

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

**MEETING OF JULY 8-9, 2015
SOUTH LAKE TAHOE, CA**

ITEM: 7

SUBJECT: PROGRESS REPORT – CONSIDERATION OF POTENTIAL CHANGES TO A SETTLEMENT AGREEMENT IN THE MATTER OF AN ADMINISTRATIVE CIVIL LIABILITY AGAINST LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) FOR ALLEGED VIOLATIONS AT LEE VINING CREEK DIVERSION STRUCTURE, MONO COUNTY

CHRONOLOGY: August 2014 LADWP began staging to clear accumulated sediment from, and repair portions of, its sediment bypass system for its diversion structure on Lee Vining Creek.

August 29, 2014 Water Board staff informed LADWP the work on its diversion structure required a Clean Water Act section 401 water quality certification.

September 10, 2014 Water Board staff requested LADWP to submit an application for a 401 water quality certification.

September 17, 2014 LADWP informed the Water Board of its intent to monitor water quality and submitted a list of BMPs it would implement to protect water quality.

September 18, 2014 Water Board staff inspected the project site and witnessed LADWP personnel placing rock rip-rap below the high water mark of Lee Vining Creek and measured an increase in turbidity downstream from the project.

September 25, 2014 Water Board staff sent a Notice of Violation to LADWP detailing the activities listed above.

November 7, 2014 LADWP submitted a 401 water quality certification application following project completion.

April 24-May 26 2015 Water Board staff and LADWP reached a settlement in April for payment of a penalty in the amount of \$95,000 to the State Board's Cleanup and Abatement Account and circulated the settlement agreement for public comment. No comments were received.

June 11, 2015 Water Board rejected the settlement and requested the parties attempt to identify a supplemental environmental project. The Water Board also requested a progress report in July 2015.

DISCUSSION: Water Board staff discussed potential supplemental environmental projects with LADWP on June 19, 2015. LADWP is proposing to fund up to \$52,000 for watershed restoration projects located on the Inyo National Forest. Inyo National Forest has outlined four projects that require additional funding and can be completed by fall 2016. These projects are described in Enclosure 1. All of them will protect or improve water quality by preventing erosion and/or restoring wetland or riparian habitat. The Inyo National Forest will be project lead and be responsible for project construction and completion.

Water Board Prosecution Team supports these projects as appropriate Supplemental Environmental Projects (SEP) within the State and Lahontan Water Boards' SEP policies and resolutions.

Water Board Prosecution Team and LADWP will develop a revised settlement agreement to include completion of the SEP described in Enclosure 1. This draft revised agreement will be presented at the July Board Meeting. Once Water Board members provide concurrence, the parties will sign the agreement.

State Water Board's SEP Policy requires that no more than 50 percent of the total adjusted monetary assessment be spent on a SEP. The current list of SEP projects in Enclosure 1 totals \$52,000, which is more than 50percent of the total amount of \$95,000. However, the Policy does state,

If a Regional Water Board proposes an order containing a SEP that exceeds 50 percent of the total adjusted monetary assessment, that Regional Water Board shall affirmatively notify the Director of the Office of Enforcement of the State Water Board of that proposal. The notification shall describe in detail the proposed SEP, the settlement value of the SEP, the reasons why the Regional Water Board proposes to accept the SEP in lieu of a monetary liability payment, and the exceptional circumstances that justify exceeding the

recommended percentage limit. If the Director of the Office of Enforcement of the State Water Board determines that there is no compelling justification, he or she shall notify the Regional Water Board of that determination and the Regional Water Board will be limited to the 50 percent limit.

Water Board Prosecution Team will be requesting approval from the Director of Office of Enforcement ahead of the July Board meeting and will report on any direction or decision from the Director. At the meeting, the Board may be asked to prioritize the projects in Enclosure 1 to fund no more than \$47,500 in SEP projects.

RECOMMENDATION:

The Lahontan Water Board Advisory Team will make a recommendation on the proposed revised Settlement Agreement and Stipulated Order at the meeting.

