



MONO LAKE COMMITTEE

P.O. Box 29
Hwy 395 and Third Street
Lee Vining, CA 93541
Phone (760) 647-6595
Fax (760) 647-6377

Board of Directors

Chair:
Sally Gaines

Martha Davis
Vireo Gaines
David Kanner
Gina Radieva
Tom Soto
Sherryl Taylor
Doug Virtue
Kristine Zeigler

Directors Emeriti

Helen Green
Ed Grosswiler
Richard Lehman

Executive Director

Geoffrey McQuilkin

Southern California Office

1718 Wellesley Ave
Los Angeles, CA
90025-3634

On the Internet

monolake.org
monobasinresearch.org

December 16, 2022

E. Joaquin Esquivel

Chair

State Water Resources Control Board

1001 I Street

Sacramento, CA 95814

Dear Chair Esquivel,

Today the Mono Lake Committee, after consultation with Federal and State agency officials and independent scientists, submitted a request to the State Water Resources Control Board for an emergency action to protect Mono Lake and its public trust resources by addressing an urgent and developing ecological crisis. This request is due to the imminent harm caused by the lake surface elevation having fallen below 6,380 feet above sea level, and is consistent with State Water Board Decision 1631, which mandated a Public Trust Lake Level to protect the resources imperiled at Mono Lake with a nature-based solution. Our letter and supporting documentation are attached.

A combination of drought and continuing climate disruptions is imposing severe impacts on all of us—in Los Angeles, here in the Eastern Sierra, and throughout California. For Mono Lake, which is already artificially low due to decades of water diversions by the Los Angeles Department of Water & Power (LADWP), the most urgent and immediate threat is to the California Gull population.

Consider:

[1] **Legacy impacts of water diversions to Mono Lake, accentuated by drought.** Mono Lake has not yet recovered from decades of excessive water diversions nor achieved the level required by the State Water Board to protect public trust resources, leaving its unique ecosystem impaired and millions of migratory and nesting birds at risk. Today the lake is only 20% of the way to the mandated level.

[2] **Lake level alarmingly low—indicator species at risk.** This year the lake has dropped so low that coyotes can access nesting islands that support one of the world's largest nesting California Gull populations, creating a high risk of colony depredation and disruption. Gulls are considered leading indicators of the overall health of the lake ecosystem.

[3] **Independent scientists report gull population at risk.** Some 70% of Mono Lake’s nesting California Gull population uses one small islet near the landbridge. Point Blue Conservation Science, who have been studying this gull population at Mono Lake for nearly 40 years, informed the Mono Lake Committee and others that if coyotes access this islet in the spring, not only would eggs and chicks be depredated, but multi-year disruption to the colony would also occur.

[4] **As the State Water Board has already determined, Mono Lake needs more water.** While the Mono Lake Committee is working diligently with state and federal agencies to erect emergency fencing to protect the gulls in 2023, fencing reduces risk but is far from foolproof. Coyotes probe constantly for opportunities to get past the fence, and if the lake falls further the increased size and extent of the landbridge will make fencing unworkable. The State Water Board, after extensive study of the predator threat to gulls, has already concluded in D1631 that water is the nature-based solution that ensures protection of the nesting gulls and a host of Public Trust resources, and that Mono Lake must be managed at a level 14 feet higher than present.

[5] **The Mono Lake Committee has initiated efforts to find and finance replacement water for LADWP.** The Mono Lake Committee is already working with state agencies to secure grant funding for water efficiency programs and local supply projects to bolster LADWP’s efforts to reduce reliance on imported supply and to jointly benefit Los Angeles and Mono Lake. We have invited LADWP to partner with these requests. There are many possibilities; a high priority for Los Angeles community groups is to implement direct installation water efficiency programs in lower-income areas to make LADWP water bills more affordable while saving water that directly benefits Mono Lake.

[6] **The Committee has a long track record working with Los Angeles to secure alternative water supplies.** The Mono Lake Committee does not submit this emergency request lightly. We understand that the drought has caused serious shortages for water users in many parts of the state, and that LADWP is rightfully concerned about where it will get water to replace the 4,500 acre feet (less than 1% of the City’s supply) the emergency regulation would require to remain at Mono Lake. We did this before, in 1993, when the Mayor of Los Angeles joined the Mono Lake Committee to apply for \$36 million to fund water conservation projects benefiting Los Angeles and Mono Lake.

We see this ecological crisis—imposed on all of us—as an opportunity for further collaboration, a new generation of cooperation and, working together, successful joint investment in contemporary solutions. The State Water Board’s protection of Mono Lake and its birds, wildlife, air quality, and cultural resources is a landmark accomplishment that has inspired action well beyond California, such as at sister lake Mar Chiquita in Argentina where a new National Park has just been dedicated to protect migratory

phalaropes that journey there from Mono Lake.

The Committee also understands that the Board's docket is full to overflowing given the current drought conditions. Unfortunately, the gulls cannot wait years or even months. They begin their nesting season in March. Thus, we respectfully request the Board take action on this request as soon as possible.

