California Regional Water Quality Control Board

Lahontan Region

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Alan C. Lloyd, Ph.D.
Agency Secretary

Arnold Schwarzenegger
Governor

ORDER NO. R6V-2005-0020
NPDES NO. CA0103225, WDID NO. 6B140407009
WATER QUALITY CERTIFICATION, WASTE DISCHARGE REQUIREMENTS, AND NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER LOWER OWENS RIVER PROJECT, INYO COUNTY

The following Discharger is authorized to discharge in accordance with the conditions set forth in this Order:

Discharger	Los Angeles Department of Water and Power
Name of Facility	Lower Owens River Project (LORP)
Facility Contact Address	300 Mandich Street
	Bishop, CA 93514
	Inyo County

The Discharger is authorized to discharge at or from the following discharge points as set forth below**:**

Discharge Point	Monitoring Locations	Discharge Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
Discharges 001A 001R	M-001U M-001A M-001R	Dewatering wastes from intake structure construction	36 º, 58’, 33” N	118 º, 12’, 33” W	LA Aqueduct (A) or Lower Owens River (R)
Discharge 002	M-002U M-002	Diverted stream flow with earthen wastes from Keeler weir construction	36 º, 34’, 35” N	118 º, 01’, 00” W	Lower Owens River
Discharge 003	M-003U M-003	Dewatering wastes from Pump Station construction	36 º, 32’, 59” N	117 º, 58’, 57” W	Lower Owens River, Owens Lake
Discharge 004	M-001U R-004A R-004B R-004C R-004D	Reintroduced flows to Lower Owens River from River Intake structure	36 º, 58’, 33” N	118 º, 12’, 33” W	Lower Owens River, Owens Lake
Discharge 005	R-005U R-005	Diverted stream flow with wastes pumped to Los Angeles Aqueduct and/or dust control	36 º, 32’, 32” N	118 º, 03’, 01” W	Haiwee Reservoir via LA Aqueduct and/or Owens Valley Ground Water Basin
Discharge 006	L-001	Dredged spoils and/or waste earthen material at River Intake	36 º, 58’, 33” N	118 º, 12’, 33” W	Owens Valley Ground Water Basin
Discharge 007	L-002	Dredged Spoils and/or waste earthen material at Pump Station	36 º, 32’, 59” N	117 º, 58’, 57” W	Owens Valley Ground Water Basin

This Order was adopted by the Regional Water Board on:	**July 14, 2005.**
This Order shall become effective on:	**July 14, 2005.**
Discharges 001A, 001R, 002, and 003 are authorized under Clean Water Act Section 402 NPDES provisions of this Order that shall expire on:	**July 14, 2010.**
The exemption to discharge prohibitions granted for the Lower Owens River shall expire on:	**July 14, 2015.**
All other discharge authorizations (under Clean Water Act Section 401 and California Water Code Division 7 provisions of this Order) shall remain in effect:	**Until the Regional Water Board determines the discharge poses no threat to water quality.**
The Monitoring and Reporting Program shall remain in effect:	**Until the Regional Water Board determines the discharge poses no threat to water quality.**
The Discharger shall file a Report of Waste Discharge in accordance with Title 23, California Code of Regulations, **not later than 180 days in advance of the above expiration date** as application for reissuance of NPDES Permit requirements.	

Section 401 Water Quality Certification Granted

I hereby issue this Order certifying that discharges from the Lower Owens River Project will comply with the applicable provisions of Sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. The Regional Water Board, by copy of this certification, hereby notifies the applicant, the U.S. Environmental Protection Agency, and the U.S. Army Corps of Engineers that the State of California hereby certifies the Lower Owens River Project pursuant to CWA Section 401. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that Have Received State Water Quality Certification" (Attachment G) which requires compliance with all conditions of this Water Quality Certification.

Except as modified by other conditions in this Order, all certification actions are contingent on (a) the discharges being limited and all proposed mitigation being completed in strict compliance with the applicants' project description, and (b) on compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan) and this Order.

IT IS HEREBY ORDERED, that in order to meet the provisions contained in Division 7 of the California Water Code (CWC) and regulations adopted there under and the provisions of the federal Clean Water Act (CWA), and regulations and guidelines adopted thereunder, the Discharger shall comply with the requirements in this Order.

I, Harold J. Singer, Executive Officer, do hereby certify the following is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on July 14, 2005**.**

_____

Harold J. Singer, Executive Officer

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
REGION 6, LAHONTAN REGION

ORDER NO. R6T-2005-0020
NPDES NO. CA0103225

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I. FACILITY AND PROJECT INFORMATION

The following Discharger is authorized to discharge in accordance with the conditions set forth in this Order:

Discharger	Los Angeles Department of Water and Power
Name of Facility	Lower Owens River Project (LORP)
Mailing Address	300 Mandich Street
	Bishop, CA 93514
	Inyo County
Facility Contact, Title, and Phone	Brian Tillemans, Water Resources Manager, (760) 873-0214
Facility Location	Lower Owens River Watershed in Inyo County
Type of Facility	Habitat Restoration Project and Water Supply Pump Station
Facility Design Flow	Not Applicable

II. FINDINGS

The California Regional Water Quality Control Board, Lahontan Region (hereinafter Regional Water Board), finds:

A. **Background; permits and applications.**

The City of Los Angeles Department of Water and Power (hereinafter Discharger) submitted an application for Clean Water Act Section 401 Water Quality Certification (WQC), dated July 30, 2004, and provided additional requested project information on November 29, 2004, and January 14, 2005. The WQC application was deemed complete on February 13, 2005. The U.S. Army Corps of Engineers has granted an extension of the date for Section 401 certification or denial by the Regional Water Board to July 30, 2005.

The Discharger submitted a Notice of Intent (NOI) application, dated January 19, 2005, for *Statewide General Waste Discharge Requirements (WDRs) for Discharges to Land with a Low Threat to Water Quality* (Water Quality Order No. 2003-0003-DWQ) for disposal of waste earthen materials and dredged spoils.

The Discharger submitted a Notice of Intent application, dated January 31, 2005, for coverage under the *Regionwide General National Pollutant Discharge Elimination System (NPDES) Permit for Low Threat Discharges to Surface Water* (Order No. R6T-2003-0034) for several specific discharges associated with dewatering excavated areas of construction sites, and for stream diversion activities associated with construction of a gauging station weir.

On February 4, 2005, the State Water Resources Control Board (hereinafter State Board) received from the Discharger, a Notice of Intent application for permit coverage under the *National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated With Construction Activity* (Water Quality Order 99-08-DWQ). The Discharger obtained coverage under this General Permit pursuant to State Board action on February 9, 2005.

WQC application and above-cited NOIs are, in part, the basis for issuing this Order. Additional details on the NPDES/WDR permitting process are provided in the Fact Sheet (Attachment F).

B. **Facility and Discharge Description.**

The LORP is a large-scale habitat restoration and water supply project. The Discharger will operate the LORP and owns the vast majority of property where project activities will take place. Additional project description details may be found in the Fact Sheet (Attachment F). Basically, the project involves building a Pump Station to recapture water released to the lower 62 miles of the Lower Owens River from reduced diversions to the Los Angeles Aqueduct (initial construction completed in 1913). To construct and operate the LORP, wastewater will be discharged from various Discharge Points (see table on cover page) to the Lower Owens River, a water of the United States and tributary to the Owens Lake, an internally-drained, terminal lake. In addition, river water will be discharged from the Lower Owens River Pump Station to the bed of Owens Lake (for dust control purposes) or to Haiwee Reservoir by means of the Los Angeles Aqueduct. Construction of the project also involves discharges of dredged and/or fill materials in the Lower Owens River. The Lower Owens River, Owens Lake, the Los Angeles Aqueduct, and Haiwee Reservoir are all waters of the State. The receiving waters for the discharges are surface and ground waters within the Lower Owens Hydrologic Area of the Owens Hydrologic Unit. Attachment B provides a map of the area affected by the LORP. Attachment C provides a flow schematic and diagram of monitoring and discharge points for the LORP.

The purpose of the LORP is to reestablish perennial flows within the Lower Owens River and restore habitats in the Lower Owens River riparian and off-river areas as mitigation for previous groundwater pumping practices by the Discharger from 1970 to 1990. The LORP consists of five major components. These components and existing conditions in the LORP area are described in the Fact Sheet (Attachment F).

The LORP includes construction and modification of facilities for releasing, regulating or monitoring the flows in the Lower Owens River channel, and using the Pump Station to recapture flows for dust control uses or beneficial uses associated with the Los Angeles Aqueduct and its downstream receiving water, Haiwee Reservoir. Storm water and authorized non-stormwater discharges from the construction areas to waters of the United States are subject to regulation under the NPDES provisions of this Order. In addition, prior to the proposed flow releases, removal of in-channel sediments and other obstructions will be necessary to ensure a continuous flow throughout the Lower Owens River. These and other construction activities will result in discharges of dredged and/or fill material into waters, excavation of sediments and vegetation from the Lower Owens

River channel and adjacent wetlands. Flow releases will mobilize disturbed earthen materials and concentrate pollutants in the river.

The various discharges associated with the LORP, and the applicable regulations, are described in detail in Attachment F.

C. **Legal Authorities.** This Order is issued pursuant to section 402 of the Federal Clean Water Act (CWA) and implementing regulations adopted by the U.S. Environmental Protection Agency (USEPA) and Chapter 5.5, Division 7 of the California Water Code (CWC). It shall serve as a NPDES permit for point source discharges from the LORP to surface waters of the United States for which the Discharger has submitted an NPDES permit application, including any Notice of Intent application for general NPDES permit coverage. This Order also serves as Waste Discharge Requirements (WDRs), pursuant to Article 4, Chapter 4 of the CWC, for discharges to surface and ground waters of the State that are not subject to regulation under CWA section 402. California Code of regulations (CCR) Title 23, Section 3831(e) grants the Regional Water Board the authority to grant or deny water quality certification for projects in accordance with Section 401 of the CWA. Compliance monitoring is required pursuant to CWC Section 13383 and/or CWC Section 13267.

D. **Background and Rationale for Requirements**. The Regional Water Board developed the requirements in this Order based on information submitted as part of the applications for general permits and WQC, through monitoring and reporting programs, through considering requirements for similar discharges, and through special studies and environmental impact reporting. Attachments A, B, C, F, H, and P contain background information and rationale for Order requirements and thus constitute part of the Findings for this Order. All Attachments to this Order are hereby incorporated into this Order.

Section 401 of the CWA (33 U.S.C., paragraph 1341) requires that any applicant for a CWA Section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to waters of the United States, shall provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge or other related project activities will originate. No Section 404 permit may be granted (or valid) until such certification is obtained. The Discharger has submitted a complete application and $500 fee deposit required for Water Quality Certification under Section 401 for the LORP. The U.S. Army Corps of Engineers (ACOE) will regulate the project with an Individual Permit under the provisions of Section 404, and has extended the time allowed to grant or deny WQC to July 30, 2005.

E. **California Environmental Quality Act (CEQA).** This action to adopt an NPDES permit is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) in accordance with Section 13389 of the CWC. However, adopting WDRs, issuing WQC, and granting an exemption to waste discharge prohibitions, are discretionary actions of the Regional Water Board and thus subject to CEQA compliance.

The Discharger, acting as California Environmental Quality Act (CEQA, Public Resources Code Section 21000, et seq.) Lead Agency, prepared a Draft Environmental Impact Report (EIR) for the LORP and circulated the Draft EIR for a public review and comment period from November 1, 2002 to January 14, 2003. The Final EIR for the LORP was completed and certified by the Discharger on June 22, 2004. In the record of the EIR approval, the Discharger made a statement of overriding considerations, including the potential occurrence of significant effects on water quality which are identified in the final EIR but are not avoided or substantially lessened.

When an EIR has been prepared for a project, a Responsible Agency shall not approve the project as proposed, pursuant to CEQA Guidelines, Section 15096(g)(2), if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment. The Regional Water Board, acting as a CEQA Responsible Agency, has evaluated the LORP Final EIR for potentially significant impacts to water quality.

As a result of this evaluation, the Regional Water Board is requiring a feasible mitigation measure for impacts identified in the Discharger's Final EIR that would substantially lessen or avoid significant effects of the project on water quality and the environment, as described in detail in Attachment H, and referred to herein as the Alabama Release**.** Changes or alterations have been required in the project that avoid or substantially lessen the significant environmental effect as identified in the final EIR. Potentially significant water quality impacts due to the LORP cannot be completely avoided after including requirements to implement feasible impact minimization and mitigation measures. Therefore, the Regional Water Board has determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to overriding considerations.

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

In approving the LORP, the Regional Water Board finds the benefits of the LORP outweigh the unavoidable adverse environmental effects, and the adverse environmental effects are deemed "acceptable." Attachment H provides the specific reasons to support the Regional Water Board's action based on the final EIR and/or other information in the record. This responsible agency statement of overriding considerations is supported by substantial evidence in the record.

F. **Technology-based Effluent Limitations.** The Code of Federal Regulations (CFR) at 40 CFR §122.44(a) requires that NPDES permits include applicable technology-based limitations and standards.

This Order authorizes the discharge of storm water associated with construction activities and other specific non-storm water discharges to surface waters of the U.S. associated with LORP construction activities. These discharges must meet all applicable provisions of Sections 301 and 402 of the CWA. These provisions require controls for pollutant discharges that utilize best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT) to reduce pollutants, and any more stringent controls necessary to meet water quality standards.

It is not feasible or practical to establish numeric, technology-based, effluent limitations for pollutants in discharges authorized under this Order, as discussed in Attachment F. Therefore, the effluent limitations contained in this Order are narrative and include the requirement to implement appropriate Best Management Practices (hereinafter BMPs). The BMPs must primarily emphasize source control such as erosion control and pollution prevention methods. The Discharger must implement management controls and also install structural controls, as described in the discharge reports and/or application information provided by the Discharger, that will constitute BAT and BCT and that will achieve compliance with water quality standards. The narrative effluent limitations constitute compliance with the requirements of the CWA.

G. **Water Quality-based Effluent Limitations.** Section 122.44(d) of 40 CFR requires that NPDES permits include water quality-based effluent limitations (WQBELs) to attain and maintain applicable numeric and narrative water quality criteria to protect the beneficial uses of the receiving waters. CWC Sections 13267 and 13383 also authorize the Regional Water Board to require technical and monitoring reports that may be necessary to implement the federal and California regulations. Where numeric water quality objectives have not been established, 40 CFR §122.44(d) specifies that WQBELs may be established using USEPA criteria guidance under CWA section 304(a), proposed State criteria or a State policy interpreting narrative criteria supplemented with other relevant information, or an indicator parameter.

Water quality-based effluent limits are not feasible or practical to establish at this time, as discussed in Attachment F. Until the flow regime has been established and a reasonable potential analysis has been completed, it is not known whether WQBELs will be necessary. Additional information and water quality monitoring data will be obtained during the term of this Order, and used to assess whether WQBELs may be needed. When sufficient receiving water and effluent data have been generated and the Regional Water Board has had an opportunity to determine if WQBELs are necessary to protect receiving waters, if necessary, this Order may be re-opened and modified to include WQBELs.

H. **Water Quality Control Plans.** The Regional Water Board adopted a *Water Quality Control Plan for the Lahontan Region* (hereinafter Basin Plan) that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the Basin Plan. Requirements of this Order specifically implement the Basin Plan.

The Basin Plan (p. 2-3) states that ". . . specific surface waters which are not listed in the Basin Plan have the same beneficial uses as the streams, lakes, wetland or reservoirs to which they are tributary . . ." and " . . . provides that water quality standards for specific waterbodies apply upstream to tributaries for which no site-specific standards have been adopted." (definition of "Tributary Rule," p. 2-6) The Basin Plan does not specifically identify beneficial uses for the Los Angeles Aqueduct, but does identify present and potential uses for Haiwee Reservoir, to which the Los Angeles Aqueduct is tributary. Beneficial uses applicable to the receiving waters are as follows:

Discharge Points	**Receiving Water Name**	**Beneficial Use(s)**
Discharge 001R Discharge 002 Discharge 003 Discharge 004	Lower Owens River (Below Intake Structure)	Municipal and domestic water supply (MUN), Agricultural Supply (AGR), Ground water recharge (GWR), Freshwater replenishment (FRSH), Water contact recreation (REC-1), Non-contact water recreation (REC-2), Commercial and sport fishing (COMM), Warm freshwater habitat (WARM), Cold freshwater habitat (COLD), Wildlife habitat (WILD), Preservation of biological habitats of special significance (BIOL), Rare, threatened or endangered species (RARE), Spawning, reproduction, and Development (SPWN)
Discharge 003 Discharge 004	Owens Lake	MUN[1], REC-1, REC-2, COMM, WARM, COLD, Inland Saline Water Habitat (SAL), WILD
Discharge 001A Discharge 005	Los Angeles Aqueduct and Haiwee Reservoir	MUN, AGR, Industrial Supply (IND), GWR, REC-1, REC-2, COMM, COLD, WILD, RARE, and SPWN

1. The MUN use for Owens Lake may be eliminated pending state and federal approval. The MUN use and other beneficial uses established in the Basin Plan for tributaries to Owens Lake will be retained.

I. **National Toxics Rule (NTR) and California Toxics Rule (CTR).** USEPA adopted the NTR on December 22, 1992, which was amended on May 4, 1995 and November 9, 1999, and the CTR on May 18, 2000, which was amended on February 13, 2001. These rules include water quality criteria for priority pollutants that are applicable to surface waters of the United States, including receiving waters for LORP discharges.

J. **State Implementation Policy.** On March 2, 2000, State Water Board adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (State Implementation Policy or SIP*).* The SIP became effective on April 28, 2000, with respect to the priority pollutant criteria promulgated for California by the USEPA through the NTR and to the priority pollutant objectives established by the Regional Water Board in its basin plans, with the exception of the provision on alternate test procedures for individual discharges that have been approved by USEPA Regional Administrator. The alternate test procedures provision was effective

on May 22, 2000. The SIP includes procedures for determining the need for and calculating WQBELs and requires dischargers to submit data sufficient to do so.

K. **Compliance Schedules and Interim Requirements.** Section 2.1 of the SIP provides that, based on an existing discharger's request and demonstration that it is to achieve immediate compliance with an effluent limitation derived from a CTR criterion, compliance schedules may be allowed in an NPDES permit. Compliance schedules are not allowed in NPDES Permits for any "new discharger," as defined in the SIP. As defined in the SIP, the Discharger is a new discharger for purposes of the LORP and therefore this Order does not include compliance schedules and interim effluent limitations for CTR constituents.

L. **Antidegradation Policy.** Section 131.12 of 40 CFR requires that State water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution 68-16, which incorporates the requirements of the federal antidegradation policy. The State antidegration policy is incorporated in the Basin Plan, where it is sometimes referred to as the (equivalent) "Nondegradation Objective." Resolution 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. As discussed in detail in the Fact Sheet (Attachment F) the permitted discharge is consistent with the antidegradation provisions of 40 CFR §131.12 and State Water Board Resolution 68-16.

M. **Anti-Backsliding Requirements.** Sections 402(o)(2) and 303(d)(4) of the CWA and federal regulations at 40 CFR § 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit, with some exceptions where limitations may be relaxed. Anti-Backsliding provisions do not apply to this permit because it is a new Order for proposed discharges.

N. **Monitoring and Reporting.** Section 122.48 of 40 CFR requires that all NPDES permits specify requirements for recording and reporting monitoring results. Sections 13267 and 13383 of the CWC authorize the Regional Water Boards to require technical and monitoring reports. The Monitoring and Reporting Program establishes monitoring and reporting requirements to implement federal and State requirements. This Monitoring and Reporting Program is provided in Attachment E.