Enclosure	Item	Bates Number
1	Potential SEP Projects – Inyo National Forest	7-7

ENCLOSURE 1

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June 15, 2015

Potential projects – Todd Ellsworth, Watershed Program Manager, Soil Scientist, Inyo National Forest

1. *Witcher Creek Gabion stabilization*

- a. Witcher Creek burned in the Round Fire. Old gabion structures were discovered east of road 04S54 in Witcher Creek. The gabions are in need of maintenance and in some cases enhancement. The Forest plans on evaluating the needs in the very near future and completing the necessary environmental documentation based on the inventory and needs.

Based on our preliminary assessment this project could cost up to \$30,000. We would anticipate implementing this project fall of 2015 and/or summer 2016. Partnerships include American Conservation Experience (ACE).

2. *Seed Collection and planting*

- a. We would contract seed collection of various species that occur in the fire area. The nursery at White Mountain Research station would grow the seedlings for planting next spring. The nursery has a limited number of plants that we can plant this fall (likely too late now). Planting would occur in areas vulnerable to Off-Highway Vehicle (OHV) traffic, areas to limit cheat grass or other invasive plants and areas of critical deer winter range (bitterbrush).

This project could cost up to \$7,000. We would anticipate the use of volunteers to accomplish some of the planting. The Eastern Sierra Land Trust is interested in partnering with the Forest to re-establish critical native vegetation in the fire area. We would implement this project fall of 2015 and potentially spring 2016.

3. *Mammoth Creek Parking area*

Background:

The road (04S102B) is located east of old Highway 395 adjacent to Mammoth Creek. This area is highly popular for local residences to park and recreate around Mammoth Creek. It has expanded to the point of impacting Mammoth Creek and associated riparian vegetation. 04S102B was designated as a route in the 2009 Travel Management Environmental Impact Statement (EIS), subsequently the need for restoration action in the expanded areas of the route was identified in the Upper Owens/Bishop Creek Unauthorized Route Restoration Categorical Exclusion (CE) in 2014.

This project will reduce sedimentation into Mammoth Creek (and Hot Creek), and increase the riparian vegetation along the Creek.

This project is in partnership with Caltrout, Federal Highways, and others. This project would cost \$8,000 (Partnership funds will be used for the remainder of the cost).

The Forest developed the following actions and treatments to address the needs:

1. Narrow and define parking area

- Subsoil compacted areas to allow for infiltration and reduce runoff into Mammoth Creek. Place boulders to narrow the footprint of the parking area allowing for adequate parking. Once completed, mulch bare soil area with local materials (duff, slash, branches, brush and rock) to protect soil from erosion and retain soil moisture to aid in vegetative recovery.
- Place restoration signs to inform public about the project and prevent trespass.

2. Stabilize stream banks:

- Place large boulders defining the parking areas to prevent vehicle traffic from entering the channel.
- Transplant willow cuttings from nearby plants within wetted soil perimeter of the creek. Re-vegetation of the bank with willow or other local riparian species will aid with stabilization and restoration.



Caption:
Area proposed for narrowing and subsoiling. Access to the gauging station will remain.



Caption:
Project area looking east. Mammoth Creek is in the right hand part of the picture.



Caption:
Project area looking west.



Caption:
Project area looking from old Hwy. 395 to the North East. Willow plantings in bare areas along Mammoth Creek

**4. Mammoth Creek Road Re-Route and Stream Stabilization Project
Project Proposal**

Background and Existing Condition:

Mammoth Creek Road (Road #03S09) is located along Mammoth Creek between Highway 395 to the north east and Old Mammoth Road in the Town of Mammoth Lakes to the southwest. A section of the road near the Murphy Gulch / Mammoth Creek confluence has been damaged due to Mammoth Creek being diverted onto the road, channeling the majority of stream flow onto the road for approximately 150 feet. The affected road section is now the main stream channel and carries the bulk of the flow in Mammoth Creek. Travel by motorized vehicles on this section is hazardous when peak flows occur, and during base flows the channel is impacted when vehicles travel up or down the channel. Over time, stream flows have eroded the steep bank on the north end where the road leaves the channel and the stream makes an abrupt turn to the east. A gate was placed by the Forest Service on the northern entry to keep motorists from attempting to drive on the flooded road section.