Respectfully submitted,



Geoffrey McQuilkin
Executive Director

CC:

California State Water Resources Control Board

Dorene D'Adamo, Board Member
Sean Maguire, Board Member
Laurel Firestone, Board Member
Nichole Morgan, Board Member
Eileen Sobek, Executive Director

Lesley Yen, Forest Supervisor, Inyo National Forest
Charlton H. Bonham, Director, California Department of Fish & Wildlife
Armando Quintero, Director, California Department of Parks and Recreation
Mike Plaziak, Executive Officer, Lahontan Regional Water Quality Control Board
Bob Gardner, Chair, Mono County Board of Supervisors
Charlotte Lange, Chair, Mono Lake Kutzadika'a Tribe
Karen Bass, Mayor of Los Angeles
Los Angeles City Council
Cynthia McClain-Hill, President, Board of Commissioners, LADWP
Martin Adams, General Manager & Chief Engineer, LADWP
Curtis Knight, Executive Director, California Trout



MONO LAKE COMMITTEE

P.O. Box 29
Hwy 395 and Third Street
Lee Vining, CA 93541
Phone (760) 647-6595
Fax (760) 647-6377

Board of Directors

Chair:
Sally Gaines

Martha Davis
Vireo Gaines
David Kanner
Gina Radieva
Tom Soto
Sherryl Taylor
Doug Virtue
Kristine Zeigler

Directors Emeriti

Helen Green
Ed Grosswiler
Richard Lehman

Executive Director

Geoffrey McQuilkin

Southern California Office

1718 Wellesley Ave
Los Angeles, CA
90025-3634

On the Internet

monolake.org
monobasinresearch.org

December 16, 2022

E. Erik Ekdahl
Deputy Director, Division of Water Rights
State Water Resources Control Board
PO Box 100
1001 I Street
Sacramento, CA 95814

Sent via email: Erik.Ekdahl@waterboards.ca.gov

Subject: Petition for 2023 Drought Emergency Regulation or Other Emergency Action to Protect Nesting Birds, Water Quality, and other Public Trust Resources at Mono Lake

Dear Deputy Director Ekdahl:

The surface level of Mono Lake on December 1 was 6,378.4 feet above mean sea level (amsl), an alarmingly low level that results from the legacy of Los Angeles Department of Water & Power (LADWP) water diversions, accentuated by recent drought.

Given the immediate threats this low level poses to public trust resources at Mono Lake, the purpose of this letter is to request that the State Water Resources Control Board adopt a drought emergency regulation to limit further lake decline by suspending the export of water diverted from Rush and Lee Vining creeks from the Mono Basin and requiring delivery of that water into Mono Lake. This request is due to the imminent harm caused by the lake surface elevation having fallen below 6,380 feet, and is consistent with State Water Board Decision 1631 (D1631), which mandated a lake level of 6,392 feet amsl (Public Trust Lake Level) to protect the resources now imperiled at Mono Lake.

Earlier this year, on April 1, 2022, Mono Lake's level was 6,380 feet. Since then the lake has fallen 1.6 feet. Lake levels below 6,380, including the current low level, pose an immediate risk to nesting birds because they expose significant portions of lakebed between the shore and nesting islands, providing predators with a path to access the islands and depredate the eggs and chicks of nesting birds. State Water Board action is necessary to prevent predation of one of the world's largest populations of California Gulls during nesting season. Gulls depend on the islands, which are naturally free of terrestrial predators, and as

higher-level consumers that depend on Mono Lake productivity, they are considered leading indicators of the overall health of the lake.

At the current low lake level, there is a high likelihood that predators will combine crossing of the landbridge on foot with short-distance swimming and wading to access and depredate gull nests on the islands in the 2023 nesting season and subsequent years. This behavior has been observed in the past. Delivering more water to the lake will help prevent this from occurring by either raising the lake level or preventing an additional drop in lake level. It will also help reduce the salinity level of Mono Lake below the limit established by D1631, and thus avoid violations of the federal Clean Water Act.

The emergency drought regulation proposed in this request is based on studies of the gull colony conducted by Point Blue Conservation Science, communication with federal, state and regional agencies (including California Department of Fish & Wildlife, Lahontan Regional Water Quality Control Board, California State Parks, and the United States Forest Service), hydrologic analysis performed by the Mono Lake Committee, and communication with the Mono Lake Kutzadika'a Tribe. The State Water Board (Board) has the authority to adopt the proposed emergency regulation. Water Code § 1058.5; Governor's October 19, 2021 Proclamation of a State of Emergency, ¶9. Alternatively and in addition, the Board has the authority to modify LADWP's water rights licenses pursuant to Condition L of Licenses 10191 and 10192, Water Code sections 100 and 275, and the common law public trust doctrine.

Background

LADWP diversions from the Mono Basin create a landbridge to Mono Lake's islands, allowing coyotes to access essential California Gull nesting grounds.

Mono Lake is a terminal, saline lake that supports a unique and highly productive ecosystem recognized for its state, national, and international significance; Mono Lake is also a designated Outstanding National Resource Water (ONRW). In the early 1940s, LADWP obtained permits to divert water from Mono Lake's four main tributary streams (Rush, Lee Vining, Parker, and Walker creeks) and export that surface water to Los Angeles via the Los Angeles Aqueduct system for municipal use. Deprived of inflow, the lake shrank in size, ultimately losing half its volume and doubling in salinity, impairing the productivity of its unique ecosystem. By 1982, LADWP's exports had lowered the lake's surface elevation by forty-five vertical feet, to 6,372 feet amsl. Large portions of the lakebed were exposed, connecting the shore to Negit Island. This exposed lakebed is referred to as the landbridge. The landbridge allows predators to walk across exposed lakebed and access nesting sites either on foot or by swimming and wading across short, shallow remaining stretches of water.