O. **Standard and Special Provisions.** Standard Provisions in accordance with 40 CFR §§122.41and 122.42, which apply to all NPDES discharges and must be included in every NPDES permit, are provided in Attachment D. The Regional Water Board has also included in this Order special provisions applicable to the Discharger. A rationale for the special provisions contained in this Order is provided in the attached Fact Sheet (Attachment F).

P. **Notification of Interested Parties.** The Regional Water Board has notified the Discharger and interested agencies and persons of its intent to adopt an Order regulating the project discharges and has provided them with an opportunity to submit their written comments and recommendations. Details of notification are provided in the Fact Sheet (Attachment F).

Q. **Consideration of Public Comment.** The Regional Water Board, in a public meeting, heard and considered all comments pertaining to the discharge. Details of the Public Hearing are provided in the Fact Sheet (Attachment F).

R. **Exemption to Waste Discharge Prohibitions for Lower Owens River.** The Basin Plan provides that, for waste earthen materials discharged as a result of restoration projects, exemptions to waste discharge prohibitions in the Basin Plan may be granted by the Regional Water Board whenever it finds that a specific restoration project meets certain criteria. As discussed in detail in the Fact Sheet (Attachment F) the Regional Water Board has determined that the LORP is a restoration project that meets the criteria for granting an exemption based on information provided by the Discharger. This Order includes an exemption to waste discharge prohibitions otherwise applicable to the Lower Owens River. (See Order, Section III., A. and B.) Additional details concerning the criteria and rationale for granting an exemption, and interpretations concerning the exemption, are provided in the Fact Sheet (Attachment F). The exemption is not applicable to discharges to the Los Angeles Aqueduct or Haiwee Reservoir. Receiving water limitations in Haiwee Reservoir and its tributary, the Los Angeles Aqueduct, shall not be violated as a result of granting an exemption to waste discharge prohibitions for the LORP. The exemption is conditional and revocable.

S. **Water Quality Certification.** Pursuant to California Code of Regulations (CCR) Title 23, Section 3831, "Water Quality Certification" is a certification that any discharge or discharges to waters of the U.S., resulting from an activity that requires a federal license or permit, will comply will water quality standards and other appropriate requirements. "Activity" means any action, undertaking, or project—including, but not limited to, construction, operation, maintenance, repair, modification, and restoration—which may result in any discharge to a water of the United States in California. "Water quality standards and other appropriate requirements" means the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act (33 USC Sections 1311, 1312, 1313, 1316, 1317), and any other appropriate requirements of state law. Based upon the information provided by the Discharger and the requirements of this Order, it is our determination that CWA Section 401 Water Quality Certification for the LORP would not be against the public interest and the project qualifies for such water quality certification.

III. DISCHARGE PROHIBITIONS

A. Discharge Prohibitions

The Basin Plan contains the following waste discharge prohibitions that apply to all surface and ground waters in the Lahontan Region:

1. The discharge of waste that causes violation of any narrative water quality objective contained in the Basin Plan, including the Nondegradation Objective, is prohibited.

2. The discharge of waste that causes violation of any numeric water quality objective contained in the Basin Plan is prohibited.

3. Where any numeric or narrative water quality objective contained in the Basin Plan is already being violated, the discharge of waste that causes further degradation or pollution (as defined in CWC Section 13050) is prohibited.

B. **Exemption to Discharge Prohibitions for the Lower Owens River**

The Regional Water Board hereby grants an exemption to waste discharge prohibitions, as described in detail in Attachment F, for the implementation of the LORP. The exemption applies only in the Lower Owens River, including the Owens Lake delta, during periods when flows may mobilize pollutants and violate water quality objectives. The exemption period begins when the Discharger initiates base flows into the Lower Owens River, as described for the LORP, and expires on **July 14, 2015** unless renewed by the Regional Water Board.

C. **Storm Water Discharge Prohibitions**

1. Authorization pursuant to this Permit does not constitute an exemption to applicable discharge prohibitions prescribed in the Basin Plan, except as specifically described in III.B., above, and Attachment F.

2. Discharges of material other than storm water, which are not otherwise authorized by an NPDES permit, to a separate storm sewer system or waters of the nation are prohibited, except as allowed in Special Provisions for Construction Activity, C.6.b.

3. Storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance.

4. Storm water discharges regulated by this Permit shall not contain a hazardous substance equal to or in excess of a reportable quantity listed in 40 CFR Part 117 and/or 40 CFR Part 302.

IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

A. **Effluent Limitations**

1. **Final Effluent Limitations**

Not Applicable

2. **Interim Effluent Limitations**

Not Applicable

B. **Land Discharge Specifications**

Beginning on the effective date of this Order, the Discharger shall maintain compliance with the following limitations pertaining to the disposal of dredged spoils and excavated earthen materials at Discharge Points 006 and 007.

1. Collected screenings and other solids removed from liquid wastes shall be disposed of in a manner that is consistent with Chapter 15, Division 3, Title 23, of the California Code of Regulations (CCR).

2. Any proposed change in disposal practice or location shall be reported to the Executive Officer at least 90 days in advance of the change.

3. Dredged spoils and solid wastes shall be prevented from re-entering the river or Los Angeles Aqueduct with appropriate BMPs.

C. **Reclamation Specifications**

Not Applicable

V. RECEIVING WATER LIMITATIONS

Receiving water limitations are narrative and numerical water quality objectives contained in the Basin Plan for all surface waters of the Region, watershed-specific numerical objectives, and objectives based on the CTR. As such, they are a required part of this Order. Receiving water limits in Haiwee Reservoir and the Los Angeles Aqueduct shall not be violated. Pollution and/or nuisance conditions shall not occur in Haiwee Reservoir or the Los Angeles Aqueduct as a result of project discharges. The discharge of waste to surface waters or other controllable water quality factors shall not cause, or contribute to, a violation of the following narrative and/or numerical water quality objectives for waters of the Lower Owens Hydrologic Unit, except as specifically exempted in Section III.B. of this Order. The exemption specifically excludes the following narrative limitations: V.A.6., V.A.10., V.A.12., and V.A.14., as listed below.

A. **Narrative Surface Water Limitations**

1. <u>Ammonia</u>

Ammonia concentrations shall not exceed the values listed in Tables 3-1 to 3-4 of the Basin Plan for the corresponding conditions in these tables. Tables 3-1 to 3-4 of the Basin Plan are incorporated into this Order as Attachment I.

2. <u>Bacteria, Coliform</u>

Waters shall not contain concentrations of coliform organisms attributable to anthropogenic sources, including human and livestock wastes.

The fecal coliform concentration during any 30-day period shall not exceed a log mean of 20/100 ml, nor shall more than 10 percent of all samples collected during any 30-day period exceed 40/100 ml. *The log mean shall ideally be based on a minimum of not less than five samples collected as evenly spaced as practicable during any 30-day period. However, a log mean concentration exceeding 20/100 ml, or one sample exceeding 40/100ml, for any 30-day period shall indicate violation of this objective even if fewer than five samples were collected.*

3. Biostimulatory Substances

Waters shall not contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect the water for beneficial uses.

4. California Toxics Rule Constituents

Waters shall not contain concentrations of CTR constituents in excess of the CTR criterion concentrations listed in Attachment J. The Minimum Reporting Levels in Attachment J are specified for use in reporting and compliance determination. These minimum levels shall be used until new values are adopted and become effective.

5. Chemical Constituents

Waters designated as MUN shall not contain concentrations of chemical constituents in excess of the maximum contaminant level (MCL) or secondary maximum contaminant level (SMCL) based upon drinking water standards specified in provisions of the California Code of Regulations, Title 22, Division 4, Chapter 15, hereby incorporated by reference into this General Permit. This incorporation is prospective including future changes to the incorporated provisions as the changes take effect.

Waters shall not contain concentrations of chemical constituents in amounts that adversely affect the water for beneficial uses.

6. Chlorine, Total Residual

For the protection of aquatic life, total chlorine residual shall not exceed either a median value of 0.002 mg/L or a maximum value of 0.003 mg/L. Median values shall be based on daily measurements taken within any six-month period.

7. Color

Waters shall be free of coloration that causes nuisance or adversely affects the water for beneficial uses.

8. Dissolved Oxygen

The dissolved oxygen concentration as percent saturation shall not be depressed by more than 10 percent, nor shall the minimum dissolved oxygen concentration be less than 80 percent of saturation.

For waters with the beneficial uses of COLD, COLD with SPWN, WARM, and WARM with SPWN, the minimum dissolved oxygen concentration shall not be less than that specified in Table 3-6 of the Basin Plan. Table 3-6 of the Basin Plan is incorporated in this Order as Attachment K.

9. Floating Materials

Waters shall not contain floating material, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect the water for beneficial uses.

For natural high quality waters, the concentrations of floating material shall not be altered to the extent that such alterations are discernible at the 10 percent significance level.

10. Oil and Grease

Waters shall not contain oils, greases, waxes or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect the water for beneficial uses.

For natural high quality waters, the concentration of oils, greases, or other film or coat generating substances shall not be altered.

11. Non-degradation of Aquatic Communities and Populations

All wetlands shall be free from substances attributable to wastewater or other discharges that produce adverse physiological responses in humans, animals, or plants; or which lead to the presence of undesirable or nuisance aquatic life.

All wetlands shall be free from activities that would substantially impair the biological community as it naturally occurs due to physical, chemical and hydrologic processes.

12. Pesticides

For the purposes of the Basin Plan, pesticides are defined to include insecticides, herbicides, rodenticides, fungicides, pesticides and all other economic poisons. An economic poison is any substance intended to prevent, repel, destroy, or mitigate the damage from insects, rodents, predatory animals, bacteria, fungi or

weeds capable of infesting or harming vegetation, humans, or animals (CA Agriculture Code § 12753).

Pesticide concentrations, individually or collectively, shall not exceed the lowest detectable levels, using the most recent detection procedures available. There shall not be an increase in pesticide concentrations found in bottom sediments. There shall be no detectable increase in bioaccumulation of pesticides in aquatic life.

Waters designated as MUN shall not contain concentrations of pesticides or herbicides in excess of the limiting concentrations set forth in the CCR, Title 22, Division 4, Chapter 15.

13. pH

In fresh waters with designated beneficial uses of COLD or WARM, changes in normal ambient pH levels shall not exceed 0.5 pH units. For all other waters of the Region, the pH shall not be depressed below 6.5 nor raised above 8.5.

The Regional Water Board recognizes that some waters of the Region may have natural pH levels outside of the 6.5 to 8.5 range. Compliance with the pH objective for these waters will be determined on a case-by-case basis.

14. Radioactivity

Radionuclides shall not be present in concentrations which are deleterious to human, plant, animal, or aquatic life nor which result in the accumulation of radionuclides in the food web to an extent which presents a hazard to human, plant, animal, or aquatic life.

Waters shall not contain concentrations of radionuclides in excess of the limits specified by the more restrictive of the CCR, Title 22, Division 4, Chapter 15, or 40 CFR, Part 141.

15. Sediment

The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect the water for beneficial uses.

16. Settleable Materials

Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or that adversely affects the water for beneficial uses. For natural high quality waters, the concentration of settleable materials shall not be raised by more than 0.1 milliliter per liter.

17. Suspended Materials

Waters shall not contain suspended materials in concentrations that cause nuisance or that adversely affects the water for beneficial uses.

For natural high quality waters, the concentration of total suspended materials shall not be altered to the extent that such alterations are discernible at the 10 percent significance level.

18. Taste and Odor

Waters shall not contain taste or odor-producing substances in concentrations that impart undesirable tastes or odors to fish or other edible products of aquatic origin, that cause nuisance, or that adversely affect the water for beneficial uses. For naturally high quality waters, the taste and odor shall not be altered.

19. Temperature

The natural receiving water temperature of all waters shall not be altered unless it can be demonstrated to the satisfaction of the Regional Water Board that such an alteration in temperature does not adversely affect the water for beneficial uses.

For waters designated WARM, water temperature shall not be altered by more than five degrees Fahrenheit (5°F) above or below the natural temperature. For waters designated COLD, the temperature shall not be altered.

20. Toxicity

All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life. Waters shall not contain concentrations of CTR constituents in excess of the CTR criterion concentrations listed in Attachment J.

The survival of aquatic life in surface waters subjected to a waste discharge, or other controllable water quality factors, shall not be less than that for the same water body in areas unaffected by the waste discharge, or when necessary, for other control water that is consistent with the requirements for "experimental water" as defined in the most recent edition of *Standard Methods for the Examination of Water and Wastewater* (American Public Health Association, et al.).

21. Turbidity

Waters shall be free of changes in turbidity that cause nuisance or adversely affect the water for beneficial uses. Increases in turbidity shall not exceed natural levels by more than 10 percent.

B. **Numerical Surface Water Limitations**

Numerical water quality objectives are not established in the Basin Plan for the Lower Owens River below the Tinemaha Reservoir outlet, or for Owens Lake. Numerical water quality objectives established in the Basin Plan (Table 3-17) for the waters of Haiwee Reservoir, and therefore applicable (by the tributary rule) to the Los Angeles Aqueduct below Tinemaha Reservoir, are:

Objective (mg/L)[1,2]							
TDS	Cl	SO_4	F	B	NO_3	Total N	PO_4
215	19.5	27.0	0.60	0.56	0.5	0.8	0.23
315	38.0	62.0	0.90	0.91	1.0	1.5	0.36

1. Annual average value/90th percentile value
2. Objectives nomenclature: B (boron), Cl (chloride), F (fluoride), N (nitrogen), NO_3 -N (nitrogen as nitrate), SO_4 (sulfate), PO_4 (dissolved orthophosphate), TDS (total dissolved solids, a.k.a. total filterable residue)

C. **Groundwater Limitations**

1. Discharges shall not cause constituent concentrations in ground water downgradient of disposal areas for Discharges 006 and 007 to exceed water quality objectives for coliform bacteria, or taste and odor, specified in Chapter 3 of the Basin Plan.

2. Discharges shall not cause the concentration of chemicals and radionuclides in ground water to exceed primary and secondary drinking water limits set forth in Title 22 of the California Code of Regulations (CCR).

VI. PROVISIONS

A. **Standard Provisions**

The Discharger shall comply with all Standard Provisions included in Attachment D of this Order. The Standard Provisions shall apply to all discharges and activities regulated under this Order, regardless of the basis for regulation, and shall not expire with expiration of the NPDES provisions of this Order.

B. **Monitoring and Reporting Program Requirements**

1. The Discharger shall comply with the Monitoring and Reporting Program, and future revisions thereto, in Attachment E of this Order.

2. Any and all monitoring reports required by this Order are required pursuant to CWC Section 13383 and/or Section 13267.

C. Special Provisions

1. Reopener Provisions

NPDES Permit modification or revocation will be conducted according to 40 CFR §122.62, §122.63, §122.64 and §124.5. The State Water Resources Control Board is currently updating the statewide NPDES Permit for Discharges of Storm Water Associated with Construction Activity. The Regional Water Board may revise or modify this NPDES Permit for reasons including, but not limited to, incorporating the Storm Water Pollution Prevention Plan or amendments thereto, and ensuring consistency with changes made to the statewide construction activity storm water general permit. The Regional Water Board may review and revise waste discharge requirements in accordance with California Water Code §13263, (e) and (f).

2. Special Studies, Technical Reports and Additional Monitoring Requirements

a. The Discharger shall develop and implement a Storm Water Pollution Prevention Plan (SWPPP) required by Order VI.C.6.a., below. The Discharger shall submit the SWPPP to the Regional Water Board **not less than 180 days prior to initiating construction activity**, for public review and incorporation into the Permit after consideration by the Regional Water Board at a public meeting. (Refer to Attachment L for minimum requirements of the SWPPP.)

b. The Discharger shall retain a copy of the SWPPP at the construction site. If the site is inspected by a Regional Water Board, SWRCB, U.S. EPA, or municipal storm water management agency inspector, the Discharger shall provide the SWPPP immediately for review if requested. Upon written request by a representative of the Regional Water Board, SWRCB, U.S. EPA, or municipal storm water management agency, Dischargers shall provide a copy of the SWPPP within five working days from the date a request is received.

c. The Regional Water Board Executive Officer may provide information to the Discharger on the development and implementation of SWPPPs and monitoring programs and may require revisions to SWPPPs and monitoring programs, after public notice and consideration at a public meeting.

d. The Discharger shall comply with construction site inspection and other monitoring program and reporting requirements in Attachment M.

e. The Discharger shall conduct whole effluent toxicity monitoring as described in Attachment E, Section V. If toxicity is identified in the sample, the WET test shall be repeated within 120 days. In accordance with the SIP, Section 4:

1. If toxicity as a result of a waste discharge is identified with repeated WET tests, the Discharger shall conduct a toxicity reduction evaluation as directed by the Regional Water Board Executive Officer. The toxicity reduction evaluation may include evaluation(s) to identify specific sources of toxicity.

2. The Discharger shall take all reasonable steps to control toxicity once a source of toxicity is identified.

3. Failure to conduct a toxicity reduction evaluation within a designated period as directed by the Regional Water Board Executive Officer shall result in the establishment of effluent limitations for chronic toxicity in a permit or appropriate enforcement action.

3. **Best Management Practices and Pollution Prevention**

a. The Best Management Practices developed for construction activity storm water discharges, and other LORP discharges covered by this Order, shall be designed and

implemented such that storm water discharges and authorized non-storm water discharges shall not cause or contribute to a violation of any applicable water quality standards contained in the Basin Plan.

b. Should it be determined by the Discharger or Regional Water Board that storm water discharges and/or authorized non-storm water discharges are causing or contributing to a violation of an applicable water quality standard, the Discharger shall:

1. Implement corrective measures immediately following discovery that water quality standards were exceeded, followed by notification to the Regional Water Board by telephone as soon as possible but no later than 48 hours after the discharge has been discovered. This notification shall be followed by a report within 14 calendar days to the Regional Water Board, unless otherwise directed by the Regional Water Board, describing (1) the nature and cause of the water quality standard exceedance; (2) the BMPs currently being implemented; (3) any corrective actions or additional BMPs identified in the SWPPP which will be implemented to prevent or reduce pollutants that are causing or contributing to the exceedance of water quality standards; and (4) any maintenance or repair of BMPs. This report shall include an implementation schedule for corrective actions and shall describe the actions taken to reduce the pollutants causing or contributing to the exceedance.

2. Nothing in this section shall prevent the Regional Water Board from enforcing any provisions of this NPDES Permit while the Discharger prepares and implements the above report.

4. **Compliance Schedules**

Not Applicable

5. **Construction, Operation and Maintenance Specifications**

a. Active constructions site and maintenance dredging sites shall be isolated from flowing waters by physical barriers such as sand bag dikes, silt fences, or other effective controls to prevent uncontrolled discharge to surface waters.

b. The Discharger shall notify Regional Water Board staff in writing **15 days prior to initiating base flow and any subsequent habitat flow**, including the initial winter habitat flow and Alabama Release.

