

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

**MEETING OF JUNE 19 & 20, 2013  
LEE VINING**

**ITEM:** 5

**SUBJECT: REVOCATION OF WASTE DISCHARGE REQUIREMENTS  
AND NATIONAL POLLUTANT DISCHARGE ELIMINATION  
SYSTEM PERMIT FOR CITY OF LOS ANGELES  
DEPARTMENT OF WATER AND POWER FOR LOWER  
OWENS RIVER PROJECT, INYO COUNTY**

**CHRONOLOGY:** July 14, 2005 The Water Board adopted Waste Discharge Requirements and National Pollution Discharge Elimination System (NPDES) permit for the project.

November 9, 2005 The Water Board amended the NPDES permit and required the Storm Water Pollution Prevention Plan for the project be implemented.

January 14, 2009 The Water Board terminated a portion of the NPDES permit that dealt with storm water discharges associated with construction activities.

**ISSUES:**

1. Should the Water Board revoke the Waste Discharge Requirements and NPDES permit for the Lower Owens River Project?
2. Should the Water Board direct the Executive Officer to issue an Investigative Order to require the City of Los Angeles Department of Water and Power (Discharger) to report on wetland monitoring?

**DISCUSSION:** The Discharger was required (by settling litigation not involving the Water Board) to restore flow to the Lower Owens River. The restoration project for the Lower Owens River involved work in the Owens River and other discharges subject to the NPDES system. The adopted Order covered storm water discharges associated with construction activities, the pumping of water into the Los Angeles Aqueduct (LAA) from the Lower Owens River Project (Project), and water quality certification for discharges into waters of the U.S. associated with dredge and fill to construct the project.

The storm water portion of the permit has been terminated previously. The pumping of water from the Project to the LAA is a water transfer; in 2008 the NPDES regulation changed and defined that the transfer of water between water bodies should not be regulated by an NPDES permit, provided the pumping of the water does not add pollutants to the water being transferred.

The water quality certification required additional reports to be submitted to quantify and identify the wetlands gained. The proposed Order directs the Executive Officer to issue to the Discharger an Investigative Order to provide that information on the dates previously required.

A tentative Order was sent to the mailing list of interested persons, soliciting comments. A public notice was placed in the Inyo Register on May 14, 2013, and on the Water Board's internet web page. The Water Board received one comment, from the Discharger, in support of the Order, enclosed.

**RECOMMENDATION:** Adopt the Order as proposed.

<b>ENCLOSURE</b>	<b>Item</b>	<b>Bates Number</b>
<b>1</b>	Proposed Order	<b>5-5</b>
<b>2</b>	Discharger comment letter, dated April 29, 2013	<b>5-11</b>

# **ENCLOSURE 1**

This page is intentionally left blank.

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

**BOARD ORDER NO. R6V-2013-(PROPOSED)  
NPDES NO. CA0103225  
WDID NO. 6B140407009**

**REVOCATION OF WASTE DISCHARGE REQUIREMENTS AND  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR  
CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER FOR  
LOWER OWENS RIVER PROJECT**

**(INYO COUNTY)**

---

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

1. Discharger

The Los Angeles Department of Water and Power (LADWP) constructed and operates the Lower Owens River Project (Project), a large-scale habitat restoration project. For the purposes of this Water Board Order (Order), the LADWP is the Discharger.

2. Description and Location

The Lower Owens River has been subject to reduced flows since 1913 when LADWP began diverting flow into the Los Angeles Aqueduct (LAA). The Project is located in the last 62 miles of the Owens River, above Owens Lake, in Inyo County. The purpose of the Project was to reestablish perennial flows to the Lower Owens River as mitigation for ground water pumping into the LAA. The Project includes a pumping station to recover the majority of the river flow before it reaches Owens Lake.

In 2011, approximately 37,779 acre feet flowed through the Project. Of this flow, LADWP recovered approximately 27,862 acre feet back into the LAA and approximately 9917 acre feet either infiltrated into the ground or flowed to Owens Lake and the LADWP's Owens Lake Dust Mitigation Project. The Project consisted of actions to restore and enhance the riparian system and enhance the habitat areas.

3. National Pollutant Discharge Elimination System and Waste Discharge Requirements

On July 14, 2005, the Water Board adopted National Pollutant Discharge Elimination System (NPDES) Permit No. CA0103225 and Waste Discharge Requirements (WDRs), Board Order No. R6V-2005-0020 (Board Order) pursuant to the California Water Code, Division 7 and the Clean Water Act, Section 402.

The Board Order was written as a master permit/order that was used to regulate the following activities: 1) water quality certification (WQC) under Clean Water Act Section 401 to authorize LADWP to discharge dredged or fill materials in waters of the United States (WOUS), 2) discharges of storm water from construction activities and 3) to monitor the quality of the water in the river following the construction and flow being re-introduced, and prevent pollution of other surface and ground waters by use of the pump-back system.