Since the gate was installed, vehicle users have created an unauthorized trail by-pass (about 350 feet long) around the flooded road section and gate into riparian vegetation and across Murphy Gulch (see attached map). Murphy Gulch is usually a dry channel except in years of heavy snow runoff or from large rain events. Riparian vegetation and soil erosion impacts have occurred as a result of the unauthorized route. On the southern entry to the creek, about 2,000 square feet of riparian vegetation consisting of willow and wild rose has been removed as a result of vehicle impacts. Further, the stream continues to erode the bank along the road bed because it makes a sharp bend onto the road and there is high shear stress on the bank. Stream bank erosion and riparian vegetation impacts have increased over the years and the site is in a downward trend in terms of stability.

This project is in partnership with Caltrout, Federal Highways and others. Cost of this project would be \$7,000 (Partnership funds will be used for the remainder of project costs).

Proposed Treatments (see attached map):

The Forest developed the following actions and treatments to address the needs:

3. Create a re-route of Mammoth Creek road:
 - a) Utilize the footprint of the existing unauthorized route as much as possible to minimize impacts to existing soil and riparian vegetation.
 - b) The route will be moved upslope (10 – 20 feet) out of riparian vegetation where possible and practical into adjacent uplands in dry and drained soils.
 - c) No soil excavation will occur for any restoration activity or creation of the re-route. (Total disturbance updated to 0.5 acre on October 27, 2014 after additional field determination.) Soil disturbance would be in the form of vegetation removal only.
 - d) Where the route crosses the Murphy Gulch drainage, incorporate road design features such as a swale or rolling dips to minimize runoff onto the road and direct flow into the existing gulch.
 - e) Approximately 500 square feet of upland vegetation would be removed to locate the road re-route footprint. Removed upland vegetation will be used a mulch for restoration areas.
 - f) A base of geotextile fabric covered with gravel and soil material would be placed over existing soil (cap) to form a road base to protect sensitive soil and to provide drainage. The road base material would be brought from a nearby source (Airport Pit materials). Imported gravel is estimated to be 50-75 cubic yards. The gravel will be brought to the site with trucks and the material would be spread by a front end loader and backhoe.
 - g) Sections of the unauthorized route not utilized for the re-route are to be mulched with native materials to discourage trespass and to aid with vegetative recovery.
 - h) The length of the re-route is approximately 350 feet. After re-route construction, place a line of large boulders along the downstream edge of the route to prevent trespass into the bare soil area along the southern entry to the creek (old road route).
 - i) Once completed, mulch bare soil area with local materials (duff, slash, branches, brush and rock) to protect soil from erosion and retain soil moisture to aid in vegetative recovery.
 - j) Place restoration signs to inform public about the project and prevent trespass.
4. Remove Forest Service gate.
5. Stabilize eroded stream banks:
 - Install boulder rip rap and geo-textile cloth on eroded stream banks on the north end of the channel. Large rip-rap (up to 3 foot diameter) would be placed to reduce the sharp angle at the channel turn from its current 90 degree angle to a more gradual 20-30 degrees to reduce soil erosion and direct flow downstream instead of straight into the streambank. An estimated amount of 20-30 cubic yards of large boulder fill would be placed by a large backhoe, on top of geotextile cloth.
 - Place large boulders on the road to prevent vehicle traffic from entering the channel.
 - Transplant willow cuttings from nearby plants within wetted soil perimeter of the creek. Re-vegetation of the bank around the riprap with willow or other local riparian species will aid with stabilization and restoration.



Caption:
Mammoth Creek Road intercepted by Mammoth Creek. Looking west



Caption:
Project area looking southeast. We propose to riprap the bend, remove the gate and plant willow and other appropriate riparian species.



Caption:
Close-up of the bend where riprap and willow planting are proposed.



Caption:
Overview of project area looking west. Note: reroute is in the right section of the photo.