6. **Special Provisions for Construction Activity**

a. The Discharger shall develop and implement a SWPPP for the LORP in accordance with minimum requirements specified in Attachment L. The Discharger shall implement controls to reduce pollutants in storm water discharges from the construction sites to the BAT/BCT performance standard.

b. Discharges of non-storm water are authorized only where they do not cause or contribute to a violation of any water quality standard and are controlled through implementation of appropriate BMPs for elimination or reduction of pollutants. Implementation of appropriate BMPs is a condition for authorization of non-storm water discharges. Non-storm water discharges and the BMPs appropriate for their control must be described in the SWPPP. Wherever feasible, alternatives that do not result in discharge of non-storm water shall be implemented in accordance with Section 9. of Attachment L.

c. A construction project is considered complete only when the following conditions have been met:

1. There is no potential for construction-related storm water pollution,

2. All elements of the SWPPP have been completed,

3. Construction materials and waste have been disposed of properly,

4. The site is in compliance with all local storm water management requirements, and

5. A post-construction storm water management plan is in place as described in the SWPPP.

7. **Water Quality Certification Conditions and Enforcement Provisions**

The following conditions apply to the Water Quality Certification of the LORP.

a. **Standard Conditions**

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the CWC and Section 3867 of Title 23 of the CCR.

2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required under 23 CCR Section 3833, unless otherwise stated in writing by the certifying agency. The Discharger submitted a $500 fee deposit with the water quality certification application that constitutes payment of the full CWA Section 401 water quality certification fee required for this restoration project.

b. **Additional Conditions**

1. Heavy equipment shall be steam cleaned before starting work in waters of the U.S and routinely monitored for equipment leaks. Leaking equipment that threatens to discharge in violation of the terms of this Order shall be removed from service until repairs are effected.

2. An emergency spill kit shall be maintained at the project site at all times.

3. Regional Water Board staff shall be notified 48 hours prior to commencement of ground disturbance.

4. The Discharger shall demonstrate that “no net loss” of wetland functions and values has occurred following LORP implementation. The Discharger is required as a condition of this WQC to delineate wetlands and provide an assessment of functions and values at specified intervals after the project begins. If the Discharger can demonstrate after any assessment that there has been “no net loss” of wetland functions and values relative due to implementation of the LORP relative to pre-project conditions, it will no longer be necessary to conduct additional wetland assessments. If losses to functions and values have occurred after any assessment, the Discharger shall provide a corrective action plan and/or compensatory mitigation plan for acceptance by the Executive Officer, and implement the plan(s) under the terms of this WQC Order.

c. **Water Quality Certification Enforcement Provisions**

1. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of Section 401(d) of the CWA, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

2. In response to a suspected violation of any condition of this certification, the SWRCB or Regional Water Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring report the State Board or Regional Water Board deems appropriate,

   provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

3. In response to any violation of the conditions of this certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

8. **Prohibition Exemption and California Environmental Quality Act Requirements**

   a. Pursuant to Regional Water Board duties as a CEQA Responsible Agency, the Discharger is required to implement a feasible mitigation measure consisting of a 200 cfs partial flushing flow from the Alabama Spillgate in conjunction with the first winter habitat flow, described in detail as the Alabama Release in Attachment H. The Alabama Release shall be sufficient to achieve a combined minimum flow of 200 cfs in the Lower Owens River below the Alabama Spillgate for a minimum period of 96 hours.

   b. The prohibition exemption granted in Order Section III.B. is granted, in part, based on Regional Water Board findings that all applicable mitigation measures are incorporated into the LORP. <u>If the Discharger fails to comply with the requirements specified in Special Provision 8.a., above, the prohibition exemption is hereby rescinded effective on the first day following the conclusion of the first winter habitat flow.</u>

c. The prohibition exemption granted in Permit Section III.B. for the Lower Owens River shall remain valid on the condition that the Discharger at all times strictly adheres to Basin Plan criteria necessary to grant an exemption (as discussed in the Fact Sheet, Section IV.A.), as determined by the Regional Water Board. The prohibition exemption shall expire on **July 14, 2015**, unless renewed by the Regional Water Board, or rescinded pursuant to Special Provision 8.b., above.

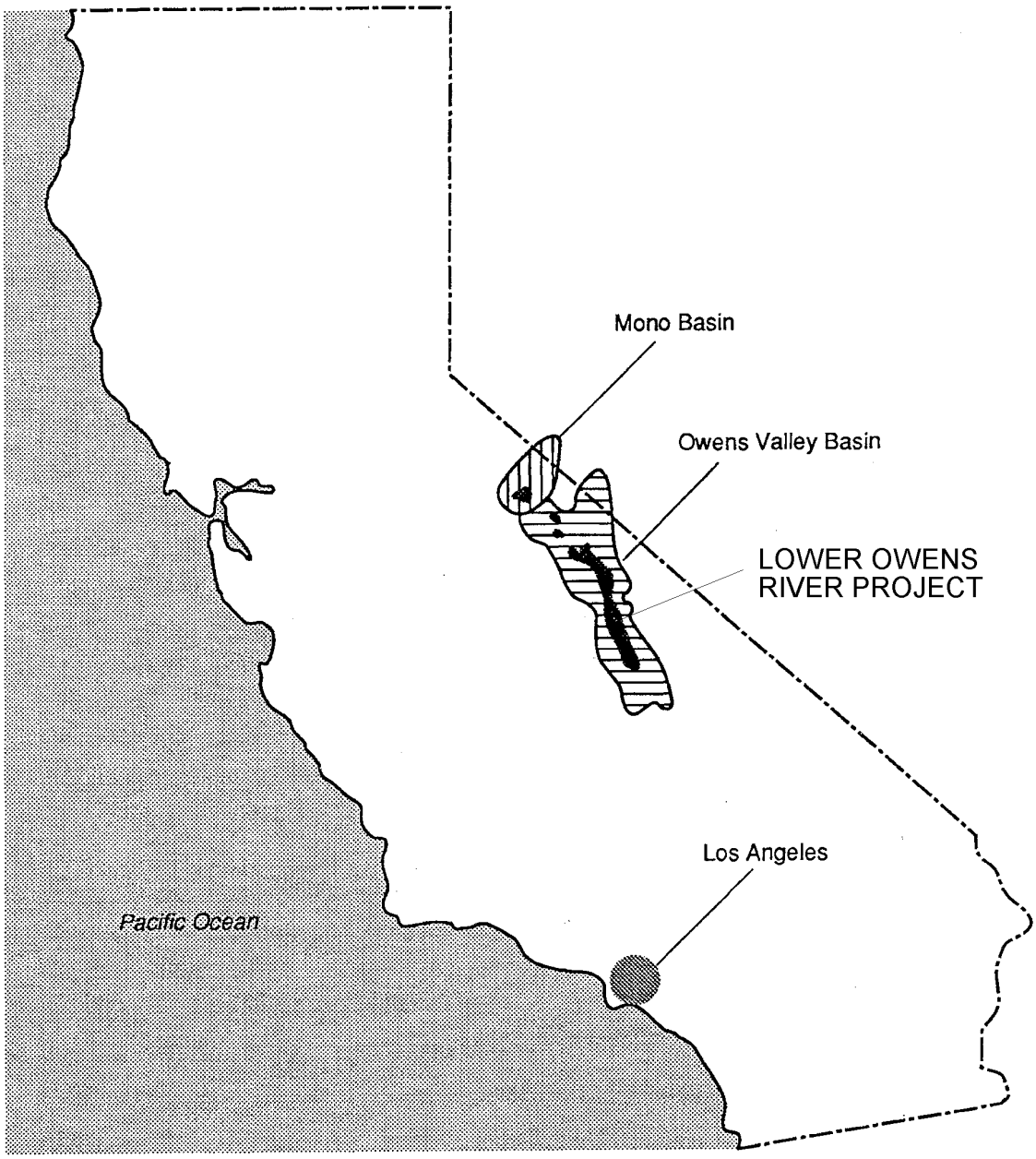
VII. COMPLIANCE DETERMINATION

Compliance with the receiving water limitations contained in Section V of this Order will be determined as specified below:

For each constituent, all applicable numerical objectives along with water quality goals selected to interpret each applicable narrative objectives are collected and the most limiting (most stringent) of these values is selected. Below this most limiting value, compliance with all applicable water quality objectives is assured and the most sensitive beneficial use should be protected. This most limiting value becomes the beneficial use protective water quality limit for the constituent of interest in the water body. If the concentration of the constituent exceeds the beneficial use water quality protective limit, one or more water quality objectives have been violated and pollution has occurred.

The one exception to this is where the site-specific natural background condition in water is a higher concentration than the beneficial use protective water quality limit. The Regional Water Board authority for protection of water quality from waste discharges is limited to regulation of "controllable water quality factors"─ those actions, conditions, or circumstances resulting from human activities that may influence the quality of waters of the state and that may be reasonably controlled. Where the natural background level is higher than the beneficial use protective water quality limit, the natural background level is considered to comply with the water quality objective. In such cases, other controllable factors are not allowed to cause any further degradation of water quality.

Monitoring data will be evaluated and compared with narrative and numerical water quality objectives specified in this Order to determine compliance with applicable standards. In particular, the Discharger is expected to make use of indicator parameters including, but not limited to, ammonia, dissolved oxygen, and turbidity for compliance screening, and to obtain real-time feedback for evaluating maintenance of water quality objectives to guide adaptive management and maintain compliance.



ATTACHMENT A -

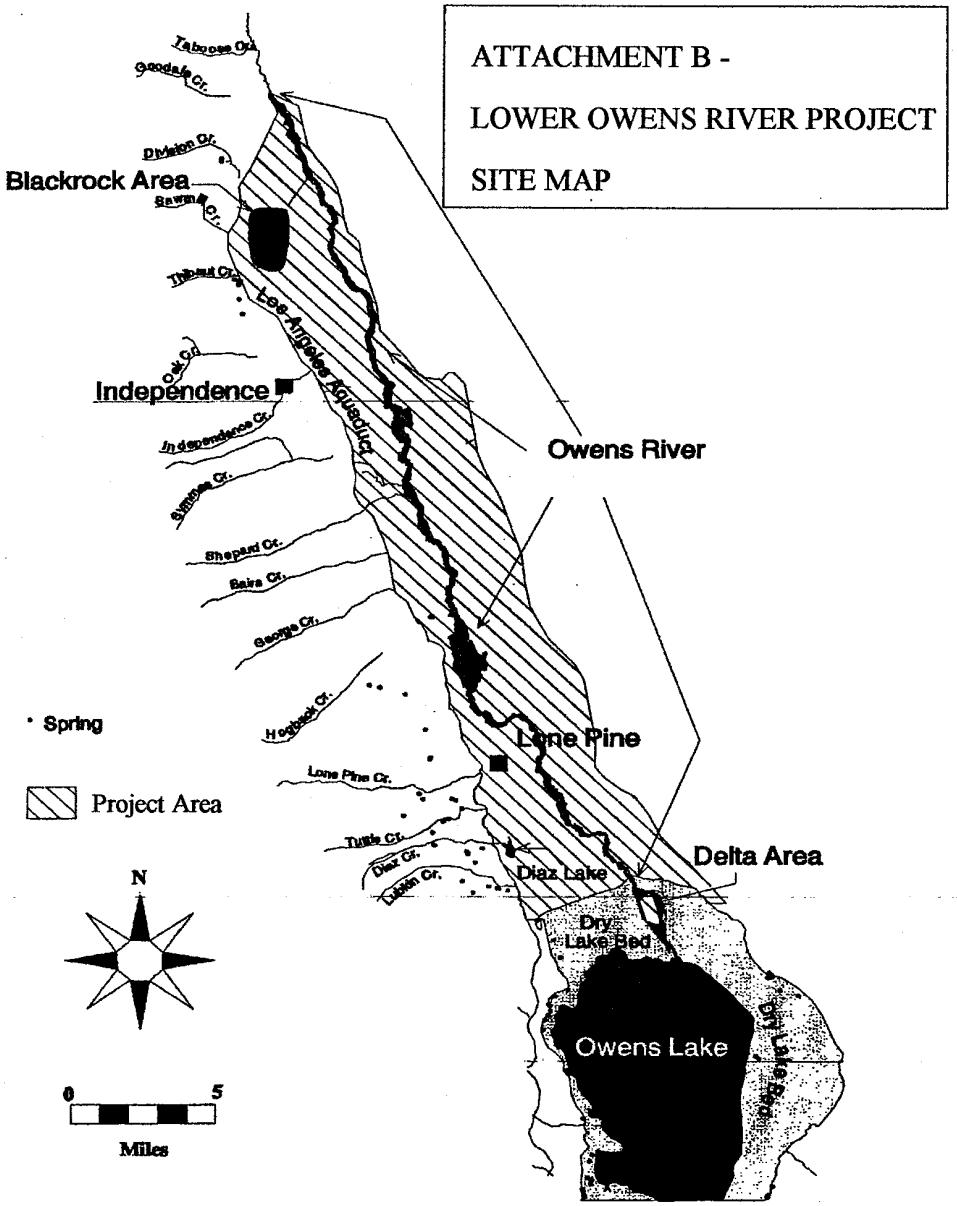
LOWER OWENS RIVER PROJECT

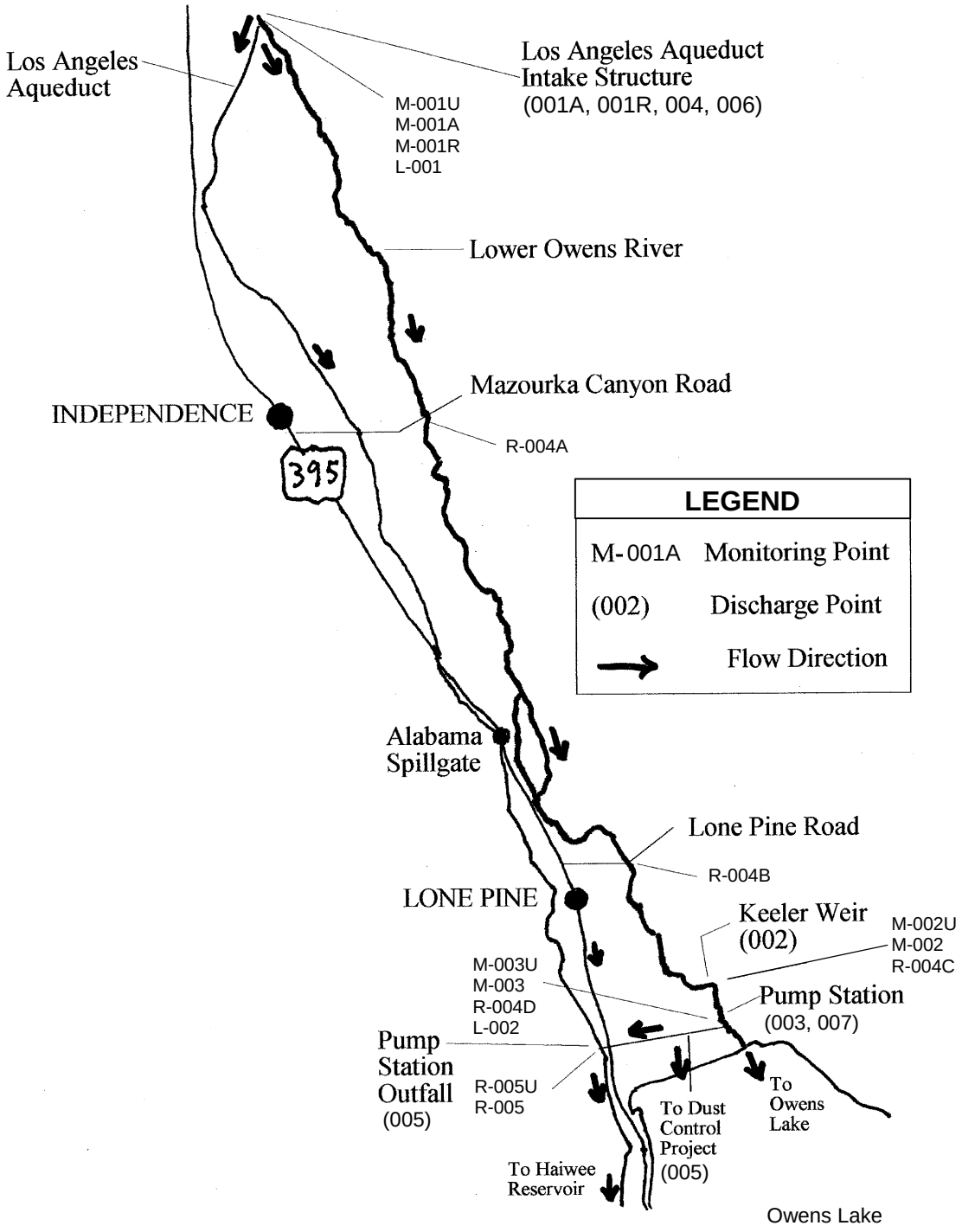
REGIONAL MAP

Lands owned by the City of Los Angeles in the Owens Valley and Mono Basin

Watershed Boundary - Owens Valley

Watershed Boundary - Mono Basin


ATTACHMENT B -
LOWER OWENS RIVER PROJECT
SITE MAP
Blackrock Area
Independence
Owens River
Los Angeles Aqueduct
Lone Pine
Delta Area
Diaz Lake
Dry Lake Bed
Owens Lake
Spring
Project Area
N
0
5
Miles


Los Angeles Aqueduct
Los Angeles Aqueduct Intake Structure (001A, 001R, 004, 006)
M-001U
M-001A
M-001R
L-001
Lower Owens River
Mazourka Canyon Road
INDEPENDENCE
R-004A
395
LEGEND
M-001A Monitoring Point
(002) Discharge Point
Flow Direction
Alabama Spillgate
Lone Pine Road
R-004B
LONE PINE
Keeler Weir (002)
M-002U
M-002
R-004C
M-003U
M-003
R-004D
L-002
Pump Station (003, 007)
Pump Station Outfall (005)
R-005U
R-005
To Owens Lake
To Dust Control Project (005)
To Haiwee Reservoir
Owens Lake

ATTACHMENT D – FEDERAL STANDARD PROVISIONS

I. STANDARD PROVISIONS – PERMIT COMPLIANCE

A. Duty to Comply

1. The Discharger must comply with all of the conditions of this Order. Any noncompliance constitutes a violation of the Clean Water Act (CWA) and the California Water Code (CWC) and is grounds for enforcement action, for permit termination, revocation and reissuance, or denial of a permit renewal application [*40 CFR §122.41(a)*].

2. The Discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, even if this Order has not been modified to incorporate the requirement [*40 CFR §122.41(a)(1)*].

B. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a Discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order [*40 CFR §122.41(c)*].

C. Duty to Mitigate

The Discharger shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this Order that has a reasonable likelihood of adversely affecting human health or the environment [*40 CFR §122.41(d)*].

D. Proper Operation and Maintenance

The Discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Discharger to achieve compliance with the conditions of this Order. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems that are installed by a Discharger only when necessary to achieve compliance with the conditions of this Order [*40 CFR §122.41(e)*].

E. Property Rights

1. This Order does not convey any property rights of any sort or any exclusive privileges [*40 CFR §122.41(g)*].

2. The issuance of this Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations [*40 CFR §122.5(c)*].

F. **Inspection and Entry**

The Discharger shall allow the Regional Water Quality Control Board (REGIONAL WATER BOARD), State Water Resources Control Board (SWRCB), United States Environmental Protection Agency (USEPA), and/or their authorized representatives (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents, as may be required by law, to [*40 CFR §122.41(i)*] [*CWC 13383(c)*]:

1. Enter upon the Discharger's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order [*40 CFR §122.41(i)(1)*];

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order [*40 CFR §122.41(i)(2)*];

3. Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order [*40 CFR §122.41(i)(3)*];

4. Sample or monitor, at reasonable times, for the purposes of assuring Order compliance or as otherwise authorized by the CWA or the CWC, any substances or parameters at any location [*40 CFR §122.41(i)(4)*].