Up until 1979, Negit Island had been the principal nesting ground for the world's second largest nesting population of California Gulls. These birds build their nests on the ground, where they lay their eggs and care for their chicks until the chicks learn to fly. Once Negit was accessible from the shore, however, coyotes accessed the island during nesting season, disrupting the colony by eating gull eggs and killing many of the gull chicks.

The gulls, which have strong nesting site fidelity and live up to 27 years, abandoned Negit and began nesting on smaller islet habitats nearby. The gulls have still not successfully returned to nest on Negit, even after the Board reduced LADWP's exports from Mono Basin, because the lake has not risen and remained high enough to protect the island.

Today, the entire population of California Gulls nesting at Mono Lake does so on several smaller islets, most notably Twain Islet. Twain Islet is currently separated from the landbridge by a shallow stretch of water now dotted with emerging tufa shoals. In 2021, Twain Islet provided nesting grounds for 70% of the California Gull population at Mono Lake. See Attachment 1 (labeled aerial photo).

The Board adopts D1631 to protect Mono Lake's public trust resources, including California Gulls.

In 1994, to protect the gulls and other public trust resources at Mono Lake, the Board adopted D1631, which limited LADWP's diversion of surface water in order to raise the lake to, and maintain the lake at, an ecologically sustainable, long-term average level of 6,392 feet amsl (Public Trust Lake Level). See, e.g., D1631 § 6.8, pp. 156-57 (establishing new diversion limits); § 6.3.3, p. 100-06 (discussing lake level needed to protect gulls). The purpose of these diversion limits was to ensure that Mono Lake would rise from 6,375 feet amsl (the lake level in 1994) to the Public Trust Lake Level within a reasonable period of time. D1631 § 6.7, p. 195 ("This decision ... amends Los Angeles's water right licenses 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."). To achieve this protection, D1631 prohibited LADWP from exporting surface water diverted from tributary streams until the lake reached 6,377 feet amsl; allowed 4,500 acre feet of surface water export when the lake was between 6,377 and 6,380 feet amsl; and allowed 16,000 acre feet of surface water export when the lake was between 6,380 and 6,391 feet amsl. D1631 § 6.8, pp. 156-57.¹

In D1631, the Board discussed at length the impacts of lower lake levels on nesting gulls, including the risk of predation when exposed lakebed facilitates coyotes reaching nesting sites. D1631 § 6.3.3, p. 100-06. The Board noted that such predation had a significant adverse effect on the gull population. *Id.* at p. 105. It also noted that Java and Twain islets provided good nesting habitat if kept safe from coyote predation. *Id.* According to D1631, these islets are "effectively landbridged" when Mono Lake is between 6,374 and 6,375 feet amsl, and the lake level may fluctuate by several feet during prolonged droughts. *Id.* at 106. **As a result, the Board concluded that a lake level of 6,384 feet amsl would be necessary to protect nesting gulls from "coyote access to Negit Island and nearby islets and would maintain a buffer for continued protection during periods of extended drought."** *Id.*

D1631 also designated Mono Lake as an Outstanding National Resource Water, one of only two ONRWs in the state. D1631 at 151. This designation recognizes the "exceptional ecological significance" of Mono Lake and prohibits degradation of the lake's water quality from conditions

¹ In addition to exporting surface water from the lake's tributary streams, LADWP also receives approximately 10,000 acre feet of groundwater captured in the Mono Craters Tunnel each year.

existing in November 1975. See D1631, at 151-52. At that time, the salinity of the lake was approximately 85 g/l at a lake level of 6,379 feet amsl.¹ Id. According to D1631, “allowing water diversions resulting in a salinity higher than 85 g/l would be contrary to the ... antidegradation policy.” Id. at 152. D1631 states “As [an ONRW], the water quality which existed [in Mono Lake] in November 1975 when the federal antidegradation regulation was enacted must be maintained and protected. To maintain the salinity of Mono Lake at 85 g/l or lower would require that the water level of the lake be raised and maintained at 6,379.3 feet or higher.” Id.

Lastly, D1631 acknowledged that its diversion criteria might not achieve the Public Trust Lake Level within a reasonable period of time. Thus, the Board ordered a follow-up hearing to reconsider these diversion criteria if, in twenty years, the lake had not reached the Public Trust Lake Level. See D1631, § 6.8, p. 158 (If diversion restrictions did not result in the lake rising to the Public Trust Lake Level, “the SWRCB could adjust the water diversion criteria in an appropriate manner under the exercise of its continuing authority over water rights.”); Stream Restoration Order § 2.2, p. 3 (follow-up hearing would allow the Board to “reconsider[] ... diversion criteria based on the conditions of Mono Lake and the surrounding area to determine whether further revisions to the licenses are appropriate”). Twenty-eight years after D1631, the lake still has not reached 6,392 feet amsl. As a result, a follow-up hearing to reconsider the diversion criteria is required. However, we understand that, due to the Board’s very busy docket, this hearing is not likely to occur in 2023, underscoring the need for immediate action on the current emergency situation until the hearing can be conducted.

