an agreement in the 1997 Memorandum of Understanding (MOU) that resolved a dispute about the Lower Owens River Project (LORP) and a 1991 Environmental Impact Report concerning LADWP's groundwater pumping and related activities. For additional background on the Lower Owens River Project and the MOU, see Calendar Item 91, also on this June 29, 2015 Agenda.

Despite the MOU, LADWP failed to meet any of the MOU deadlines, including a June 2003 deadline to initiate flows to the Lower Owens River. Additional litigation ensued, and the Inyo County Superior Court imposed sanctions on LADWP to force it to complete the LORP. LADWP began releasing water into the dry bed of the Lower Owens River in December 2006, and continued to ramp up the releases in the ensuing months. In February 2007, LADWP requested the Court find it had established the requisite flows and to vacate an injunction against exporting water from the Owens Valley through the second Los Angeles Aqueduct. The other Parties objected, and after a series of motions and a Court decision, the Parties reached a stipulation about how to ensure a minimum of 40 cubic feet per second (cfs) flows. The stipulation is enforceable by the Court's order (2007 Stipulation & Order).

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CURRENT SITUATION:

As stated in Calendar Item C91 and repeated here for record purposes, the Eastern Sierra region, including the Owens Valley, is experiencing the fourth year of extreme drought. The April 1, 2015, snowpack was measured to be 4 percent of normal, the lowest April 1 snowpack on record. The resulting estimated runoff forecast for the Eastern Sierra is 36 percent for the entire runoff year. The total Eastern Sierra Owens Valley supply of water this year is estimated to be 279,000 acre-feet (AF) as compared to 541,000 AF in an average year. Contributing to the extremely low runoff is that the three previous years had runoffs of 57 percent, 54 percent, and 52 percent of normal, respectively. These were the lowest three consecutive runoff years on record, and, now, with this year, will be the four lowest consecutive runoff years on record.

As a result of the severe state-wide drought, Governor Edmund G. Brown Jr. proclaimed a State of Emergency on January 17, 2014. Since that time, the Governor has issued additional proclamations and executive orders responding to the ongoing drought and State of Emergency. At the local level, Inyo County's Board of Supervisor approved Resolution 2014-09 Proclaiming a Local Drought Emergency on January 28, 2014. At the federal level, Inyo County has been designated as a Drought Disaster area by the U.S. Department of Agriculture.

In response to the drought, LADWP is dramatically reducing the amount of water it normally provides for irrigation purposes to its rancher lessees in Inyo County from approximately 49,000 AF in a normal year to approximately 21,500 AF or less this year. Agriculture in Inyo County is second only to tourism in its importance to the local economy, generating about \$20 million annually. Ranchers depend on irrigated pasture for their cattle herds. Inyo County and LADWP have been negotiating an agreement to provide a limited amount of additional water to the ranchers from supplies allocated through the MOU and other agreements to the Lower Owens River, Delta Habitat Area, and other LORP habitat areas.

The proposed LORP reductions include modifying the Lower Owens River base flow from 40 cfs to 25 cfs, modifying the Delta Habitat Area annual average flows of 6 to 9 cfs to 2.0 cfs from July 1 (or as early as June 22) through July 31, 2015, to 7.5 cfs from August 1 through September 30; to 2.0 cfs from October 1 to November 30. These and other reductions are expected to result in approximately 2,000 to 3,000 AF of water that LADWP will make available for irrigation of LADWP-owned land in the Owens Valley during the period July 1, 2015, through September 30, 2015 if the Parties to the 2007 Stipulation & Order, as well as the 1997 MOU agree. The CDFW, also a party to the 2007 Stipulation & Order, has not yet made a final decision on whether to agree to these reductions under the terms that LADWP and Inyo County have proposed.

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Because of the drought emergency, four of the Parties to the 2007 Stipulation & Order have agreed in concept to these reductions on a one-time, non-precedent setting basis. A final agreement has not been reached by the Parties; however, Commission staff believes the Parties may be close to an agreement. Staff recommends a delegation of authority to the Executive Officer to agree to the Temporary Modification of the 2007 Stipulation & Order that accomplishes the purposes described above, provided CDFW staff confirms that adequate terms to protect the long-term Lower Owens River flows and habitat, and protective measures satisfactory to CDFW staff are included. The Temporary Modification of the 2007 Stipulation & Order would terminate on April 1, 2016, when all the terms and conditions of the 2007 Stipulation & Order shall be in full force and effect.

OTHER PERTINENT INFORMATION:

The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a statutorily exempt project. The project is exempt because it involves a specific action to prevent or mitigate an emergency.

Authority: Public Resources Code section 21080, subdivision (b)(4) and California Code Regulations, Title 14, section 15269, subdivision (c).

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDINGS:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a statutorily exempt project pursuant to Public Resources Code section 21080, subdivision (b)(4) and California Code of Regulations, Title 14, section 15269, subdivision (c), specific actions necessary to prevent or mitigate an emergency.

AUTHORIZATION:

Authorize the Executive Officer, subject to CDFW staff confirmation of sufficient protective terms and conditions in the agreement, to approve the Temporary Modification of July 11, 2007, Stipulation & Order that accomplishes the purposes as described herein.