G. **Bypass**

1. Definitions

   a. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility [*40 CFR §122.41(m)(1)(i)*].

   b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production [*40 CFR §122.41(m)(1)(ii)*].

2. Bypass not exceeding limitations – The Discharger may allow any bypass to occur which does not cause exceedances of effluent limitations, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions listed in Standard Provisions – Permit Compliance I.G.3 and I.G.5 below [*40 CFR §122.41(m)(2)*].

3. Prohibition of bypass – Bypass is prohibited, and the Regional Water Board may take enforcement action against a Discharger for bypass, unless [*40 CFR §122.41(m)(4)(i)*]:

   a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage [*40 CFR §122.41(m)(4)(A)*];

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal

periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance [*40 CFR §122.41(m)(4)(B)*]; and

c. The Discharger submitted notice to the Regional Water Board as required under Standard Provision – Permit Compliance I.G.5 below [*40 CFR §122.41(m)(4)(C)*].

4. The Regional Water Board may approve an anticipated bypass, after considering its adverse effects, if the Regional Water Board determines that it will meet the three conditions listed in Standard Provisions – Permit Compliance I.G.3 above [*40 CFR §122.41(m)(4)(ii)*].

5. Notice

a. Anticipated bypass. If the Discharger knows in advance of the need for a bypass, it shall submit a notice, if possible at least 10 days before the date of the bypass [*40 CFR §122.41(m)(3)(i)*].

b. Unanticipated bypass. The Discharger shall submit notice of an unanticipated bypass as required in Standard Provisions - Reporting V.E below [*40 CFR §122.41(m)(3)(ii)*].

H. Upset

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation [*40 CFR §122.41(n)(1)*].

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph H.2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review [*40 CFR §122.41(n)(2)*].

2. Conditions necessary for a demonstration of upset. A Discharger who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that [*40 CFR §122.41(n)(3)*]:

a. An upset occurred and that the Discharger can identify the cause(s) of the upset [*40 CFR §122.41(n)(3)(i)*];

b. The permitted facility was, at the time, being properly operated [*40 CFR §122.41(n)(3)(i)*];

c. The Discharger submitted notice of the upset as required in Standard Provisions – Reporting V.E.2.b [*40 CFR §122.41(n)(3)(iii)*]; and

d. The Discharger complied with any remedial measures required under Standard Provisions – Permit Compliance I.C above [*40 CFR §122.41(n)(3)(iv)*].

3. Burden of proof. In any enforcement proceeding, the Discharger seeking to establish the occurrence of an upset has the burden of proof [*40 CFR §122.41(n)(4)*].

II. STANDARD PROVISIONS – PERMIT ACTION

A. General

This Order may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Discharger for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Order condition [*40 CFR §122.41(f)*].

B. Duty to Reapply

If the Discharger wishes to continue an activity regulated by this Order after the expiration date of this Order, the Discharger must apply for and obtain a new permit [*40 CFR §122.41(b)*].

C. Transfers

This Order is not transferable to any person except after notice to the Regional Water Board. The Regional Water Board may require modification or revocation and reissuance of the Order to change the name of the Discharger and incorporate such other requirements as may be necessary under the CWA and the CWC [*40 CFR §122.41(l)(3)*] [*40 CFR §122.61*]

II. STANDARD PROVISIONS – MONITORING

A. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity [*40 CFR §122.41(j)(1)*].

B. Monitoring results must be conducted according to test procedures under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503 unless other test procedures have been specified in this Order [*40 CFR §122.41(j)(4)*] [*40 CFR §122.44(i)(1)(iv)*].

IV. STANDARD PROVISIONS – RECORDS

A. Except for records of monitoring information required by this Order related to the Discharger's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), the Discharger shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Regional Water Board Executive Officer at any time [*40 CFR §122.41(j)(2)*].

B. **Records of monitoring information shall include:**

1. The date, exact place, and time of sampling or measurements [*40 CFR §122.41(j)(3)(i)*];

2. The individual(s) who performed the sampling or measurements [*40 CFR §122.41(j)(3)(ii)*];

3. The date(s) analyses were performed [*40 CFR §122.41(j)(3)(iii)*];

4. The individual(s) who performed the analyses [*40 CFR §122.41(j)(3)(iv)*];

5. The analytical techniques or methods used [*40 CFR §122.41(j)(3)(v)*]; and

6. The results of such analyses [*40 CFR §122.41(j)(3)(vi)*].

C. **Claims of confidentiality for the following information will be denied [*40 CFR §122.7(b)*]:**

1. The name and address of any permit applicant or Discharger [*40 CFR §122.7(b)(1)*]; and

2. Permit applications and attachments, permits and effluent data [*40 CFR §122.7(b)(2)*].

V. STANDARD PROVISIONS – REPORTING

A. **Duty to Provide Information**

The Discharger shall furnish to the Regional Water Board, SWRCB, or USEPA within a reasonable time, any information which the Regional Water Board, SWRCB, or USEPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order or to determine compliance with this Order. Upon request, the Discharger shall also furnish to the Regional Water Board, SWRCB, or USEPA copies of records required to be kept by this Order [*40 CFR §122.41(h)*] [*CWC 13267*].

B. **Signatory and Certification Requirements**

1. All applications, reports, or information submitted to the Regional Water Board, SWRCB, and/or USEPA shall be signed and certified in accordance with paragraph (2.) and (3.) of this provision [*40 CFR §122.41(k)*].

2. All permit applications shall be signed as follows:

   a. For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and

regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures [*40 CFR §122.22(a)(1)*];

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively [*40 CFR §122.22(a)(2)*]; or

c. For a municipality, State, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this provision, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of USEPA) [*40 CFR §122.22(a)(3)*].

3. All reports required by this Order and other information requested by the Regional Water Board, SWRCB, or USEPA shall be signed by a person described in paragraph (b) of this provision, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

   a. The authorization is made in writing by a person described in paragraph (2.) of this provision [*40 CFR §122.22(b)(1)*];

   b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company (a duly authorized representative may thus be either a named individual or any individual occupying a named position) [*40 CFR §122.22(b)(2)*]; and

   c. The written authorization is submitted to the Regional Water Board, SWRCB, or USEPA [*40 CFR §122.22(b)(3)*].

4. If an authorization under paragraph (3.) of this provision is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (3.) of this provision must be submitted to the Regional Water Board, SWRCB or USEPA prior to or together with any reports, information, or applications, to be signed by an authorized representative [40 CFR §122.22(c)].

5. Any person signing a document under paragraph (2.) or (3.) of this provision shall make the following certification:

   "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations" [*40 CFR §122.22(d)*].

C. Monitoring Reports

1. Monitoring results shall be reported at the intervals specified in the Monitoring and Reporting Program in this Order [*40 CFR §122.41(l)(4)*].

2. Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms provided or specified by the Regional Water Board or SWRCB for reporting results of monitoring of sludge use or disposal practices [*40 CFR §122.41(l)(4)(i)*].

3. If the Discharger monitors any pollutant more frequently than required by this Order using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, or as specified in this Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Regional Water Board [*40 CFR §122.41(l)(4)(ii)*].

4. Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order [*40 CFR §122.41(l)(4)(iii)*].

D. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Order, shall be submitted no later than 14 days following each schedule date [*40 CFR §122.41(l)(5)*].

E. Twenty-Four Hour Reporting

1. The Discharger shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Discharger becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance [*40 CFR §122.41(l)(6)(i)*].

2. The following shall be included as information that must be reported within 24 hours under this paragraph [*40 CFR §122.41(l)(6)(ii)*]:

   a. Any unanticipated bypass that exceeds any effluent limitation in this Order [*40 CFR §122.41(l)(6)(ii)(A)*].

   b. Any upset that exceeds any effluent limitation in this Order [*40 CFR §122.41(l)(6)(ii)(B)*].

   c. Violation of a maximum daily discharge limitation for any of the pollutants listed in this Order to be reported within 24 hours [*40 CFR §122.41(l)(6)(ii)(C)*].

3. The Regional Water Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours [*40 CFR §122.41(l)(6)(iii)*].

F. **Planned Changes**

The Discharger shall give notice to the Regional Water Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when [*40 CFR §122.41(l)(1)*]:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR §122.29(b) [*40 CFR §122.41(l)(1)(i)*]; or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in this Order nor to notification requirements under 40 CFR Part 122.42(a)(1) (see Additional Provisions—Notification Levels VII.A.1) [*40 CFR §122.41(l)(1)(ii)*].

3. The alteration or addition results in a significant change in the Discharger's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan [*40 CFR §122.41(l)(1)(iii)*].

G. **Anticipated Noncompliance**

The Discharger shall give advance notice to the Regional Water Board or SWRCB of any planned changes in the permitted facility or activity that may result in noncompliance with General Order requirements [*40 CFR §122.41(l)(2)]*.

H. **Other Noncompliance**

The Discharger shall report all instances of noncompliance not reported under Standard Provisions – Reporting E.3, E.4, and E.5 at the time monitoring reports are submitted. The reports shall contain the information listed in Standard Provision – Reporting V.E [*40 CFR §122.41(l)(7)*].

I. **Other Information**

When the Discharger becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Water Board, SWRCB, or USEPA, the Discharger shall promptly submit such facts or information [*40 CFR §122.41(l)(8)*].

VI. STANDARD PROVISIONS – ENFORCEMENT

A. The CWA provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed $25,000 per day for each violation. The CWA provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than one (1) year, or both.

In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than two (2) years, or both. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than three (3) years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than six (6) years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Clean Water Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions [*40 CFR §122.41(a)(2)*] [*CWC 13385 and 13387*].

B. Any person may be assessed an administrative penalty by the Regional Water Board for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed $10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $25,000. Penalties for Class II violations are not to exceed $10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $125,000 [*40 CFR §122.41(a)(3)*].

C. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both [*40 CFR §122.41(j)(5)*].

D. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Order, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than six months per violation, or by both [*40 CFR §122.41(k)(2)*].

VII. ADDITIONAL PROVISIONS – NOTIFICATION LEVELS

A. Non-Municipal Facilities

Existing manufacturing, commercial, mining, and silvicultural dischargers shall notify the Regional Water Board as soon as they know or have reason to believe [*40 CFR §122.42(a)*]:

1. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this Order, if that

discharge will exceed the highest of the following "notification levels" [*40 CFR §122.42(a)(1)*]:

a. 100 micrograms per liter (µg/L) [*40 CFR §122.42(a)(1)(i)*];

b. 200 µg/L for acrolein and acrylonitrile; 500 µg/L for 2,4-dinitrophenol and 2-methyl-4,6-dinitrophenol; and 1 milligram per liter (mg/L) for antimony [*40 CFR §122.42(a)(1)(ii)*];

c. Five (5) times the maximum concentration value reported for that pollutant in the Report of Waste Discharge [*40 CFR §122.42(a)(1)(iii)*]; or

d. The level established by the Regional Water Board in accordance with 40 CFR §122.44(f) [*40 CFR §122.42(a)(1)(iv)*].

2. That any activity has occurred or will occur that would result in the discharge, on a non-routine or infrequent basis, of any toxic pollutant that is not limited in this Order, if that discharge will exceed the highest of the following “notification levels" [*40 CFR §122.42(a)(2)*]:

a. 500 micrograms per liter (µg/L) [*40 CFR §122.42(a)(2)(i)*];

b. 1 milligram per liter (mg/L) for antimony [*40 CFR §122.42(a)(2)(ii)*];

c. Ten (10) times the maximum concentration value reported for that pollutant in the Report of Waste Discharge [*40 CFR §122.42(a)(2)(iii)*]; or

d. The level established by the Regional Water Board in accordance with 40 CFR §122.44(f) [*40 CFR §122.42(a)(2)(iv)*].

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ATTACHMENT E – MONITORING AND REPORTING PROGRAM (MRP)

The Code of Federal Regulations (CFR) at 40 CFR §122.48 requires that all NPDES permits specify monitoring and reporting requirements. CWC sections 13267 and 13383 also authorize the Regional Water Board to require technical and monitoring reports. This MRP establishes the monitoring and reporting requirements that implement the federal and California regulations.

I. GENERAL MONITORING PROVISIONS

General Monitoring and Reporting Provisions for the Lahontan Region are included in Attachment N. In the event of a conflict between the General Monitoring and Reporting Provisions for the Lahontan Region and the Federal Standard Provisions (Attachment D), the Federal Standard Provisions shall apply.

II. MONITORING LOCATIONS

The Discharger shall establish the following monitoring locations to demonstrate compliance with the limitations, discharge specifications, and other requirements in this Order:

Monitoring Location	Monitoring Location Description	Approximate Monitoring Location Latitude	Approximate Monitoring Point Longitude
M-001U	Lower Owens River (100 feet upstream of River Intake construction and dewatering activities)	36 º, 58’, 33” N	118 º, 12’, 33” W
M-002U	Lower Owens River - at Keeler Bridge (100 feet upstream of construction and stream diversion)	36 º, 34’, 35” N	118 º, 01’, 00” W
M-003U	Lower Owens River at Pump Station (100 feet upstream of construction and dewatering activities)	36 º, 32’, 59” N	117 º, 58’, 57” W
R-005U	Los Angeles Aqueduct - 100 feet upstream from Pump Station outfall	36º, 32’, 32” N	118 º, 03’, 01” W
M-001A	Los Angeles Aqueduct (100 feet downstream of dewatering discharge from River Intake construction)	36 º, 58’, 33” N	118 º, 12’, 33” W
M-001R	Lower Owens River (100 feet downstream of dewatering discharge from River Intake construction)	36 º, 58’, 33” N	118 º, 12’, 33” W
M-002	Lower Owens River - at Keeler Bridge (100 feet downstream of stream diversion)	36 º, 34’, 35” N	118 º, 01’, 00” W

Monitoring Locations Continued:

Monitoring Location	Monitoring Location Description	Approximate Monitoring Location Latitude	Approximate Monitoring Point Longitude
M-003	Lower Owens River at Pump Station (100 feet downstream of construction and dewatering activities)	36 º, 32', 59" N	117 º, 58', 57" W
R-004A	Lower Owens River - at Mazourka Canyon Rd	36 º, 48', 10" N	118 º, 07', 49" W
R-004B	Lower Owens River - at Lone Pine Station Rd	36 º, 37', 42" N	118 º, 02', 32" W
R-004C	Lower OwensRiver - at Keeler Bridge	36 º, 34', 35" N	118 º, 01', 00" W
R-004D	Lower Owens River at Pump Station forebay (representative of effluent discharged to Los Angeles Aqueduct)	36 º, 32', 59" N	117 º, 58', 57" W
R-005	Los Angeles Aqueduct - below Pump Station outfall, 100 feet upstream of the confluence with Cottonwood Creek (flow monitoring at lat/long cited, downstream of confluence with Cottonwood Creek)	36 º, 24', 56" N	118 º, 02', 21" W
L-001	Dredged spoils pile at Intake Structure (spoils come from Intake Structure forebay)	36 º, 58', 33" N	118 º, 12', 33" W
L-002	Dredged spoils pile at Pump Station (spoils come from Pump Station forebay)	36 º, 32', 59" N	117 º, 58', 57" W

For the purposes of this Order: Water quality at monitoring location R-004D shall be considered representative of both the quality of the Lower Owens River at the Pump Station, and the quality of the discharge from the Pump Station (Discharge 005). Water quality at monitoring location R-005 shall be considered representative of the water quality in the Los Angeles Aqueduct below the Pump Station outfall. Flow rates at location R-005, after subtracting any flow contribution from Cottonwood Creek, shall be considered representative of the flow rates in the Los Angeles Aqueduct below the Pump Station outfall. The estimated travel time for Discharge 005 to reach R-005 is generally 15 – 19 hours, depending on the total flow in the Los Angeles Aqueduct.

III. INFLUENT MONITORING REQUIREMENTS

A. Monitoring Locations M-001U, M-002U, and M-003U

The Discharger shall monitor 100 feet upstream of the River Intake construction site (M-001U) when discharge 001 is occurring, 100 feet upstream of the Keeler Weir stream diversion (M-002U) when discharge 002 is occurring, and 100 feet upstream of the pump construction site (M-003U) when discharge 003 is occurring. Sampling shall be initiated on the same day the discharge commences, and continue thereafter, as follows:

Constituent	Units	Sample Type	Minimum Sampling Frequency	Required Test Method
pH	pH units	grab	*weekly*[1]	Field
Temperature	^{o}F or ^{o}C	grab	*weekly*	Field
Specific Conductance	µmhos/cm	grab	*weekly*	Field
Dissolved Oxygen	mg/l	grab	*weekly*	Field
Turbidity	NTU	grab	*weekly*	Field
Flow	cfs	NA	*weekly*	Field

1. See description of modified weekly monitoring schedule "*weekly*" in MRP Section X.A.2.

B. Monitoring Locations M-001U and R-005U

The Discharger shall monitor the river water influent, 100 feet upstream of the Intake Structure (M-001U) when discharge 004 is occurring, and the Los Angeles Aqueduct 100 feet upstream of the Pump Station outfall discharge (R-005U) in any month when discharges to the Los Angeles Aqueduct occur from the Pump Station, as follows:

Constituent	Units	Sample Type	Minimum Sampling Frequency	Required Test Method
pH	pH units	grab	monthly	Field
Temperature	^{o}F or ^{o}C	grab	monthly	Field
Specific Conductance	µmhos/cm	grab	monthly	Field
Dissolved Oxygen	mg/l	grab	monthly	Field
Turbidity	NTU	grab	monthly	Field
Total Dissolved Solids	mg/l	grab	monthly	US EPA 160
Total Suspended Solids	mg/l	grab	monthly	US EPA 160
Nitrate as Nitrogen	mg/l as N	grab	monthly	US EPA 300
TKN	mg/l	grab	monthly	US EPA 415
Ammonia as Nitrogen	mg/l as N	grab	monthly	US EPA 350
Dissolved Orthophosphorus (soluble, reactive)	mg/l	grab	monthly	US EPA 365
Total Phosphorus	mg/l	grab	monthly	US EPA 365
Sulfate	mg/l	grab	monthly	US EPA 300
Hydrogen Sulfide	mg/l	grab	monthly	US EPA 376
Chloride	mg/l	grab	monthly	US EPA 300
Flow	cfs	NA	monthly	Field

IV. EFFLUENT MONITORING REQUIREMENTS

A. Monitoring Locations M-001A, M-001R, M-002, and M-003

The Discharger shall monitor the construction dewatering discharge from the Intake Structure construction area to the Los Angeles Aqueduct (M-001A) and/or the Lower Owens River (M-001R) when discharge 001 is occurring, the stream diversion discharge 100 feet downstream of the Keeler weir construction site (M-002) when discharge 002 is occurring, and the construction dewatering discharge from the Pump Station (M-003) when discharge 003 is occurring. Sampling shall be initiated on the same day the discharge commences, and continue thereafter, as follows:

Constituent	Units	Sample Type	Minimum Sampling Frequency	Required Test Method
pH	pH units	grab	*weekly*	Field
Temperature	^{o}F or ^{o}C	grab	*weekly*	Field
Specific Conductance	µmhos/cm	grab	*weekly*	Field
Dissolved Oxygen	mg/l	grab	*weekly*	Field
Turbidity	NTU	grab	*weekly*	Field
Flow	cfs	NA	*weekly*	Field