Mono Lake drops below 6,380 feet amsl, causing renewed danger for nesting California Gulls.

While Mono Lake initially rose under D1631’s diversion criteria, low runoff and precipitation affected the lake, notably in 2012–16 and again over the last few years. The legacy of decades of LADWP diversions lowering the lake, coupled with low runoff conditions and LADWP’s ongoing exports, caused the lake to drop below 6,380 feet amsl in August 2014, for the first time since D1631 was issued. D1631 gave no indication that the Board (or any party to the proceeding) anticipated the lake would fall back to levels below 6,380 feet amsl twenty years after implementing the diversion limits.

In 2016, when the lake was at about the same level it is today, coyote presence was documented on Negit Island and several small adjacent islets despite small remaining stretches of water at the north edge of the landbridge. At that point, it became clear that coyotes pose a threat to nesting gulls even when the lake is above 6,375 feet amsl, the level the Board previously observed to be the point of effective landbridging. D1631 § 3.3, p. 106. Evidence from recent years shows that coyotes do not need a completely dry landbridge to access nesting islands, and that they will wade through water and even swim short distances to access gull nesting sites. Moreover, once coyotes learn that the nesting areas provide an abundant source of food, they may go to even greater lengths (e.g., wading deeper, swimming farther) to access the sites. To protect the gulls in 2017, the Committee collaborated with California State Parks, the California

¹ Because the lake is saline, and salinity levels affect the productivity of the ecosystem, the water quality standard relevant to the antidegradation policy at Mono Lake is salinity.

Department of Fish & Wildlife, and US Forest Service, to install a fence across the landbridge to keep predators away from the remaining nesting grounds, principally on Twain Islet. The fence successfully deterred coyotes that year.

However, fencing is an emergency solution to an emergency problem. Fencing reduces predation risk but is not foolproof. Field camera imagery from 2017 showed coyotes looking for holes, gaps, and other ways to circumvent the fencing, necessitating constant maintenance at a remote and hard to access location with extreme conditions where fence failure could occur and persist for days. Earlier fences constructed in the 1980s failed to stop predation. Moreover, the landbridge expands in size as the lake level drops. See Attachment 2 (showing the size of the landbridge at different lake levels). At a certain point, the modern fence will become ineffective because the landbridge will offer approaches to the nesting islets from multiple directions, exceeding the effective functioning of a fence.

Gulls that experience predation in their nesting area are prone to abandon that area for many years. This was observed after coyotes accessed Negit Island in 1979; the gulls did not successfully return. This was also observed after coyote presence was documented Java Islet in 2016; the islet has been abandoned as a nesting island in all subsequent years. The loss of Twain Islet as a nesting site could be devastating to the already steeply declining Mono Lake gull population. Not only would gulls experience reduced productivity from dramatically increased predation rates, the disruption of their nesting sites could have lasting impacts on gull productivity. The remaining predator-free nesting island space is limited and is unlikely to support even a fraction of the 10,000 nests currently supported on Twain.

Mono Lake needs all available water to protect California Gull nesting islets.

As described above, the California Gulls are currently threatened by predators crossing the landbridge. Having abandoned Negit Island and Java Islet, most gulls rely on Twain Islet for nesting. The dry portion of the landbridge is now close to Twain, the adjacent water is only several feet deep, and several tufa shoals have emerged between the landbridge and Twain. While fencing may temporarily protect the gulls, it is not foolproof. See Attachment 3 (showing coyotes at the outer edge of the landbridge in May 2022).

The Board has previously studied the situation in detail for D1631 and determined that a higher lake level and larger water barrier are essential to preventing predators from accessing the nesting islands. Delivering as much water as possible to Mono Lake is the only way to beneficially influence lake level until the emergency condition is eliminated.

The proposed emergency regulation would provide this protective measure. If the regulation is in place for the next runoff year (2023–2024), an additional 4,500 acre feet could be added to the Lake, raising it approximately 0.1 foot. In this emergency situation, small changes in lake level produce meaningful changes to the landbridge boundary and reductions in the landbridge size, increasing island separation from the landbridge and creating protection that adds up over time. To prevent the lake from immediately returning to the same emergency conditions (i.e., falling below 6,380 feet amsl), we request an emergency regulation that would remain in place until the lake has

reached 6,384 feet amsl. As the Board noted in D1631, such a buffer is necessary to protect public trust resources in the event of prolonged drought. D1631 § 6.3.3, p. 106.

The Board has authority to adopt the requested temporary regulation.

The Board has authority to issue an emergency drought regulation that suspends the export of water diverted from Rush and Lee Vining creeks. Cal. Water Code § 1058.5. Section 1058.5 authorizes the Board to issue emergency curtailment regulations to prevent unreasonable use of water during a declared drought emergency. First, like emergency regulations adopted by the Board that have limited water diversions from the Scott and Shasta rivers or Mill and Deer creeks, the proposed emergency regulation would prevent negative impacts on the level of Mono Lake due to the diversion and export of water, at times when such exports amplify, extend, or pre-position the lake to be in the emergency situation below 6,380 feet described here, finding such diversions to be an unreasonable use of water. See *id.* § 1058.5(a)(1); see also Cal. Code Regs., tit. 23, § 875 (Scott and Shasta Rivers); *id.* § 876.5 (Mill and Deer Creeks). Second, the regulation would be adopted by the Board during a period for which the Governor has declared a state of emergency. See Cal. Water Code § 1058.5(a)(2); Governor’s October 19, 2021 Proclamation of a State of Emergency, ¶9. The emergency regulation that is the subject of this petition meets the requirements of section 1058.5. Moreover, the adoption of the proposed emergency regulation would be exempt from the California Environmental Quality Act (CEQA), pursuant to the Governor’s drought proclamations in 2021 and 2022. See Governor’s March 28, 2022 Executive Order N-7-22, ¶5; State Water Resources Control Board, Resolution No. 2021-0038, ¶2.