B. Monitoring Location R-005

The Discharger shall monitor the Los Angeles Aqueduct (R-005) downstream of the Pump Station discharge (005) during any month that discharge from the Pump Station to the Los Angeles Aqueduct occurs. Sampling shall by conducted following a sufficient time period for the Pump Station discharge to reach R-005, based on average flow velocity in the Los Angeles Aqueduct. Volumetric flow rates shall be reported for water delivered from the Pump Station to the Los Angeles Aqueduct. Monitoring shall be conducted as follows:

Constituent	Units	Sample Type	Minimum Sampling Frequency	Required Test Method
pH	pH units	grab	monthly	Field
Temperature	^{o}F or ^{o}C	grab	monthly	Field
Specific Conductance	µmhos/cm	grab	monthly	Field
Dissolved Oxygen	mg/l	grab	monthly	Field
Turbidity	NTU	grab	monthly	Field
Total Dissolved Solids	mg/l	grab	monthly	US EPA 160
Total Suspended Solids	mg/l	grab	monthly	US EPA 160
Nitrate as Nitrogen	mg/l as N	grab	monthly	US EPA 300
TKN	mg/l	grab	monthly	US EPA 415
Ammonia as Nitrogen	mg/l as N	grab	monthly	US EPA 350
Dissolved Orthophosphorus (soluble, reactive)	mg/l	grab	monthly	US EPA 365
Total Phosphorus	mg/l	grab	monthly	US EPA 365
Sulfate	mg/l	grab	monthly	US EPA 300
Hydrogen Sulfide	mg/l	grab	monthly	US EPA 376
Chloride	mg/l	grab	monthly	US EPA 300
Flow	cfs	NA	monthly	Field

V. WHOLE EFFLUENT TESTING REQUIREMENTS

Grab samples of water shall be collected once at Monitoring Location R-004D (representing the Pump Station outfall), **within the first six months of initiating discharge 005**, to coincide with Reasonable Potential Analysis (RPA) testing for California Toxics Rule (CTR) constituents, as specified for R-004D in Section IX.A.1., of this Monitoring and Reporting Program. Whole effluent toxicity (WET) testing shall be performed with the grab samples obtained. All test species, procedures, and quality assurance criteria used shall be in accordance with the methods prescribed for definitive testing in *Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, USEPA, October 2002. (Reference: EPA-821-R-02-013.) Dilution and control waters should be obtained from an area unaffected by the discharge in the receiving waters (Los Angeles Aqueduct, R-005U). If toxicity is identified in the sample, the WET test shall be repeated within 120 days. **Results of the analyses shall be reported within nine months of initiating discharge 004 flow from the River Intake to the Lower Owens River.**

VI. LAND DISCHARGE MONITORING REQUIREMENTS

Monitoring Locations L-001 and L-002

The Discharger shall monitor dredged spoils discharged at the Intake Structure (L-001) and the Pump Station (L-002), and tabulate information on the wastes disposed for reporting purposes, in accordance with the following table or equivalent record-keeping processes:

Type of Waste	Estimated Quantity (cubic yards)	Date	Estimation Method

The Discharger shall monitor water quality 100 feet upstream of, and 100 feet downstream of isolation/containment areas for dredge and/or fill activities until the activities are complete. Sampling shall be initiated on the same day the discharge commences, and continue thereafter, as follows:

Constituent	Units	Sample Type	Minimum Sampling Frequency	Required Test Method
pH	pH units	grab	*weekly*[1]	Field
Temperature	^{o}F or ^{o}C	grab	*weekly*	Field
Specific Conductance	µmhos/cm	grab	*weekly*	Field
Dissolved Oxygen	mg/l	grab	*weekly*	Field
Turbidity	NTU	grab	*weekly*	Field

1. See description of modified weekly monitoring schedule "*weekly*" in MRP Section X.A.2.

VII. RECLAMATION MONITORING REQUIREMENTS

Not Applicable

VIII. RECEIVING WATER MONITORING REQUIREMENTS – LOWER OWENS RIVER

Monitoring Locations R-004A, R-004B, R-004C, and R-004D

When discharge 004 is initiated and thereafter, the Discharger shall monitor the Lower Owens River at Mazourka Canyon Road (R-004A), Lone Pine Road (R-004B), Keeler Bridge (R-004C), and the Pump Station forebay (R-004D), as follows:

Constituent	Units	Sample Type	Minimum Sampling Frequency	Required Test Method
pH	pH units	grab	monthly	Field
Temperature	^{o}F or ^{o}C	grab	monthly	Field
Specific Conductance	µmhos/cm	grab	monthly	Field
Dissolved Oxygen	mg/l	grab	monthly	Field
Turbidity	NTU	grab	monthly	Field
Total Dissolved Solids	mg/l	grab	monthly	US EPA 160
Total Suspended Solids	mg/l	grab	monthly	US EPA 160
Nitrate as Nitrogen	mg/l as N	grab	monthly	US EPA 300
TKN	mg/l	grab	monthly	US EPA 415
Ammonia as Nitrogen	mg/l as N	grab	monthly	US EPA 350
Dissolved Orthophosphorus (soluble, reactive)	mg/l	grab	monthly	US EPA 365
Total Phosphorus	mg/l	grab	monthly	US EPA 365
Sulfate	mg/l	grab	monthly	US EPA 300
Hydrogen Sulfide	mg/l	grab	monthly	US EPA 376
Chloride	mg/l	grab	monthly	US EPA 300
Flow	cfs	NA	monthly	Field

IX. OTHER MONITORING REQUIREMENTS

A. Interim Priority Pollutant Monitoring Requirements

1. Effluent Monitoring (M-001 and R-004D)

   Representative samples of effluent discharged to the Los Angeles Aqueduct (M-001A) from dewatering at the River Intake (Discharge 001), and from the Pump Station to the Los Angeles Aqueduct (R-004D), and shall be collected to evaluate whether additional water quality-based limitations are required. The effluent samples shall be analyzed for the constituents listed below:

Constituents	Units	Sample Type	Minimum Sampling Frequency	Required Test Method
Volatile Organics	µg/l	grab	once in first six months of flow	Attachment J
Semi-Volatile Organic	µg/l	grab	once in first six months of flow	Attachment J
Inorganics	µg/l	grab	once in first six months of flow	Attachment J
Pesticides & PCBs	µg/l	grab	once in first six months of flow	Attachment J

Dioxin	µg/l	grab	once in first six months of flow	Attachment J
Discharge flow	cfs	N/A	once in first six months of flow	Field

2. Ambient Surface Water Monitoring (M-001U and R-005U)

Representative samples of the receiving waters, unaffected by the effluent discharge, shall be collected on the same day as the corresponding upstream samples in Section IX.A.1, above, to evaluate whether additional water quality-based effluent limitations are required. The receiving water samples shall be analyzed for the constituents listed below:

Constituents	Units	Sample Type	Minimum Sampling Frequency	Required Test Method
Volatile Organics	µg/l	grab	once in first six months of flow	Attachment J
Semi-Volatile Organic	µg/l	grab	once in first six months of flow	Attachment J
Inorganics	µg/l	grab	once in first six months of flow	Attachment J
Pesticides & PCBs	µg/l	grab	once in first six months of flow	Attachment J
Dioxin	µg/l	grab	once in first six months of flow	Attachment J
Discharge flow	cfs	N/A	once in first six months of flow	Field

B. **Wetland Functions and Values Monitoring Requirements for "No Net Loss" Determination**

1. By April 1 of 2014, the Discharger shall provide an updated hydrogeomorphic analysis of wetland functions and values suitable for comparison with the pre-project hydrogeomorphic analysis of the LORP, and a determination on whether "no net loss" requirements of the Section 401 certification have been achieved with regard to wetland functions and values. An updated analysis shall be provided by April 1, 2019, and April 1, 2024, unless the Regional Water Board Executive Officer determines that "no net loss" requirements have been fulfilled based on information provided by the Discharger.

2. A jurisdictional wetland delineation of 500-acre portions of the Black Rock Waterfowl Area shall be completed (using the U.S Army Corps of Engineers 1987 wetland delineation manual) two years following action to restrict the water supply to any area currently being artificially supplied with water, until delineations have been completed for the entire Black Rock Waterfowl Area.

C. **Monitoring Requirements for First Winter Habitat Flow, Alabama Release, and Initial Two Spring Seasonal Habitat Flows**

Monitoring Locations M-001U, R-004A to R-004D

The monitoring locations above shall be sampled in accordance with the following schedule, which shall be denoted in this Order as *daily*: commencing on the day of

initiating the high-flow releases (>40 cfs); five days per calendar week for two weeks thereafter; at least twice during the first week following cessation of high-flow releases, at a minimum of two-day intervals.

Constituent	Units	Sample Type	Minimum Sampling Frequency	Required Test Method
pH	pH units	grab	*daily*	Field
Temperature	^{o}F or ^{o}C	grab	*daily*	Field
Specific Conductance	µmhos/cm	grab	*daily*	Field
Dissolved Oxygen	mg/l	grab	*daily*	Field
Turbidity	NTU	grab	*daily*	Field
Total Dissolved Solids	mg/l	grab	*daily*	US EPA 160
Total Suspended Solids	mg/l	grab	*daily*	US EPA 160
Nitrate as Nitrogen	mg/l as N	grab	*daily*	US EPA 300
TKN	mg/l	grab	*daily*	US EPA 415
Ammonia as Nitrogen	mg/l as N	grab	*daily*	US EPA 350
Dissolved Orthophosphorus (soluble, reactive)	mg/l	grab	*daily*	US EPA 365
Total Phosphorus	mg/l	grab	*daily*	US EPA 365
Sulfate	mg/l	grab	*daily*	US EPA 300
Hydrogen Sulfide	mg/l	grab	*daily*	US EPA 376
Chloride	mg/l	grab	*daily*	US EPA 300
Flow	cfs	NA	*daily*	Field

D. **Flow Monitoring**

1. The Discharger shall monitor and report daily flow rates and cumulative monthly volumetric flows (in cubic feet or acre feet) released at the River Intake and other spill gates above the Owens Lake Delta; water discharged to the Owens Lake Delta, the Owens Lake Dust Control project, and the Los Angeles Aqueduct; and the flow in the Los Angeles Aqueduct at the River Intake and upstream of the Pump Station outfall.

2. Alabama Release: During the first winter habitat release, the Discharger shall monitor the flow in the Lower Owens River upriver from the Alabama Spillgate (and downriver from the Georges Spillgate), and the release rate from the Alabama Spillgate, to demonstrate that requirements to provide and maintain minimum combined flow rates of 200 cfs for at least 96 hours are achieved in the Lower Owens River immediately below the Alabama Spillgate. The results of the monitoring shall be presented in the first monitoring report due the first day of the second calendar month following the conclusion of the first winter habitat release.

X. REPORTING REQUIREMENTS

A. General Monitoring and Reporting Requirements

1. Samples shall be representative of the conditions in the water body and timed to coincide with discharges such that the effect of the discharge is monitored. In general, this will mean samples are collected on the same day at corresponding upstream and downstream monitoring locations (e.g., M-003U and M003), except sampling at R-005, which shall be timed appropriately to follow related monitoring at R-005U and R-004D, dependent on flow in the Los Angeles Aqueduct.

2. Where sampling frequency is designated in this Order as *weekly*, monitoring shall be conducted not less than once per week following initial first-day monitoring when water is present at the sampling location. Where u = upstream sample value, and d = downstream sample value, and u and d are in consistent units: if the absolute value of one minus the ratio of the upstream parameter to the downstream parameter during such monitoring exceeds the upstream parameter by more than ten percent (%), where

$$\% = \left|1 - \frac{u}{d}\right| \times 100$$

that parameter shall continue to be monitored on a daily basis until the upstream and downstream values agree to within 10% or less for three or more consecutive days, or until the discharge ceases. Comparisons of field values by percent shall be reported with the field data obtained.

3. Monitoring reports for R-005 shall include tabulated estimates of travel times for water from Discharge 005 to reach both the water quality sampling location and the flow monitoring location identified as R-005. Reported flow rates for R-005 shall not include any flow contribution from Cottonwood Creek. (See MRP Section II.)

4. Sampling need not be duplicative. Where any monitoring or sampling requirements overlap at a particular location, a single sample may serve to monitor water quality for reporting purposes, so long as the sample is obtained within the designated monitoring period and includes the same parameters and analytical methods.

5. If no water is present in a particular monitoring location at the time sampling is required, a result stated as “no water present; no sample required” shall be acceptable when reported with the monitoring results.

6. If water quality samples are collected and analyzed at a higher frequency than required by this Order, the results shall reported to the Regional Water Board in the next report due following the sampling period.

7. Water quality samples analyzed for TDS, Cl, SO_4, F, B, NO_3, Total N and PO_4 shall be reported in annual reports as individual values, and as annual arithmetic averages and 90th-percentile values for the calendar year, based on the data obtained in the calendar year.

B. Self Monitoring Reports (SMRs)

1. At any time during the term of this Order, the State or Regional Water Board may notify the Discharger to electronically submit self-monitoring reports. Until such notification is given, the Discharger shall submit self-monitoring reports in accordance with the requirements described below.

2. The Discharger shall submit annual Self Monitoring Reports including the results of all required monitoring using USEPA-approved test methods or other test methods specified in this Order. **Annual reports shall be due on February 1 following each calendar year.**

3. Monitoring periods and reporting for required monitoring shall be completed according to the following schedule:

Monitoring Type/ Frequency	Monitoring Period Beginning/Ending	Monitoring Period	SMR Due Date
Wetland delineation, function & values hydrogeomorphic assessment / in specified years	First: 2007 / 2013 (required) Second: 2014 / 2018 (if required) Third: 2020 / 2023 (if required)	First: 7 years Second: 5 years Third: 5 years	First: April 1, 2014 Second: April 1, 2019 Third: April 1, 2024
Construction dewatering and stream diversions / *weekly*	The first day of discharge / Last day of discharge for any construction dewatering or stream diversion	First day of calendar week through last day of calendar week	First day of second calendar month following month of sampling
Water Quality for Influent, Effluent, and Receiving Water / monthly	The first day of initiating discharge 004 from the River Intake to the Lower Owens River / when discharges no longer pose a threat to water quality	First day of calendar month through last day of calendar month	First day of second calendar month following month of sampling
Water Quality for Winter and Spring habitat flows and Alabama release / *daily*	The first day of initiating seasonal habitat flow, including Alabama release / One week after seasonal habitat flow or Alabama release is concluded	Variable up to approximately three weeks	First day of second calendar month following month of sampling
Water Quality and dredging / *weekly* during dredging event	The first day of initiating dredging at a particular location / one day after dredging ceases at that location	Variable depending on the duration of dredging events at various locations	First day of second calendar month following month of sampling

4. The Discharger shall report with each sample result the applicable Minimum Level (ML) and the current Method Detection Limit (MDL), as determined by the procedure in 40 CFR Part 136 (see Attachment J).

5. The Discharger shall arrange all reported data in a tabular format. The data shall be summarized to describe water quality conditions, and impacts to beneficial uses if observed or identified and to clearly illustrate whether the facility is operating in compliance with water quality objectives.

6. The Discharger shall attach a cover letter to the SMR. The information contained in the cover letter shall clearly identify violations of this Order; discuss corrective actions taken or planned; and the proposed time schedule for corrective actions. Identified violations must include a description of the requirement that was violated

and a description of the violation. An example cover letter is provided in Attachment O. The information contained in the example letter must be included in each SMR submitted to the Regional Water Board.

7. SMRs must be submitted to the Regional Water Board, signed and certified as required by the Standard Provisions (Attachment D), to the address listed below:

   California Regional Water Quality Control Board – Lahontan Region
   2501 Lake Tahoe Blvd.
   South Lake Tahoe, CA 96150

C. Other Reports and Notification Requirements

The Discharger shall notify Regional Water Board staff in writing 15 days prior to initiating base flow and any subsequent habitat flow, including the initial winter habitat flow and Alabama Release.

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ATTACHMENT F – FACT SHEET

As described in Section II of this Order, this Fact Sheet includes the legal requirements and technical rationale that serve as the basis for the requirements of this Order.

I. PERMIT INFORMATION

The following table summarizes administrative information related to the Facility.

Discharger	Los Angeles Department of Water and Power
Name of Facility	Lower Owens River Project
Facility Contact Address	300 Mandich Street
	Bishop, CA 93514
	Inyo County
Facility Contact and Phone	Brian Tillemans, (760) 873-0214
Mailing Address	Same as above
Type of Facility	Habitat Restoration Project

A. The Los Angeles Department of Water and Power (hereinafter Discharger) is the landowner and project proponent of the Lower Owens River Project (hereinafter Facility), a habitat restoration project.

B. The Discharger proposes to discharge wastewater to the Lower Owens River, Owens Lake, and Haiwee Reservoir by way of the Los Angeles Aqueduct.

C. The City of Los Angeles Department of Water and Power (hereinafter Discharger) submitted an application for Clean Water Act (CWA) Section 401 Water Quality Certification (WQC), dated July 30, 2004, and provided additional requested project information on November 29, 2004, and January 14, 2005. The WQC application was deemed complete on February 13, 2005. The U.S. Army Corps of Engineers granted an extension of the due date for Section 401 certification or denial by the Regional Water Board to July 30, 2005.

In a letter to the Discharger dated December 29, 2004, the Regional Water Board Executive Officer requested that the Discharger submit a report of waste discharge and application for an individual combined WDR and NPDES permit for the various discharges associated with the LORP. The letter indicated the Regional Water Board would exercise its discretion to issue an individual WDR/NPDES permit for the LORP, rather than allowing coverage under various General WDRs and/or General NPDES Permits.

The Discharger informed the Regional Water Board in a letter dated January 14, 2005, that a Report of Waste Discharge and individual NPDES permit application would not be submitted as requested. Instead, only applications for general permits would be provided.

The Discharger submitted a Notice of Intent (NOI) application, dated January 19, 2005, for *Statewide General Waste Discharge Requirements (WDRs) for Discharges to Land with a Low Threat to Water Quality* (Water Quality Order No. 2003-0003-DWQ) for

disposal of waste earthen materials and dredged spoils. This NOI is the basis for authorizing Discharges 006 and 007.

The Discharger submitted a NOI application, dated January 31, 2005, for coverage under the *Regionwide General National Pollutant Discharge Elimination System (NPDES) Permit for Low Threat Discharges to Surface Water* (Order No. R6T-2003-0034) for several specific discharges associated with dewatering excavated areas of construction sites, and for stream diversion activities associated with construction of a gauging station weir. This NOI is the basis for authorizing Discharges 001A, 001R, 002, and 003.

On February 4, 2005, the State Water Resources Control Board (hereinafter State Board) received from the Discharger, a Notice of Intent application for permit coverage under the *National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated With Construction Activity* (Water Quality Order 99-08-DWQ). The Discharger obtained coverage under this General Permit pursuant to State Board action on February 9, 2005. This NOI is the basis for authorizing storm water discharges and authorized non-storm water discharges throughout the LORP site.

To date, the Discharger has not submitted a Report of Waste Discharge or NPDES permit application for an individual permit for the LORP as requested in the Regional Water Board's December 29, 2004 letter to the Discharger. In addition, the Discharger has not sought authorization for two actions integral to the LORP because the Discharger asserts these actions are not subject to Regional Water Board authority. These actions are: reintroducing Owens River water from the modified River Intake structure; and discharging river water from the 50 cfs Pump Station to be sited near the lower end of the LORP to the Los Angeles Aqueduct and Haiwee Reservoir. Reintroducing river water to the highly disturbed and modified channel of the Lower Owens River is expected to mobilize and concentrate organic and earthen materials accumulated within the riverbed for decades, and those disturbed during LORP construction, that will temporarily degrade water quality and impair beneficial uses in the Lower Owens River. The Pump Station discharge (Discharge Point 005) would convey the degraded waters described above either to land areas being managed by the Discharger on the former bed of Owens Lake as part of the Discharger's Owens Lake Dust Control Project, or to the Los Angeles Aqueduct and Haiwee Reservoir.