The Board likewise has the authority to issue an emergency regulation that limits water diversions for the purposes of protecting the public trust and preventing the unreasonable use of water, including water diversions that unreasonably harm wildlife. Under Article X, section 2 of the State Constitution and the common law public trust doctrine, water rights in California are subject to the Board’s authority—and its obligation—to prevent waste and unreasonable use and to protect the public trust. See also Cal. Water Code §§ 100, 275. This authority is expressly recognized within Condition L of LADWP’s Licenses 10191 and 10192, which states that “[p]ursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this right, including ... quantity of water diverted, are subject to the continuing authority of the State Water Board.”

Recommendation

For all the reasons stated above, the Committee requests that the Board issue an emergency regulation, or take other action, suspending the export of water diverted from Rush and Lee Vining creeks and requiring delivery of that water into Mono Lake until Mono Lake has risen to 6,384 feet amsl. This regulation would address the immediate crisis faced by nesting California Gulls as discussed in detail above. It would also comply with the federal antidegradation standards, which generally prohibit actions that would degrade the water quality of an ONRW. The proposed regulation would address the existing emergency by taking action to raise the lake above 6,380 feet amsl. It also includes the minimum buffer necessary to keep the lake above 6,380 feet amsl, and thus avoid another emergency situation, during future multi-year droughts. The

Board acknowledged the need for such a buffer in D1631. D1631 § 6.3.3, p. 106.

The proposed regulation is directly responsive to the emergency situation described in this letter. To be clear, the proposed regulation on its own is not sufficient to achieve the Board's broader mandate to protect multiple public trust resources at Mono Lake, including ecosystem productivity, air quality, and others. D1631 established a Public Trust Lake Level of 6,392 feet amsl for this purpose. For example, while the productivity of the alkali flies would benefit from the salinity reduction achieved by the proposed emergency regulation, raising the lake to the Public Trust Lake Level is necessary to ensure the long-term productivity and health of this critical biological and cultural resource. As the Board recently noted, a subsequent hearing is required under D1631 to reconsider the diversion criteria provided in LADWP's water rights licenses so that the lake can finally achieve the Public Trust Lake Level. Mono Lake Basin Order 2021-86 at § 2.2, p. 3.

While there is only one way to protect Mono Lake's large population of nesting California Gulls (i.e., delivering as much water as possible to the lake until the lake has reached a level that will protect the nesting islands from predation), there are multiple ways for LADWP to adjust to the proposed temporary reduction in water diversions. When the lake is below 6,380 feet amsl, LADWP is allowed to export 4,500 acre feet of surface water per year. This represents less than 1% of LADWP's total annual water usage based on recent LADWP water use data. Moreover, even if LADWP suspends the export of water diverted from Rush and Lee Vining creeks and delivers that water into Mono Lake, it will still receive approximately 10,000 acre feet per year in groundwater captured and exported through the Mono Craters Tunnel, more than half of which would otherwise flow to Mono Lake.

Nonetheless, we understand that the ongoing drought is causing shortages and disruptions for water supply throughout California, including both Los Angeles and Mono Lake. LADWP is rightfully concerned about where it will obtain water to replace the 4,500 acre feet the requested emergency regulation would mandate remain in Mono Lake. We share the concern. Thankfully the City has a diverse water supply portfolio and there are many ways to achieve the city's local water supply development goals, which enhance LADWP's ability to meet its responsibilities at Mono Lake.

The Mono Lake Committee has a long track record—going back to the 1990s—of working with LADWP to secure replacement water supplies. The Committee had local supply funding success in 1993 when the Mayor of Los Angeles joined with the Committee to apply for \$36 million to fund demand reduction programs, water recycling, and groundwater recharge facilities benefiting Los Angeles and Mono Lake.

Given the present crisis, the Committee has been working with State agencies and others this year to secure special programmatic grant funding to underwrite direct installation and other water efficiency and supplemental water replacement programs for Los Angeles. Direct installation of water efficient appliances in lower-income areas of the city is a particularly high priority for Los Angeles community groups because it saves water and helps to make LADWP water bills more affordable.

As part of this process, we have repeatedly reached out and invited LADWP to partner with us in

requesting new State funding to address the critical situation facing Los Angeles and Mono Lake. State agencies have encouraged these requests, but to date LADWP has declined to join us.

The Committee reached out to LADWP about the emergency situation described in this letter on November 30, 2022, requesting their voluntary action to deliver more water to Mono Lake. See Attachment 4 (letter to LADWP). On December 14 LADWP sent a response indicating it does not intend to take any voluntary actions to address the emergency situation by reducing export of water diverted from Mono Lake's tributary streams.