The use of degraded river water for dust control is not considered to be a threat to water quality. (Water for the Dust Control Project is currently supplied by the Los Angeles Aqueduct and by pumping poor-quality ground water. The Dust Control Project is regulated under separate WDRs.) However, pumping lower quality water from the Lower Owens River to the Los Angeles Aqueduct could potentially lower water quality and impair beneficial uses in the Los Angeles Aqueduct and its downstream receiving waters such as Haiwee Reservoir. In the absence of a complete NPDES permit application or other discharge report or application for waste discharge requirements, the Regional Water Board may regulate these discharges pursuant to CWC authorities, or require monitoring pursuant to CWC Section 13267 which states, in part,

> "(a) A regional board, in establishing . . . waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by this division, may investigate the quality of any waters of the state within its region. (b)(1) In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, . . . shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. . . ."

This Order includes CWC Section 13267 monitoring and reporting requirements to determine whether wastes have been discharged that could result in violations of applicable water quality standards, or for which WDRs should be prescribed.

The Regional Water Board has decided that the project discharges for which authorization was sought under general NPDES permits, general WDRs, and the Section 401 WQC, and LORP actions for which permit authorization was not sought, are more appropriately regulated under a single Order that serves as an individual WDR/NPDES permit that also incorporates WQC conditions and other requirements. Accordingly, the Regional Water Board accepts the discharge reports, WQC application, General NPDES Permit or General WDR applications provided by the Discharger as the basis for issuing this Order, as explained in the letter dated April 22, 2005 from the Regional Water Board Executive Officer (Attachment P), except that discharges 004 and 005 are herein excluded as discharges subject to CWA Section 401.

The U.S. Army Corps of Engineers has not yet issued a CWA Section 404 Permit for the LORP, and so there is uncertainty as to whether discharges 004 and 005 will be regulated under Section 404, and therefore subject to Section 401. The Regional Water Board nevertheless finds it necessary to prescribe conditions for discharge 004, which is granted a conditional 10-year exemption to prohibitions against the discharge of waste that would violate water quality standards in the Lower Owens River, and for the pumping of degraded river water to the Los Angeles Aqueduct during the initial years following construction and re-watering of the Lower Owens River; namely, that the discharges shall not cause pollution or nuisance as defined in CWC Section 13050. (See Order Section V., paragraph 1.) This is because water pumped from the river to the Los Angeles Aqueduct may contain high concentrations of pollutants mobilized by construction and re-watering activities. This discharge may cause violations of water quality objectives in the Los Angeles Aqueduct or downstream waters for an unknown period of time, though water quality monitoring is needed to ascertain this. Whether pollution occurs is, in part, contingent on management actions by the Discharger. When the LORP flow regime has become established and the Discharger demonstrates the discharges associated with the LORP no longer pose a threat to water quality, it will no longer be necessary to monitor Pump Station discharges to the Los Angeles Aqueduct or the discharge in the Lower Owens River.

Under CWA Section 401 and CWC Section 13267 authority, the monitoring and reporting program (Attachment E) requires the evaluation of "No Net Loss" of wetland functions and values at specified intervals. This monitoring information is required and reasonably necessary to demonstrate compliance with the Basin Plan "No Net Loss" policy and other conditions of this Order. When the Discharger has demonstrated that there has been "no net loss" of wetland functions and values due to the implementation of the LORP, it will no longer be necessary to regulate wetland impacts or require further wetland monitoring pursuant to CWA Section 401.

Storm water and limited threat discharges to waters of the U.S. associated with construction activities are regulated under CWA Section 402 (NPDES) authority. Permit authority for these discharges expires July 14, 2010, unless construction activity and stabilization from erosion is incomplete, in which case the Discharger shall reapply for continued NPDES permit coverage for authorization for discharges subject to the NPDES.

Disposal of dredged spoils and waste earthen materials to land is an authorized discharge regulated under CWC waste discharge requirements. Permit authority for these discharges does not expire until rescinded, but may be reviewed and updated at the discretion of the Regional Water Board.

II. FACILITY DESCRIPTION

A. Five major components of the LORP.

1. **Riverine-Riparian System:** This component involves modifying the River Intake structure to control water releases below the intake to the Los Angeles Aqueduct to enhance native and game fisheries and riparian habitats along 62 miles of the Lower Owens River. Base flow will be a continuous flow of 40 cfs year-round from the River Intake to the proposed Pump Station. Initial flow releases will establish a continuous flow from the Intake to the Delta at the confluence of the Lower Owens River and Owens Lake, and subsequent flow releases will establish the 40-cfs base flow from the Intake to the Pump Station. Seasonal habitat flows will be annual flows of up to 200 cfs, as determined each year based on runoff conditions. The first seasonal habitat flow will be 200 cfs at peak flow, regardless of runoff conditions, and will be released in the winter. Subsequent seasonal flows will be released in May or June to coincide with seed production by willows and cottonwoods in the floodplain.

2. **Delta Habitat Area including Pump Station:** This component involves constructing a 50 cfs-capacity Pump Station in the Lower Owens River upstream of the Delta to capture and divert some of the flows from the river to the Owens Lake dust control project and/or the Los Angeles Aqueduct. Water not captured by the Pump Station will be bypassed to the Delta as follows:

   - Base flow with an average annual flow of 6 to 9 cfs, including four pulse flows of 20 to 30 cfs per year
   - Higher flows may bypass the Pump Station to the Delta during the annual seasonal habitat flows of up to 200 cfs released from the River Intake.

3. **Blackrock Waterfowl Habitat Area:** This component involves releasing water from the various Los Angeles Aqueduct spillgates and flooding an annual average of 500 acres within a 1,500-acre off-river area to enhance wetlands and waterfowl habitat.

4. **Off-River Lakes and Ponds:** This component involves maintaining the existing supply of water to the off-river lakes and ponds near the Blackrock Waterfowl Habitat Area for fisheries, waterfowl, shorebirds, and other animals.

5. **Land Management Plan:** This component involves installing fences and modifying livestock grazing practices on leases within the LORP area to enhance native habitat diversity while allowing for substantial grazing.

B. Waste Discharges and Other Regulated Actions

The various project activities and discharges are tabulated below. For purposes of the following table and this Order, WQC means regulations established pursuant to the CWA Section 401, NPDES means regulations adopted pursuant to CWA Section 402, and WDR means regulations established pursuant to the CWC Division 7.

The following table includes: (1) the action of reintroducing flows from the modified River Intake structure to the Lower Owens River channel, and (2) discharges from the 50 cfs Pump Station to ground or surface waters of the Lower Owens Hydrologic Unit, including Haiwee Reservoir. These flow release and pumping activities are operational aspects of the LORP that will occur as a result of project implementation. The effects due to a combination of reintroducing water, construction activity, and historic sediment deposits within the 62-mile LORP area, will be regulated under CWC Section 13267 provisions of this Order. Regulatory authority for the other discharges are as listed in the table.

The project includes operations that may generate earthen wastes. These operations include, but are not limited to: 1) dredging and filling operations during initial construction of facilities and on-going maintenance dredging, 2) construction dewatering and releases of stormwater from construction sites, and 3) stream flow diversions.

The reintroduction of flows to the River under the proposed project is expected to disturb existing bottom sediments in the River channel, especially in the existing wetted reach (lower 38 miles) where existing flows are not sufficient for sediment transport and redistribution. As a result, the wetted reach contains substantial deposits of organic sediments (estimated at 123,100 cubic yards in the LORP FEIR, p. 4-19). Particularly during the initial stages of flow restoration, the organic sediments in the wetted reach are expected to become suspended, resulting in adverse impacts to water quality, including increased turbidity and oxygen consumption (i.e., lower DO) and release of hydrogen sulfide and ammonia. Suspension of organic sediments in the wetted reach may result in pollutants in excess of Basin Plan water quality standards for: biostimulatory substances, chemical constituents, dissolved oxygen, floating materials, non-degradation of aquatic communities and populations, sediment, settleable materials, suspended materials, taste and odor, temperature, and turbidity. In addition, possible poor water quality conditions may result in adverse effects to the existing non-native game fish populations in the wetted reach, including potential fish kills.

ID No.	Construction Project Component or Operational Component	Discharge Types and Authority to Regulate							
		Flow Restoration and Pump Station	Dredged or Fill Material Discharged to Waters	Maintenance Dredging	Construction Stormwater	Inert Solid Waste Disposal to Land	Pipeline and Tank Hydrostatic Testing	Diverted Stream Flows	Excavation Dewatering
		13267	WQC	WDR	NPDES	WDR	NPDES	NPDES	NPDES
1	Modification of River Intake		X		X	X			X
2	Construct Temporary Flow Measuring Stations		X		X				
3	Keeler Bridge Measuring Station During Upgrade Construction		X		X			X	
4	Initial Channel Clearing		X		X				X
5	Structural Obstacles to be Removed / Modified		X		X				
6	Beaver Dam Removal			X		X			
7	Intake and Pump Station Forebay Dredging			X		X			
8	Pump Station Site During Construction		X		X	X	X	X	X
9	Temporary Stream Gages in Delta		X		X				
10	Blackrock – Culverts and Spillgates				X				
11	Thibaut Ponds Staff Gages Construction				X				
12	Fence Installation				X				
13	Power Line				X				

ID No.	Construction Project Component or Operational Component	Discharge Types and Authority to Regulate							
		Flow Restoration and Pump Station	Dredged or Fill Material Discharged to Waters	Maintenance Dredging	Construction Stormwater	Inert Solid Waste Disposal to Land	Pipeline and Tank Hydrostatic Testing	Diverted Stream Flows	Excavation Dewatering
		13267	WQC	WDR	NPDES	WDR	NPDES	NPDES	NPDES
14	Effect of pumped diversions into the Los Angeles Aqueduct	X							
15	Effect of rewatering the Lower Owens River (62 miles)	X							

The estimated total discharge quantities by types of materials are:

- Concrete – Approx. 2,165 cubic yards
- Soil, sand, and gravel (onsite or imported) – Approx. 17,220 cubic yards
- Sheet pile – Approx. 12,000 square feet (temporary)
- Maintenance dredging, as needed at River Intake forebay (approx. 2000 cubic yards) every 2-3 years (estimated discharge to land)
- Maintenance dredging, as needed at Pump Station Intake forebay (approx. 2000 cubic yards) every 2-3 years (estimated discharge to land)

The quantities, in cubic yards, and types of materials associated with discharge of dredged or fill material and other disturbances to wetlands and waters are tabulated below.

ID No.	Project Component	Discharge of Dredged or Fill Material to Waters		Excavation and Other Disturbances in Waters	
		Approx. Quantity (cu. yds.)	Type	Approx. Quantity (cu. yds.)	Type
1	**River Intake Modification**				
	Temporary coffer dam in forebay	400	Compacted soil or sheet pile	---	---
	Concrete lining of tailbay and channel	350	Concrete	4,000	Clearing and grubbing prior to concrete lining
	Bridge replacement	150	Concrete	---	---
	Aqueduct bridge repair	40	Concrete	---	---

ID No.	Project Component	Discharge of Dredged or Fill Material to Waters		Excavation and Other Disturbances in Waters	
		Approx. Quantity (cu. yds.)	Type	Approx. Quantity (cu. yds.)	Type
2	**Temporary Flow Measuring Stations**	400	Wooden boxes	~	Minor clearing of vegetation and debris
3	**Keeler Bridge Metering Station Upgrade**	~	Concrete repair of existing metering station	100	Excavation of the temporary bypass trench
4	**Initial Channel Clearing**	~	Scraping of sediments and vegetation*	7,800	Removal of sediment and vegetation
5	**Structural Obstacles to be Removed / Modified**				
	Five Culverts Replacement	3,000	Up to five 60-inch diameter (HDP, corrugated metal, or steel) (up to 30-foot long)	---	---
	Other Structures to be Removed / Modified	---	---	TBD	Removal of in-channel rock dams, bridges, and dikes
6	**Beaver Dam Removal**	---	Removal via grabber jaws and helicopter	---	---
7,8	**Pump Station Site**				
	Pump Station and Diversion Structure	1,625 2,820 12,000 12,000	Concrete Gravel/cobble/riprap Soils Sheet pile (steel), in square feet	15,000 1,315	Bank Excavation Channel Excavation
	West Access Road (the portion within wetland vegetation type)	2,000	Onsite/offsite soils and gravel	---	---
	Sediment Basin Initial construction Maintenance	 --- ---	 --- ---	 9,000 TBD	 Sediment and vegetation Sediment and vegetation
9	**Temporary Stream Gages in Delta**	<2	Wooden boxes	---	---
10	**Blackrock – Culverts, Spillgates, Berms and Ditches**	Minor, unquan-tified	Replacement of spillgates and culverts in man-made ditches	---	---
11	**Thibaut Ponds Staff Gages**	~	Staff gages (to be installed by hand)	---	---

ID No.	Project Component	Discharge of Dredged or Fill Material to Waters		Excavation and Other Disturbances in Waters	
		Approx. Quantity (cu. yds.)	Type	Approx. Quantity (cu. yds.)	Type
12	**Fence Installation**	~	Fence posts on the banks at locations where the fences cross the River (estimated to be less than 30 locations)	---	---

~ Negligible; less than 0.01 acre
--- None
HDP: High-density polyethylene
cy: cubic yards
sf: square feet
* Equipment to include in-channel dozer, which will scrape earthen materials prior to removal.

The effects on waters associated with the discharge of dredged or fill materials and other land disturbances are tabulated below, by acreage of disturbance.

ID No	Project Component	Temporary Disturbance (acres)		Permanent Fill Disturbance (acres)	
		Wetlands	Open Water	Wetlands	Open Water
1	**River Intake Modification**	0.1	1.1	Up to 1	Up to 0.1
2	**Temporary Flow Measuring Stations***	Up to 0.1	Up to 0.1	Up to 0.1	Up to 0.1
3	**Keeler Bridge Metering Station Upgrade**	Up to 0.1	0.2	---	---
4	**Initial Channel Clearing**	Up to 5	---	---	---
5	**Structural Obstacles to be Removed / Modified**				
	Five Culverts Replacement	Up to 0.5	---	---	---
	Others	Up to 1		---	---
6	**Beaver Dam Removal**	~	~	---	---
7	**Pump Station Site**	3***	Up to 0.1	Up to 0.8	---
8	**Maintenance Dredging**	---	~	---	~
9	**Temporary Stream Gages in Delta**	Up to 0.01	Up to 0.01	---	---
10	**Blackrock – Culverts, Spillgates, Berms and Ditches**	Up to 1**		---	Up to 0.5**
11	**Thibaut Ponds Staff Gages**	---	---	~	~

ID No	Project Component	Temporary Disturbance (acres)		Permanent Fill Disturbance (acres)	
		Wetlands	Open Water	Wetlands	Open Water
12	**Fence Installation**	~	---	~	---

~ Negligible; less than 0.01 acres
--- None
* One or more of the temporary measuring stations will be converted to a permanent station.
** Replacement and modification of and new construction of culverts and spillgates in man-made ditches.
*** There are approximately 10 acres of wetlands within the 23-acre construction zone. Of these 10 acres, approximately 3 acres will be temporarily disturbed during Pump Station construction.

The total extent of waters affected during construction is up to 11 acres of wetlands and 3.5 acres of open water. The majority of these areas will be restored. The total extent of waters permanently affected by development of new facilities is approximately 2 acres of wetlands and 0.7 acres of open water. The permanent impacts to 2 acres of wetlands and 0.7 acres of open water will be mitigated fully because the LORP is expected to increase wetlands by 751 acres and open water by 159 acres over the year 2000 conditions and enhance impaired wetland functions and values in adjacent areas.

The total extent of jurisdictional waters (subject to regulation under CWA Section 404) in the project area is 3,794 acres (based on the year 2000 conditions); this includes 200 acres of open water and 3,594 acres of wetlands. The project area also includes jurisdictional wetlands and surface waters as well as man-made lakes, ponds, and wetlands that have been created by releases from Los Angeles Aqueduct spillgates and ditches to maintain wetlands and beneficial uses of water in certain areas between the Aqueduct and the Lower Owens River.

Based on expected hydrologic conditions under the proposed flow regime, the Discharger has estimated the future extent of waters (including wetlands) in the project area. The predicted short-term (one to five years) extent of jurisdictional waters in the project area due to the proposed flows is 4,704 acres (359 acres of open water and 4,345 acres of wetlands). The predicted conditions represent an increase of 159 acres of open water and 751 acres of wetlands over the year 2000 conditions.

The Discharger has submitted results of wetland hydrogeomorphic (HGM) functional assessments conducted for existing conditions and predicted future conditions. For the project area, the average functional units are predicted to increase by approximately 253 hydrologic units, 393 biogeochemical units, and 423 habitat units. The table below shows the existing and predicted changes for specific project areas. The existing conditions represent a baseline for future analysis of the functions and values of jurisdictional waters.

HGM AVERAGE FUNCTIONAL UNIT SUMMARY			
PROJECT AREA	FUNCTION UNIT CATEGORY		
	Habitat	**Hydrologic**	**Biogeochemical**
LORP Riparian Area			
existing	1212	2542	1300
predicted	1693	2889	1817
change	481	347	517
Delta Habitat Area			
existing	396	737	359
predicted	396	737	359
change	0	0	0
Blackrock Waterfowl Management Area			
existing	1709	4255	1837
predicted	1651	4161	1713
change	-58	-94	-124
ALL AREAS			
existing	3317	7534	3496
predicted	3740	7787	3889
change	423	253	393

Estimated changes in the acreages of waters due to proposed flows are tabulated below.

Vegetation / Water Body Type	**Estimated Change (acres)**			
	Riverine-Riparian[2]	Delta[3]	Blackrock Waterfowl Area	**Total**
Open Water	164	0	-5	**159**
Wetlands	868	0	-117 [4]	**751**
Other[1]	0	0	0	**0**
Upland	-1,032	0	122 [4]	**-910**
Total	--	--	--	--

1 Intermittently-flooded playa areas that have the hydrologic and soil characteristics of wetlands, but have no or sparse vegetation and therefore cannot be classified as wetlands or open water

2 Post-project values for the Riverine-Riparian are for short-term (1 to 5 years) conditions

3 Note, Delta acreages reflect 2000 conditions. Proposed flow management under LORP will be designed to maintain actual acreages present at the time of project implementation.

4 Predictions do not consider wetland acreage created immediately adjacent to the flooded units (potentially jurisdictional wetland habitats that are expected to develop on the edges).

Modification of the flow regime to the Delta (located downstream of the Pump Station) due to the construction and operation of the Pump Station is not expected to result in impacts to jurisdictional wetlands (see table above). However, a condition of the WQC is that the applicant demonstrates that "No Net Loss" of wetland functions and values has occurred following LORP implementation. The applicant is required as a condition of this WQC to re-delineate wetlands and provide an assessment of functions and values at specified intervals for up to 22 years after the reintroduction of flow to the Lower Owens River begins.

C. Description of Wastewater Treatment or Controls

1. Sediment basins are included in the forebays of the River Intake and the Pump Station. Accumulated sediment will be periodically removed and disposed of at Discharge Points 006 and 007, respectively.

2. Best Management Practices will be utilized as provided in information submitted by the Discharger, and as part of the Storm Water Pollution Prevention Plan required under the terms of this Order.

3. The initial 200 cfs partial flushing flows will be conducted in winter when temperatures are lower and DO capacity will be higher.

D. Discharge Points and Receiving Waters

The receiving waters are the Lower Owens River, Owens Lake, and Haiwee Reservoir via the Los Angeles Aqueduct. All receiving waters are in the Lower Owens Hydrologic Area. Owens Lake is a dry lakebed. The Discharge points are:

Discharge Point	Monitoring Locations	Discharge Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
Discharges 001A 001R	M-001U M-001A M-001R	Dewatering wastes from intake structure construction	36 º, 58', 33" N	118 º, 12', 33" W	LA Aqueduct (A) or Lower Owens River (R)
Discharge 002	M-002U M-002	Diverted stream flow with earthen wastes from Keeler weir construction	36 º, 34', 35" N	118 º, 01', 00" W	Lower Owens River
Discharge 003	M-003U M-003	Dewatering wastes from Pump Station construction	36 º, 32', 59" N	117 º, 58', 57" W	Lower Owens River, Owens Lake
Discharge 004	M-001U R-004A R-004B R-004C R-004D	Reintroduced flows to Lower Owens River from River Intake structure	36 º, 58', 33" N	118 º, 12', 33" W	Lower Owens River, Owens Lake
Discharge 005	R-005U R-005	Diverted stream flow with wastes pumped to Los Angeles Aqueduct and/or dust control	36 º, 32', 32" N	118 º, 03', 01" W	Haiwee Reservoir via LA Aqueduct and/or Owens Valley Ground Water Basin
Discharge 006	L-001	Dredged spoils and/or waste earthen material at River Intake	36 º, 58', 33" N	118 º, 12', 33" W	Owens Valley Ground Water Basin
Discharge 007	L-002	Dredged Spoils and/or waste earthen material at Pump Station	36 º, 32', 59" N	117 º, 58', 57" W	Owens Valley Ground Water Basin

III. APPLICABLE PLANS, POLICIES, AND REGULATIONS

The requirements contained in the proposed Order are based on the requirements and authorities described in this section.

A. Legal Authorities

This Order is issued pursuant to section 402 of the Federal Clean Water Act (CWA) and implementing regulations adopted by the U.S. Environmental Protection Agency (USEPA) and Chapter 5.5, Division 7 of the California Water Code (CWC). It shall serve as a NPDES permit for point source discharges from this facility to surface waters that are waters of the U.S. This Order also serves as Waste Discharge Requirements (WDRs) pursuant to Article 4, Chapter 4 of the CWC for discharges that are not subject to regulation under CWA section 402. Compliance monitoring is required pursuant to CWC Section 13383 and/or CWC Section 13267.

Section 401 of the CWA (33 U.S.C., paragraph 1341) requires that any applicant for a CWA Section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to waters of the United States, shall provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. No Section 404 permit may be granted (or valid) until such certification is obtained. The Discharger has submitted a complete application and full fee deposit required for Water Quality Certification under Section 401 for the LORP. The U.S. Army Corps of Engineers (ACOE) will regulate the project with an Individual Permit under the provisions of Section 404.

California Code of Regulations (CCR) Title 23, Section 3831(e) grants the Regional Water Board and the Regional Water Board Executive Officer the authority to grant or deny water quality certification for projects in accordance with Section 401 of the CWA.

B. California Environmental Quality Act (CEQA)

Detailed analysis of Regional Water Board CEQA compliance is provided in Attachment H.

C. State and Federal Regulations, Policies, and Plans

1. **Water Quality Control Plans.** The Regional Water Board adopted a *Water Quality Control Plan for the Lahontan Region* (Basin Plan) that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan. In addition, State Water Resources Control Board (State Water Board) Resolution No. 88-63 requires that, with certain exceptions, the Regional Water Board assign the municipal and domestic supply use to water bodies that do not have beneficial uses listed in the Basin Plan. Beneficial uses applicable to the receiving waters are as follows:

Discharge Points	Receiving Water Name	Beneficial Use(s)
Discharge 001R Discharge 002 Discharge 003 Discharge 004	Lower Owens River (Below Intake Structure)	Municipal and domestic water supply (MUN), Agricultural Supply (AGR), Ground water recharge (GWR), Freshwater replenishment (FRSH), Water contact recreation (REC-1), Non-contact water recreation (REC-2), Commercial and sport fishing (COMM), Warm freshwater habitat (WARM), Cold freshwater habitat (COLD), Wildlife habitat (WILD), Preservation of biological habitats of special significance (BIOL), Rare, threatened or endangered species (RARE), Spawning, reproduction, and Development (SPWN)
Discharge 003 Discharge 004	Owens Lake	MUN*, REC-1, REC-2, COMM, WARM, COLD, Inland Saline Water Habitat (SAL), WILD
Discharge 001A Discharge 005	Los Angeles Aqueduct and Haiwee Reservoir	MUN, AGR, Industrial Supply (IND), GWR, REC-1, REC-2, COMM, COLD, WILD, RARE, and SPWN

* Proposed for removal in July, 2005. Effective date pending state and federal approvals

2. **Thermal Plan.** Not applicable to intrastate waters.

3. **National Toxics Rule (NTR) and California Toxics Rule (CTR).** USEPA adopted the NTR on December 22, 1992, which was amended on May 4, 1995 and November 9, 1999, and the CTR on May 18, 2000, which was amended on February 13, 2001. These rules include water quality criteria for priority pollutants and are applicable to this discharge. Monitoring data to complete a reasonable potential analysis for toxic "priority pollutants" is a required part of this Order.

4. **State Implementation Policy.** On March 2, 2000, State Water Board adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (State Implementation Policy or SIP). The SIP became effective on April 28, 2000, with respect to the priority pollutant criteria promulgated for California by the USEPA through the NTR and to the priority pollutant objectives established by the Regional Water Boards in their basin plans, with the exception of the provision on alternate test procedures for individual discharges that have been approved by USEPA Regional Administrator. The alternate test procedures provision was effective on May 22, 2000. The SIP became effective on May 18, 2000. The SIP includes procedures for determining the need for and calculating water quality-based effluent limitations (WQBELs), and requires Dischargers to submit data sufficient to do so.

5. **Antidegradation Policy.** Section 131.12 of 40 CFR requires that State water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution 68-16, which incorporates the requirements of the federal antidegradation policy. Resolution 68-16 requires that existing water quality is maintained unless degradation is justified based on specific findings. The permitted

discharge is consistent with the antidegradation provision of 40 CFR §131.12 and State Water Board Resolution 68-16, as follows:

a. Whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality will be maintained until it has been demonstrated to the State that any change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies.

   The Discharger has demonstrated to the State that any change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies. The potential temporary changes to water quality are consistent with maximum benefit to the people of the State because the restoration of the waters for beneficial uses will outweigh potential adverse effects on water quality.

c. Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.

   The Lower Owens River cannot be considered existing high quality waters because of severe degradation and losses of beneficial uses associated with historic water diversions by the Discharger. Under the terms of this Order, restoration activities conducted by the Discharger must use Best Management Practices to achieve the best practicable treatment or control of the discharge necessary to assure that (a) pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.

c. In implementing this policy, the Secretary of the Interior [USEPA] will be kept advised and will be provided with such information as he/she will need to discharge his/her responsibilities under the Federal Water Pollution Control Act.

   The draft Order will be provided to the USEPA for review and comment. This Order will not become final if USEPA formally objects. Information concerning the LORP and compliance with this Order is required to be made available to the USEPA upon request.

6. **Anti-Backsliding Requirements.** Sections 402(o)(2) and 303(d)(4) of the CWA and federal regulations at 40 CFR § 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit, with some exceptions where limitations may be relaxed. Anti-Backsliding provisions do not apply to this permit because it is a new Order for proposed discharges.

7. **Monitoring and Reporting Requirements.** Section 122.48 of 40 CFR requires that all NPDES permits specify requirements for recording and reporting monitoring results. Sections 13267 and 13383 of the CWC authorize the Regional Water Boards to require technical and monitoring reports. The Monitoring and Reporting Program (MRP) establishes monitoring and reporting requirements to implement federal and State requirements. This MRP is provided in Attachment E.

D. Impaired Water Bodies on CWA 303(d) List

Under Section 303(d) of the Clean Water Act, states are required to develop a list of water quality limited segments. These waters on the list do not meet water quality standards, even after point sources of pollution have installed the minimum required levels of pollution control technology. The law requires that these jurisdictions establish priority rankings for water on the lists and develop action plans, called as Total Maximum Daily Loads (TMDL), to improve water quality. On July 25, 2003 USEPA gave final approval to California's 2002 Section 303(d) List of Water Quality Limited Segments.

The Lower Owens River is listed as impaired on the Clean Water Act Section 303(d) list approved for California in 2003. The listing is for impairments due to the pollutant/stressor "Habitat Alterations" on a 53-mile water body segment. The potential sources of impairment are listed as "Agriculture," and "Hydromodification." The Lower Owens River may be removed from the list of impaired waters because it is not impaired by a pollutant, pursuant to new 303(d) listing policy of the State Water Resources Control Board, and is rated "low" on the list of priorities for TMDL development. Additionally, the LORP is a large-scale habitat restoration project designed, in part, to address the impairments to beneficial uses within this segment by changing the current hydrologic flow regime, and includes improved rangeland management as a project element to reduce agriculture-related contributions to impairments. The LORP effectiveness in reducing and/or eliminating beneficial use impairments will be evaluated in future (biennial) updates to the 303(d) list.

The Haiwee Reservoir and its upstream tributary, Tinemaha Reservoir, are listed as impaired on the Clean Water Act Section 303(d) list approved for California in 2003. The Haiwee Reservoir listing is for impairments due to the pollutant/stressor "Copper." The Tinemaha Reservoir, located approximately five miles upstream of the River Intake (point of diversion) to the Los Angeles Aqueduct is listed as impaired due the pollutant/stressor "Metals." The potential sources of impairment in these reservoirs are listed as "Other" and are related to use of copper algaecides applied by the Discharger to prevent taste/odor problems in drinking water supplied from the reservoirs. Copper is a potent toxin with regard to aquatic life forms, and is a CTR "priority pollutant"; hardness-dependent fresh water aquatic life criteria for dissolved copper are specified in Table (b)(1) of the CTR. Recent sampling has indicated that Tinemaha Reservoir meets water quality standards, and the Regional Water Board has recommended that the State Water Resources Control Board remove this water body from the 303(d) list. Recent sampling at Haiwee Reservoir indicates that it may meet water quality standards, but additional sampling is needed to confirm the status of Haiwee Reservoir.

The discharge of algaecide containing copper is not authorized or regulated under the provisions of this Order. However, waters released from Tinemaha Reservoir to the Lower Owens River may carry a residual copper load from the Discharger's algaecide applications. There is also potential for residual copper from the upstream copper applications to be present at elevated levels in the sediments of the Lower Owens River, particularly organic sediments in the lower "wetted reach," that could be mobilized and entrained in the water column by the increased flow rates associated with the LORP. The Discharger, in implementing the LORP, will not add additional copper to the flow other than copper that may be naturally or otherwise present in the riverbed sediments. The recreated wetlands

associated with the LORP may sequester residual copper and other metals from Tinemaha Reservoir, as wetlands generally function in this way with regard to metals of various types. The Discharger has not proposed the use of copper-based algaecides associated with the LORP, but such use is not precluded (subject to applicable NPDES requirements as implemented in California). This Order includes water quality monitoring requirements for copper. Results of copper testing will be compared against receiving water objectives to determine whether beneficial uses may be adversely affected.

Waters diverted from the Lower Owens River to the Los Angeles Aqueduct via the LORP Pump Station will eventually reach Haiwee Reservoir. If this diverted water contains significant nutrients, it could also potentially affect water quality by increasing the concentrations of plant nutrients such as nitrogen and phosphorus in Haiwee Reservoir. These nutrients could further stimulate algae growth in Haiwee Reservoir that could affect the taste and odor of the water (with potential implications for increased applications of algaecide by the Discharger).

E. Other Plans, Polices and Regulations

Not Applicable

IV. RATIONALE FOR EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

The CWA requires point source dischargers to control the amount of conventional, non-conventional, and toxic pollutants that are discharged into the waters of the United States. The control of pollutants discharged is established through effluent limitations; and other requirements in NPDES permits. There are two principal bases for effluent limitations: 40 CFR §122.44(a) requires that permits include applicable technology-based limitations and standards; and 40 CFR §122.44(d) requires that permits include water quality-based effluent limitations to attain and maintain applicable numeric and narrative water quality criteria to protect the beneficial uses of the receiving water. Where numeric water quality objectives have not been established, three options exist to protect water quality: 1) 40 CFR §122.44(d) specifies that WQBELs may be established using USEPA criteria guidance under CWA section 304(a); 2) proposed State criteria or a State policy interpreting narrative criteria supplemented with other relevant information may be used; or 3) an indicator parameter may be established.

A. Discharge Prohibitions

<u>Basin Plan Prohibitions</u>

The Basin Plan contains the following waste discharge prohibitions that apply to all surface and ground waters in the Lahontan Region:

1. The discharge of waste that causes violation of any narrative water quality objective contained in the Basin Plan, including the Nondegradation Objective, is prohibited.

2. The discharge of waste that causes violation of any numeric water quality objective contained in the Basin Plan is prohibited.

3. Where any numeric or narrative water quality objective contained in the Basin Plan is already being violated, the discharge of waste that causes further degradation or pollution (as defined in CWC Section 13050) is prohibited.

Exemption Criteria for Restoration Projects

The Regional Water Board encourages restoration projects that are intended to reduce or mitigate existing sources of soil erosion, water pollution, or impairment of beneficial uses. For waste earthen materials discharged as a result of restoration projects, exemptions to the above prohibitions, and all other prohibitions contained in this Basin Plan, may be granted by the Regional Water Board whenever it finds that a specific project meets all of the following criteria:

1. The project will eliminate, reduce or mitigate existing sources of soil erosion, water pollution, and/or impairment of beneficial uses of water, and

2. There is no feasible alternative to the project that would comply with provisions of this Basin Plan, precluding the need for an exemption, and

3. Land disturbance will be limited to the absolute minimum necessary to correct or mitigate existing sources of soil erosion, water pollution, and/or impairment of beneficial uses of water, and

4. All applicable Best Management Practices (BMPs) and mitigation measures have been incorporated into the project to minimize soil erosion, surface runoff, and other potential adverse environmental impacts, and

5. The project complies with all applicable laws, regulations, plans, and policies.

The following paragraphs explain how the above criteria are met.

Criteria 1: The Discharger has demonstrated the LORP meets the criteria for a restoration project because beneficial uses will be enhanced and restored by reintroducing flow into 62 miles of the Lower Owens River. By restoring flow in the Lower Owens River below the River Intake, the project will restore the beneficial uses of the River which have been impaired due to the absence of flows in the dry reach and the minimal amount of flows in the wet reach. Under the LORP, a portion of the flow currently being diverted to the Los Angeles Aqueduct will be restored to the River by allowing flow through the River Intake structure. The project will establish a continuous baseflow of 40 cfs from the River Intake to upstream of the Delta. In addition, higher flows of up to 200 cfs will be released annually to facilitate the establishment of riparian trees. The project overall is expected to result in the conversion of over 900 acres of upland habitat to riparian/ wetland habitat. In addition, the LORP includes rangeland management actions that will complement and facilitate the habitat restoration by modifying grazing practices, especially in the riparian areas. Therefore, over time, the project will result in the restoration of designated beneficial uses.

Criteria 2: There are no feasible alternatives to the LORP identified that would not have the possibility of potentially significant water quality impacts. Therefore, no feasible alternative would comply with all provisions of the Basin Plan in the absence of an exemption. There is no reasonable alternative to the project that would achieve the restoration goals of the LORP that would preclude the need for an exemption.

Criteria 3: The proposed facilities would cover an area of up to approximately three acres. Land disturbance associated with the project will be limited to the absolute minimum necessary to correct the existing impairment of beneficial uses, i.e., riverine-riparian and wetland habitat restoration through water releases. Project-related land disturbances are associated with construction and modification of facilities for releasing, regulating or monitoring the flows necessary for habitat restoration. These facilities include: the River Intake; flow measuring stations; and spillgates, culverts, berms and ditches in the Blackrock area. Other project-related land disturbances include removal of in-channel sediments and

other obstructions to flow prior to flow releases, which is necessary to ensure a continuous baseflow in the River. The Pump Station and associated facilities are integral to the project. According to the Discharger, it would not be cost-effective to enter into the water commitments necessary to implement the project without the ability to recover some of the water. The proposed facilities are designed to have the smallest footprint possible while meeting operational and maintenance needs, and their locations have been selected to maximize the use of existing access roads and minimize the need for construction of new access roads to the extent feasible.

Criteria 4: The Discharger has provided an information package dated November 2004 that includes a conceptual BMP plan to avoid potential adverse impacts to water quality associated with the LORP. Under the terms of this Order, the Discharger must provide the project-specific BMP details in a Storm Water Pollution Prevention Plan at least 180 days prior to construction. (See Permit Section VI.C.2.) The information provided, together with compliance with this Order, demonstrates that all applicable BMPs and mitigation measures (see CEQA Attachment H) have been incorporated into the project to minimize soil erosion, surface runoff, and other potential adverse environmental impacts.

Criteria 5: The Discharger has committed to comply with all applicable laws, regulations plans and policies, and is in the process of obtaining additional permits and approvals required to implement the LORP.

The Regional Water Board finds that it is not against the public interest to grant a short-term exemption to waste discharge prohibitions applicable to the Lower Owens River due to implementation of the LORP, as described below.

1. The exemption shall not apply during the construction period prior to reintroducing water to establish base flow as described for the LORP. To do so would be inconsistent with statewide requirements for dischargers of construction storm water. There is no basis to lower water quality requirements during construction, as BMPs are required to maintain compliance with standards.

2. The exemption to the prohibitions is not granted for several specific constituents whose discharge is not authorized as a part of the LORP project. These constituents are: chlorine; oil and grease; and pesticides. Receiving water objectives must be met for these constituents.

3. The exemption is for a limited time. It is not appropriate to grant an exemption for an indefinite period because the Regional Water Board expects water quality standards to be met when the river system adapts to the changed flow regime. If necessary, the Discharger may request the Regional Water Board to renew the exemption based on monitoring information obtained during the LORP implementation. The exemption to Waste Discharge Prohibitions shall expire on **July 14, 2015** unless the Discharger requests an extension and the Regional Water Board renews the exemption.

4. The exemption is not applicable to the Los Angeles Aqueduct or Haiwee Reservoir, receiving waters for discharges from the Pump Station. Receiving water limitations in Haiwee Reservoir and its tributary, the Los Angeles Aqueduct, shall not be violated as a result of the granting of the exemption to waste discharge prohibitions for the LORP.

B. Technology-Based Effluent Limitations

It is not feasible to establish numerical effluent limitations for the LORP at this time. This project is not within a listed industry for which technology-based effluent limitations have been developed and promulgated. Instead, the provisions of this Order require

implementation of Best Management Practices (BMPs) and a Pollution Prevention Plan to control and abate the discharge of pollutants to surface waters and to achieve compliance with Best Available Technology Economically Achievable (BAT)/Best Conventional Pollutant Control Technology (BCT) requirements and with applicable water quality standards.