The Committee does not submit this petition lightly. The current situation is well established as an emergency, in substantial part by the State Water Board's own analysis for D1631. After 28 years, the Board and all parties expected the level of Mono Lake to be much higher, implementing a nature-based solution that eliminated the challenge of predators using the landbridge. But with the lake instead lingering at the present low level, immediate action is necessary to achieve the public trust protections for Mono Lake set forth in D1631.

The Committee would be happy to answer any questions regarding this letter or discuss the recommended regulation. Please contact Bartshe Miller, Eastern Sierra Policy Director, at (760) 647-6595 or bartshe@monolake.org.

Sincerely,

A handwritten signature in blue ink, appearing to read 'G. McQuilkin', with a long horizontal flourish extending to the right.

Geoffrey McQuilkin
Executive Director

CC:

Eileen Sobeck, Executive Director, California State Water Resources Control Board

Attachment 1

Nov 4, 2022

Landbridge

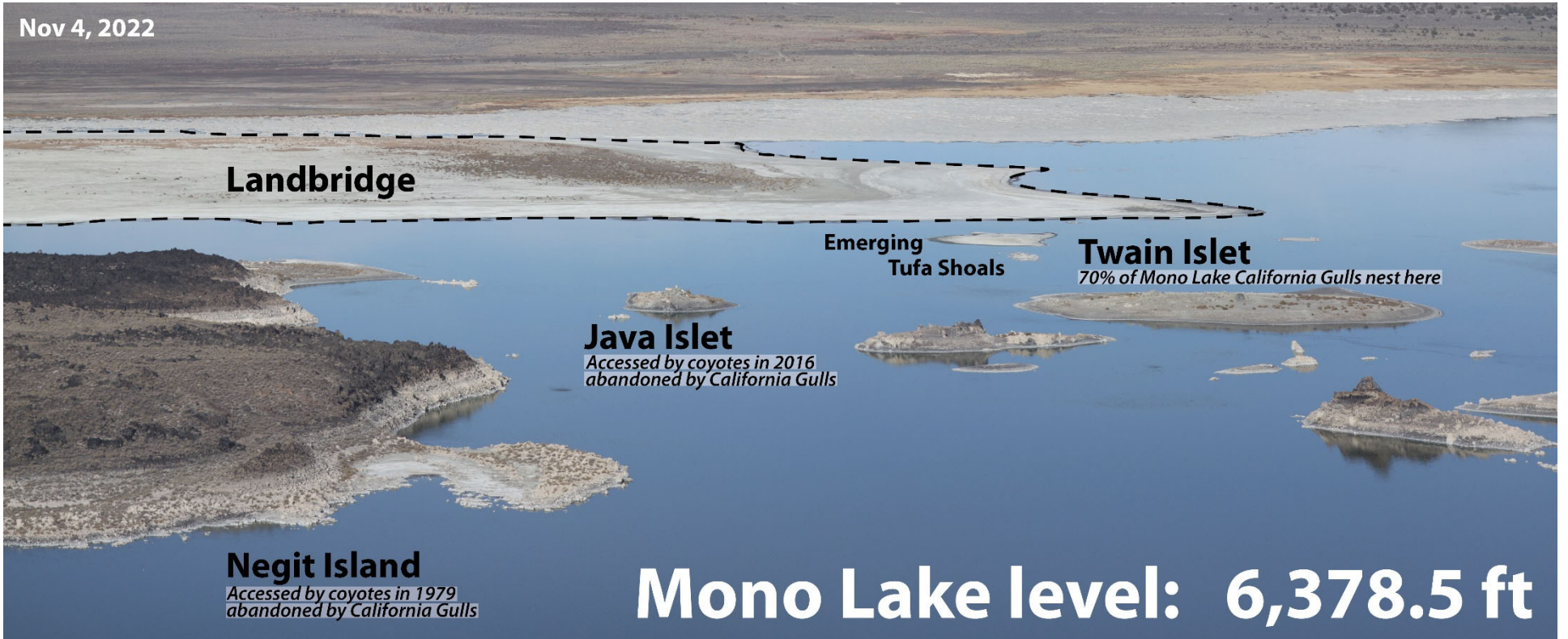
**Emerging
Tufa Shoals**

Twain Islet
70% of Mono Lake California Gulls nest here

Java Islet
*Accessed by coyotes in 2016
abandoned by California Gulls*

Negit Island
*Accessed by coyotes in 1979
abandoned by California Gulls*

Mono Lake level: 6,378.5 ft



Attachment 2



Mono Lake Level: 6,382.9 ft



Landbridge

**Submerged
Tufa Shoals**

Twain Islet

*Max. Depth
~11 ft*

Java Islet

*Max. Depth
~8 ft*

Negit Island

3,000 ft

Sep 13, 2019



Mono Lake level: 6,380.8 ft



Landbridge

**Emerging
Tufa Shoals**

Twain Islet

*Max. Depth
~9 ft*

Java Islet

*Max. Depth
~6 ft*

Negit Island

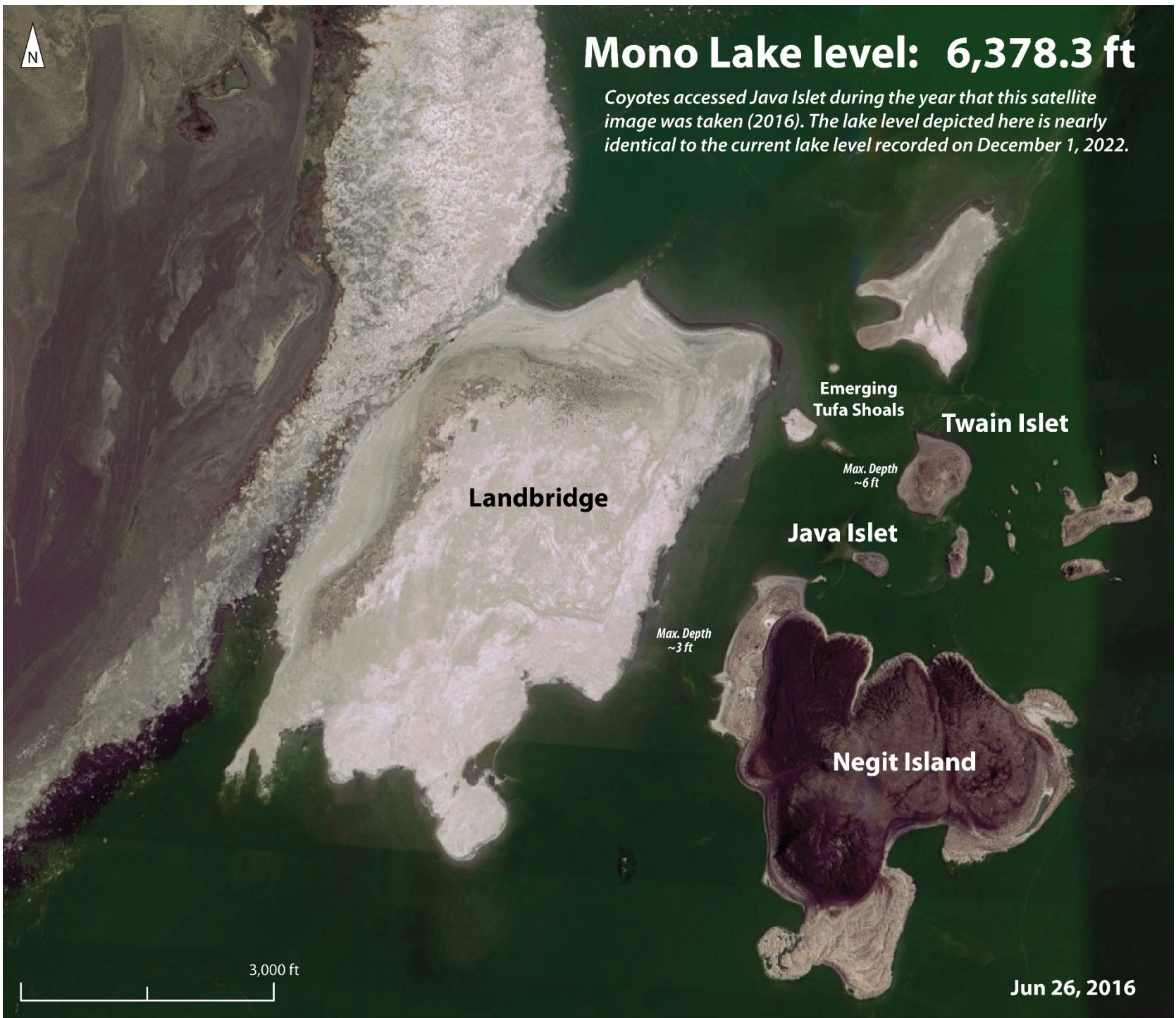
3,000 ft

Sep 14, 2013



Mono Lake level: 6,378.3 ft

Coyotes accessed Java Islet during the year that this satellite image was taken (2016). The lake level depicted here is nearly identical to the current lake level recorded on December 1, 2022.



Landbridge

**Emerging
Tufa Shoals**

Twain Islet

*Max. Depth
~6 ft*

Java Islet

*Max. Depth
~3 ft*

Negit Island

3,000 ft

Jun 26, 2016

Attachment 3

Mono Lake Level: 6,379.7 ft

Negit Island

coyote

Landbridge

MOULTRIE

☉ 16 °C

Landbridge_1

20 MAY 2022 09:50 am

Attachment 4



MONO LAKE COMMITTEE

P.O. Box 29
Hwy 395 and Third Street
Lee Vining, CA 93541
Phone (760) 647-6595
Fax (760) 647-6377

Board of Directors

Chair:
Sally Gaines

Martha Davis
Vireo Gaines
David Kanner
Gina Radieva
Tom Soto
Sherryl Taylor
Doug Virtue
Kristine Zeigler

Directors Emeriti

Helen Green
Ed Grosswiler
Richard Lehman

Executive Director

Geoffrey McQuilkin

Southern California Office

1718 Wellesley Ave
Los Angeles, CA
90025-3634

On the Internet

monolake.org
monobasinresearch.org

November 30, 2022

Anselmo Collins

Senior Assistant General Manager - Water System
Los Angeles Department of Water and Power
111 N. Hope Street
Los Angeles, CA 90012

RE: Request to assist with emergency protection of nesting birds and lake water quality at Mono Lake

Sent via email to: Anselmo.Collins@ladwp.com

Dear Mr. Collins,

Mono Lake provides vital habitat to millions of migratory and nesting birds, is a critical resource on the Pacific Flyway, and is recognized for its national, international, and hemispheric ecological significance. The surface level of Mono Lake today is 6,378.4 feet above sea level, an alarmingly low level that results from legacy impacts of the Los Angeles Department of Water and Power's (LADWP) water diversions, accentuated by recent drought.