C. Water Quality-Based Effluent Limitations (WQBELs)

1. Scope and Authority

As specified in 40 CFR §122.44(d)(1)(i), permits are required to include WQBELs for pollutants (including toxicity) that are or may be discharged at levels that cause, have reasonable potential to cause, or contribute to an excursion above any state water quality standard. The process for determining reasonable potential and calculating WQBELs when necessary is intended to protect the designated uses for the receiving water as specified in the Basin Plan, and achieve applicable water quality objectives and criteria that are contained in other state plans and policies, or water quality criteria contained in the CTR and NTR.

It is not feasible to develop WQBELs at this time because there is not pre-project water quality data available for the discharges. There are not similar projects to draw upon for similar data. Water quality is expected to change and improve over time.

Additional information and water quality monitoring data will be obtained during the term of this Order, and used to assess whether water quality-based effluent limitations (WQBELs) may be needed. If necessary this permit may be re-opened and modified to include effluent limitations. The procedure for conducting a reasonable potential analysis and calculating WQBELs, if needed, is provided in the following section.

2. Applicable Beneficial Uses and Water Quality Criteria and Objectives

Section III.C. of this Fact Sheet identifies the beneficial uses contained in the Basin Plan that are applicable to surface waters that may be affected by the project. Narrative and numerical water quality objectives for the applicable surface waters are listed in Section V.

The LORP is a habitat restoration project that qualifies for an exemption from waste discharge prohibitions for the discharges authorized by this Order. It is expected that water quality standards may not be met in the early phases of the project due to rewatering channel reaches that have experienced little or no flow for a long period of time. The impacts to water quality are expected to be the worst-case in the initial phases of the project and attenuate over time as the new higher flow regime becomes established.

3. Determining the Need for WQBELs

In accordance with Section 1.3 of the SIP, the Regional Water Board will conduct a reasonable potential analysis (RPA) for each priority pollutant with an applicable criterion or objective to determine if a WQBEL is required in the Order. The Regional Water Board will analyze effluent and receiving water data to determine if a pollutant in a discharge has the reasonable potential to cause or contribute to an excursion above a state water quality standard. For all parameters that have the reasonable potential to cause or contribute to an excursion above a water quality standard, numeric WQBELs are required. The RPA considers water quality objectives outlined in the CTR, NTR, and Basin Plan. To conduct the RPA, the Regional Water Board will identify the maximum

observed effluent concentration (MEC) and maximum background concentration (B) in the receiving water for each constituent, based on data provided by the Discharger.

Section 1.3 of the SIP provides the procedures for determining reasonable potential to exceed applicable water quality criteria and objectives. The SIP specifies three triggers to complete a RPA:

1. Trigger 1 – If the MEC is greater than or equal to the CTR water quality criteria or applicable objective (C), a limit is needed.

2. Trigger 2 – If MEC<C and background water quality (B) > C, a limit is needed.

3. Trigger 3 – If other related information such as CWA 303(d) listing for a pollutant, discharge type, compliance history, etc. indicates that a WQBEL is required.

Sufficient effluent and ambient data are needed to conduct a complete RPA. The Discharger will be required to gather the appropriate data for the Regional Water Board to conduct the RPA. Upon review of the data, and if the Regional Water Board determines that WQBELs are needed to protect the beneficial uses, the permit will be reopened for appropriate modification.

4. **WQBEL Calculations**

Should the concentrations of non-priority pollutants in base flows and seasonal habitat flows not attenuate or stabilize at levels meeting all applicable water quality standards within the term of this Order (i.e., five years), this Order may need to be revised to include WQBELs for non-priority pollutants following similar calculations as described for priority pollutants. The five-year term of this Order should provide ample time for trends in water quality to become established or evident.

5. **Whole Effluent Toxicity (WET)**

Whole effluent toxicity (WET) monitoring may be required for any NPDES discharge, and for other discharges, as necessary. All test species, procedures, and quality assurance criteria used shall be in accordance with the methods prescribed for definitive testing in Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, Fourth Edition, USEPA, October 2002. (Reference: EPA-821-R-02-013.) Whole effluent toxicity (WET) testing shall be performed with an effluent sample obtained from the Pump Station outfall to the Los Angeles Aqueduct (R-004D). Dilution and control waters shall be obtained from an area in the receiving waters that is unaffected by the discharge (R-005U). WET monitoring shall be performed within 6 months of initiating the 40 cfs base flow in the Lower Owens River. If toxicity is identified in the sample, the WET test shall be repeated within 120 days. Data obtained from the WET monitoring will be used in conjunction with CTR testing data to determine whether toxicity is violating conditions of this Order, or indicates an effluent limitation should be developed for chronic toxicity. As required by this Order, if toxicity as a result of a waste discharge is identified as a problem with repeated testing, a toxicity reduction evaluation is required from the Discharger in accordance with toxicity control provisions of the SIP, Section 4.

D. **Final Effluent Limitations**

Not Applicable

E. Interim Effluent Limitations

Not Applicable

F. Land Discharge Specifications

Land discharge specifications are established to prevent dredge and excavation spoils from being discharged to surface waters.

G. Reclamation Specifications

Not Applicable

V. RATIONALE FOR RECEIVING WATER LIMITATIONS

A. Surface Water

The receiving water limitations specified in this Order are the water quality objectives applicable to all surface waters in the Lahontan Region (Basin Plan Page 3-3) and water quality objectives for Haiwee Reservoir (Basin Plan Page 3-47).

B. Groundwater

Receiving water limitations for ground water are those that are applicable to all ground waters in the Lahontan Region.

VI. RATIONALE FOR MONITORING AND REPORTING REQUIREMENTS

Section 122.48 of 40 CFR requires all NPDES permits to specify recording and reporting of monitoring results. Sections 13267 and 13383 of the California Water Code authorize the Water Boards to require technical and monitoring reports. The Monitoring and Reporting Program, Attachment E of this Order, establishes monitoring and reporting requirements to implement federal and state requirements. The following provides the rationale for the monitoring and reporting requirements contained in the Monitoring and Reporting Program for this facility.

A. Influent Monitoring

Influent is considered the background or ambient water quality for monitoring the effects of a particular action or waste discharge on water quality, and is required upstream of construction and stream diversion activities to establish ambient water quality conditions prior to the discharges.

B. Effluent Monitoring

Effluent monitoring is required for all specified discharges to determine the level of pollutants in the discharges. Because no numerical effluent limits are prescribed, this Order requires monitoring in the receiving waters to determine the effects of effluents on receiving water quality. This monitoring is necessary to conduct reasonable potential analyses for the presence of conventional, non-conventional, and toxic pollutants.

C. Whole Effluent Toxicity Testing Requirements

WET testing is required to determine whether discharges to surface waters comply with Basin Plan requirements for toxicity control and substantive requirements of the SIP, should toxicity be identified. If toxicity is identified in the sample, the WET test shall be repeated within 120 days to determine whether toxic conditions are persisting.

D. Receiving Water Monitoring

1. Surface Water

Monitoring of surface receiving waters is required to determine whether or not the discharges are in compliance with this Order and to determine whether or not the discharges pose a threat to water quality.

2. Groundwater

Groundwater monitoring is not required for this project because the discharges are not expected to pose a threat to ground water quality.

VII. RATIONALE FOR PROVISIONS

A. Standard Provisions

The Discharger shall comply with all Standard Provisions included in Attachment D of this Order. The Standard Provisions shall apply to all discharges and activities regulated under this Order, regardless of the basis for regulation, and shall not expire with expiration of the NPDES provisions of this Order. The Standard Provisions cover a number of codified administrative requirements applicable to all NPDES discharges as required by 40 CFR Section 122. The Regional Water Board is carrying forward these requirements, as applicable to all other non-NPDES discharges authorized under this Order, pursuant to state waste discharge requirements authorized by CWC Section 13263 and CWA Section 401.

B. Special Provisions

1. Reopener Provisions

NPDES Permit modification or revocation will be conducted according to 40 CFR §122.62, §122.63, §122.64 and §124.5. The State Water Resources Control Board is currently updating the statewide NPDES Permit for Discharges of Storm Water Associated with Construction Activity. The Regional Water Board may revise or modify this NPDES Permit for reasons including, but not limited to, ensuring consistency with changes made to the statewide permit or incorporation of the Discharger's SWPPP or amendments to the SWPPP. This provision is necessary to ensure that stormwater discharges associated with construction activity are at least as stringent as for other dischargers throughout the state. In addition, permit revisions may arise due to a variety of circumstances such as completion of a TMDL or water quality/ beneficial use study. The permit, if reopened, may be revised in whole or part after compliance with applicable public review requirements. The Regional Water Board may review and revise waste discharge requirements in accordance with California Water Code §13263, (e) and (f).

2. **Special Studies and Additional Monitoring Requirements**

The Discharger shall conduct whole effluent toxicity monitoring as described in Attachment E, Section V. If toxicity is identified in the sample, the WET test shall be repeated within 120 days. In accordance with the SIP, Section 4:

a. If toxicity as a result of a waste discharge is identified with repeated WET tests, the Discharger shall conduct a toxicity reduction evaluation as directed by the Regional Water Board Executive Officer. The toxicity determined by WET tests does not identify specific sources of toxicity. Additional testing for specific toxicants, or other methods of assessing toxicity, may be employed by the Discharger to determine the specific source(s) of toxicity in conducting toxicity reduction evaluation.

b. The Discharger shall take all reasonable steps to control toxicity once a source of toxicity is identified.

c. Failure to conduct a toxicity reduction evaluation within a designated period as directed by the Regional Water Board Executive Officer shall result in the establishment of effluent limitations for chronic toxicity in a permit or appropriate enforcement action.

These special provisions are necessary to comply with the SIP and to determine the toxic effects, if any, from reintroducing flow into the Lower Owens River and diverting that water to the Los Angeles Aqueduct. The WET test specifically identifies toxicity effects on aquatic organisms. This information may be used in conjunction with CTR reasonable potential analysis to determine the sources of toxicity, if toxicity is present. The WET and CTR test results will provide information on the toxicity effects on waters as a result of LORP implementation.

3. **Best Management Practices and Pollution Prevention**

a. The Discharger is required to develop an acceptable Storm Water Pollution Prevention Plan (SWPPP) that identifies all project-specific BMPs necessary to meet the requirements of BAT/BCT. The SWPPP is needed to control pollutant discharges. Project schedules of activities, prohibitions of practices, maintenance procedures, and other management practices are needed to prevent or reduce the pollution of the waters of the U.S. and the State. BMPs are required to control site runoff, spillage or leaks, waste disposal, or drainage from raw material storage. SWPPP requirements in this Order are consistent with statewide requirements for dischargers of storm water, and other authorized non-storm water waste discharge requirements.

b. The Discharger shall submit the SWPPP to the Regional Water Board at least 180 days prior to construction activity so that the Regional Board may consider incorporating the SWPPP into this Order at a public meeting. This requirement is necessary because details of the SWPPP must undergo public and agency review because the conceptual plan provided by the Discharger is not adequate to ensure that all applicable requirements to meet BAT/BCT through the implementation of BMPs will be met.

c. The Discharger shall retain a copy of the SWPPP at the construction site. If the site is inspected by a Regional Water Board, SWRCB, U.S. EPA, or municipal storm water management agency inspector, the Discharger shall provide the SWPPP immediately for review if requested. Upon written request by a representative of the Regional Water Board, SWRCB, U.S. EPA, or municipal storm water management agency, the Discharger shall provide a copy of the SWPPP within five working days

from the date a request is received. This fulfills requirements to ensure the SWPPP is a public document, as required by federal regulations, and ensures the SWPPP will be available to guide construction site personnel.

d. The Regional Water Board Executive Officer may provide information to the Discharger on the development and implementation of SWPPPs and monitoring programs and may require revisions to SWPPPs and monitoring programs. This requirement is consistent with statewide provisions for NPDES construction storm water discharges.

e. The Discharger shall comply with construction site inspection and other monitoring program and reporting requirements in Attachment M. These requirements are consistent with statewide provisions for NPDES construction storm water discharges.

4. **Compliance Schedules**

Not Applicable

5. **Construction, Operation, and Maintenance Specifications**

a. Active construction sites and maintenance dredging sites shall be isolated from flowing waters by physical barriers such as sand bag dikes, silt fences, or other effective controls to prevent uncontrolled discharge to surface waters. This provision is needed to ensure that discharges of pollutants from dredging and excavation in waters are prevented and/or minimized.

b. The Discharger shall notify Regional Water Board staff in writing **15 days prior to initiating base flow and any subsequent habitat flow**, including the initial winter habitat flow and Alabama Release. This provision is needed so that Regional Water Board staff will have the opportunity to inspect the LORP implementation and determine the status of compliance with the terms of this Order.

6. **Special Provisions for Construction Activity**

Federal regulations for controlling pollutants in storm water runoff discharges were promulgated by the U.S. Environmental Protection Agency on November 16, 1990 (40 CFR Parts 122, 123, 124). The regulations require dischargers of storm water to surface waters associated with construction activity, including clearing, grading, and excavation activities, to obtain an NPDES permit and to implement Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce or eliminate storm water pollution. This Order includes NPDES requirements for storm water that are consistent with statewide requirements. The special provisions for construction activity contained in this Order are based on similar conditions included in the statewide construction storm water permit (SWRCB Order No. 99-08-DWQ).

7. **Water Quality Certification Conditions and Enforcement Provisions**

The water quality certification is predicated on compliance with all applicable water quality standards, compliance with the CWA and other state requirements, such that the waters will be protected for beneficial uses (i.e., pollution or nuisance will not occur). The provisions for compliance with WQC are required pursuant to federal CWA Section 401 and state regulatory requirements.

The standard conditions required for the LORP are identical to those required for all CWA Section 401 WQCs granted on a statewide basis. The rationale for additional conditions for the LORP WQC are justified below:

a. Heavy equipment shall be steam cleaned before starting work in waters of the U.S and routinely monitored for equipment leaks. If leaks from equipment can not be readily controlled, that equipment must be removed from service until repaired to prevent threatened or actual discharges of wastes that could adversely affect water quality. This condition is required to prevent and minimize potential water quality impacts due to equipment leaks.

b. An emergency spill kit shall be maintained at the project site at all times. This condition is required to prevent and minimize potential water quality impacts due to equipment leaks and other unanticipated releases of solid or liquid pollutants.

c. Regional Water Board staff shall be notified 48 hours prior to commencement of ground disturbance. This condition is necessary to inform Regional Water Board staff that project construction is imminent and provide an opportunity for inspections to assess compliance with this Order.

d. The Discharger shall implement a partial flushing flow from the Alabama spillgates to augment the first winter habitat flow. The Alabama spillgate flow release shall provide and maintain a flow of 200 cfs in the Lower Owens River for at least four days to increase the flushing effects of the winter habitat release by increasing the mass of water released. This condition is necessary to partially flush the organic sediments that have built up for decades in the lower reaches and the sediments that will likely be mobilized and/or deposited in the lower reaches as a result of the channel clearing in the upper reaches and the first winter habitat flow. The Alabama Release will partially flush the river channel and harden the channel for future habitat flows that will be less than or equal to 200 cfs.

e. The Discharger shall demonstrate that "no net loss" of wetland functions and values has occurred following LORP implementation. The Discharger is required as a condition of this WQC to delineate wetlands and provide a delineation and assessment of functions and values in year seven following re-watering discharge 004, and shall repeat this delineation/assessment at five-year intervals thereafter if "no net loss" requirements of this Order are not demonstrably met. If any assessment shows the "no net loss" requirements are met, subsequent assessments are not required. If losses occur to functions and values, the Discharger shall provide a corrective action plan and/or compensatory mitigation plan for acceptance by the Executive Officer, and implement the plan(s) under the terms of this WQC Order. This condition is necessary to ensure that the Regional Water Board policy for "no net loss" has been achieved.

f. The prohibition exemption granted in Permit Section III.B. for the Lower Owens River shall remain valid on the condition that the Discharger at all times strictly adheres to Basin Plan criteria necessary to grant an exemption (as discussed in the Fact Sheet, Section IV.A.), as determined by the Regional Water Board. The rationale for the exemption is explained above in Fact Sheet Section IV.A.

g. The LORP qualifies as a restoration project for purposes of water quality certification fees, in accordance with regulations in CCR 23 §2200, which requires a nominal fee of $500. The Discharger submitted this amount with the application for certification.

8. **Prohibition Exemption and California Environmental Quality Act Requirements**

   a. Regional Water Board CEQA compliance and the basis for requiring the Alabama Release are discussed in detail in Attachment H.

   b. The Regional Board has determined that if the Discharger fails to comply with the CEQA mitigation measure identified as the Alabama Release, then the conditions necessary for granting a prohibition exemption will not have been met, and the exemption is therefore rescinded (revoked).

   c. Similar to 8.b., above, all conditions necessary to grant an exemption must be met on an ongoing basis, or the Regional Water Board may take discretionary action to rescind the prohibition exemption. Otherwise, the prohibition exemption will expire on June 14, 2015, for the reasons stated in Fact Sheet Section IV.A.3.

VIII. PUBLIC PARTICIPATION

The California Regional Water Quality Control Board, Lahontan Region (Regional Water Board) is considering the issuance of waste discharge requirements (WDRs) that will serve, in part, as a National Pollutant Discharge Elimination System (NPDES) permit for the LORP. As a step in the WDR adoption process, the Regional Water Board staff has developed tentative WDRs. The Regional Water Board encourages public participation in the WDR adoption process.

A. Notification of Interested Parties

The Regional Water Board has notified the Discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for the discharge and has provided them with an opportunity to submit their written comments and recommendations. Notification of the public hearing and intent to adopt the proposed Order will be provided to the public through the following:

- Newspaper announcements
- Regional Water Board website announcement
- Direct mail to interested parties

B. Written Comments

Written comments were received from the Discharger, the USEPA, and other interested persons. A written response to written comments received was provided in advance of the public hearing.

C. Public Hearing

The Regional Water Board will hold a public hearing on the proposed WDRs during its regular Board meeting on the following date and time and at the following location:

Date:	**July 14, 2005**
Time:	**8:30 a.m.**
Location:	**City Council Chambers** **377 West Line Street** **Bishop, California**

Interested persons are invited to attend. At the public hearing, the Regional Water Board will hear testimony, if any, pertinent to the discharge, WDRs, and the proposed Order. Oral testimony will be heard; however, for accuracy of the record, important testimony should be in writing.

The Discharger must submit a SWPPP 180 days prior to initiating construction activity, for the Regional Water Board to consideration incorporating the SWPPP into the Order at a public meeting. Adequate public notice for the meeting at which the SWPPP will be considered will be provided at a later date.

Please be aware that dates and venues may change. Our web address is http://www.waterboards.ca.gov where you can access the current agenda for changes in dates and locations.

D. **Waste Discharge Requirements Petitions**

Any aggrieved person may petition the State Water Resources Control Board to review the decision of the Regional Water Board regarding the final WDRs. The petition must be submitted within 30 days of the Regional Water Board's action to the following address:

State Water Resources Control Board
Office of Chief Counsel
P.O. Box 100, 1001 I Street
Sacramento, CA 95812-0100

E. **Information and Copying**

The Report of Waste Discharge (RWD), related documents, comments received, and other information are on file and may be inspected at the address above at any time between 8:30 a.m. and 4:45 p.m., Monday through Friday. Copying of documents may be arranged through the Regional Water Board by calling (530) 542-5400.

F. **Register of Interested Persons**

Any person interested in being placed on the mailing list for information regarding the WDRs and NPDES permit should contact the Regional Water Board, reference this facility, and provide a name, address, and phone number.

G. **Additional Information**

Requests for additional information or questions regarding this Order should be directed to Alan Miller, Senior Water Resource Control Engineer, at (530) 542-5430, or the Regional Water Board office at (530) 542-5400.