This low lake level jeopardizes the safety of one of the world's largest nesting California Gull colonies by landbridging nesting islands, thus exposing eggs and chicks to predation during the upcoming nesting season. This situation is of significant concern and the Committee is collaborating with management agencies including the California Department of Fish and Wildlife on proactive actions to protect the gulls. Additionally, due to the low lake level, salinity has increased to levels that exceed federal and state water quality standards. LADWP's diversion of water from Mono Lake's tributary streams directly affects lake level by reducing inflow to the lake.

Given these emergency conditions, **the Mono Lake Committee respectfully requests that the Los Angeles Department of Water and Power help protect nesting birds and lake water quality by voluntarily reducing Mono Basin water exports until the emergency conditions are alleviated, specifically by suspending the export of water diverted from Rush and Lee Vining creeks and delivering that water to Mono Lake instead.**

In the coming runoff year, suspending surface water export means leaving 4,500 acre-feet of water in the Mono Basin for Mono Lake, representing less than 1% of

the City's annual water consumption while making an urgent difference to the security of the nesting colony. LADWP would continue to receive approximately 10,000 acre-feet of groundwater captured in the Mono Craters tunnel in the year ahead.

An emergency situation currently faces the nesting California Gull population—one of the world's largest—during the soon-to-begin 2023 nesting season. Without action, there is a high probability of coyotes accessing the nesting colony and depredate gull nests (which are on the ground) and chicks (which are flightless until at least mid-July), which will impact the population's reproductive success and likely cause nesting ground abandonment and long-term colony disruption. Even a single coyote accessing the nesting islets could be catastrophic for reproductive success of the gulls.

The coyotes are able to access the nesting islands due to the legacy impacts of LADWP's water diversions, accentuated by recent drought, that lowered the level of Mono Lake, and exposed the previously submerged lakebed that forms the landbridge between the shore and nesting islands. The nesting islands will be protected from predator access when past LADWP water diversion impacts have been mitigated by the lake recovering to the mandated management level of 6,392 feet as required by the State Water Resources Control Board.

The lake is currently 14 feet below this sustainable level and the landbridge has expanded significantly toward the nesting islands. In 2023 the lake will be lower than during the 2022 nesting season. Coyotes do not need a completely dry landbridge to access the islands. Rather, evidence from recent years shows the coyotes will wade through water and even swim short distances to access gull nesting sites. Moreover, once coyotes learn that the nesting areas provide a source of food, they may go to even greater lengths (e.g., wading deeper, swimming farther) to access the site.

To proactively protect the nesting colony in 2023, the Committee is collaborating with the California Department of Fish and Wildlife, California State Parks, and others to install temporary electric fencing to attempt to steer coyotes away from the at-risk nesting gulls. While this method proved successful in 2017, fencing is not foolproof; additionally, it will become ineffective if the landbridge grows substantially due to further lake level decline.

Therefore, it is imperative to keep the lake from dropping any lower than it already has and LADWP is in a unique position to join this effort and directly benefit the lake level by suspending the export of water diverted from Rush and Lee Vining creeks and delivering that water to the lake instead.

LADWP action will also beneficially address a second serious situation that has emerged this year. Mono Lake salinity levels have increased beyond the maximum permitted by the federal Clean Water Act antidegradation policy. In Decision 1631, the State Water Resources Control Board designated Mono Lake an "Outstanding National Resource Water," one of only two in the state. This Tier III designation set a maximum salinity of 85 g/l, corresponding to a lake level of 6,379.3 feet. Mono Lake's current salinity is higher than 85 g/l. Thus, suspending export of water diverted from tributary streams benefits LADWP by avoiding actions that would further degrade water quality in violation of the standard.

The Mono Lake Committee recognizes that historic drought and dry conditions are impacting both Mono Lake and Los Angeles. Los Angeles has made impressive water efficiency progress in the decades since the State Water Board's Mono Lake decision, using the same amount of water as 50 years ago despite significant population increase. The recent water conservation successes of Los Angeles residents to the drought are notable and studies show even more conservation can be accomplished. The Mono Lake Committee continues work on our pledge to help secure funding for Los Angeles to support additional conservation efforts that will improve affordability of water for low-income households while expanding capacity to provide water to protect Mono Lake.

The situation at Mono Lake is serious. The Mono Lake Committee requests LADWP assistance by contributing something only LADWP can: water. We urge LADWP to act on this request quickly by informing the Mono Lake Committee and the State Water Board of your response as soon as possible. The Committee is already working on the gull protection fence and we expect to brief the State Water Board on this urgent situation soon.

Thank you for your attention to this urgent matter.

Sincerely,



Geoffrey McQuilkin
Executive Director

CC

Cynthia McClain-Hill, LADWP Board President

Martin Adams, General Manager and Chief Engineer