On November 9, 2005, the Water Board Order adopted an amendment to the Order; Board Order No. R6V-2005-0020A1 acknowledges the Storm Water Pollution Prevention Plan was submitted to comply with the Storm Water Construction requirements and required that specific plan to be implemented.

On January 14, 2009, the Water Board adopted a second amendment to the Board Order (Amended Order No. R6V-2005-0020-A2), to reflect completion of the Project construction activities and terminate the portion of the permit applicable to construction storm water.

The Board Order has been administratively continued because LADWP submitted an application for renewal of the NPDES permit Form 1 and report of waste discharge prior to the current NPDES permit expiring. The Order is in effect currently for water discharges from the Project pump station and includes WQC requirements.

4. Reason for Action

Since the Board Order was adopted, the NPDES regulations have changed to clarify that federal water transfer permits are only required in certain conditions. NPDES regulations for water transfer were promulgated in 2008. Code of Federal Regulations, title 40, section 122.3, paragraph (i) states the following.

“Discharges from a water transfer. Water transfer means an activity that conveys or connects WOUS without subjecting the transferred water to intervening Industrial, Municipal, or Commercial use. This exclusion does not apply to pollutants introduced by the water transfer activity to the water being transferred.”

LADWP does not subject the pumped water from the Lower Owens River to any intervening municipal, industrial or commercial use, and the water transfer does not introduce pollutants to the water being transferred. Thus, the use of an NPDES permit is currently not applicable. Therefore, the revocation of the NPDES permit is appropriate.

5. Water Quality

The water transfer is potentially subject to regulation under WDRs. However based on the data obtained, the Water Board has no compelling interest at this time in regulating pump-back activities that pose no significant threat to water quality.

Since the Project began, LADWP has monitored water quality in the LAA above and below the point where the Project discharges water from the lower Owens River into the LAA. Water quality below the pump-back discharge has continued to improve and now is essentially the same as above the discharge. The LAA below the discharge met all water quality objectives in 2012.

6. Outstanding Water Quality Certification Requirements

Board Order No R6V-2005-0020 is also a WQC Order and requires one or more reports on Wetland Functions and Values. Pursuant to the Order's Attachment E-Monitoring and Reporting Program, section IX.B.1, each report is to include an updated hydrogeomorphic analysis of wetland functions and values suitable for comparison with the pre-project hydrogeomorphic analysis, to include the evaluation of "no net loss" of wetland functions and values. The Report is due on April 1, 2014, and will continue to be required pursuant to an Investigative Order to be issued by the Executive Officer as reasonably needed to verify compliance with "no net loss" requirements for wetlands, and to quantify gains in wetlands and identify their locations.

7. Authority

Pursuant to Code of Federal Regulations, title 40, chapter 1, subtitle D and section 13370 of the Water Code, the U.S. Environmental Protection Agency (U.S. EPA) has approved the state's program to issue NPDES permits. The Water Board is the implementing agency and is authorized to revoke the NPDES permit. (40 CFR 122.62(b)(1).)

The revocation of the Board Order will not limit the Water Boards ability to regulate the Project with respect to water quality. If water quality issues are later identified, the Water Board retains the ability to adopt and impose WDRs on the LADWP; however, federal regulation cannot be used. The Water Board finds that the Project operation poses no significant threat to water quality.

8. Public Notification

The Water Board has notified the discharger and interested parties of its intent to rescind Board Order No. R6V-2005-0020, and amendments R6V-2005-0020A1, R6V-2005-0020-A2 and revoke its NPDES permit No. CA0103255. Comments have been solicited from the Discharger, all interested agencies and parties. No adverse comments were received. Public notice was published on the Regional Board's web site on May 14, 2013, and a public notice was placed in *The Inyo Register* newspaper on May 14, 2013.

9. California Environmental Quality Act

The revocation of this permit is categorically exempt from the California Environmental Quality Act pursuant to the California Code of Regulations, title 14, sections 15301 - Existing Facilities, and 15321(a)(2) - Enforcement Actions by Regulatory Agencies.

**IT IS HEREBY ORDERED** that:

- A) NPDES permit CA0103225 is revoked and Order No. R6V-2005-0020 and amendments R6V-2005-0020A1 and R6V-2005-0020-A2 are rescinded, except for enforcement purposes.
- B) The Executive Officer shall issue an Investigative Order requiring that the Discharger must provide, pursuant to Water Code section 13267, the following technical reports, commencing by **April 1, 2014**:

An updated hydrogeomorphic analysis of wetland functions and values suitable for comparison with the pre-project hydrogeomorphic analysis of the Project, and a determination of whether "no net loss" requirements of the Section 401 certification order No. R6T-2005-0020 have been achieved with regard to wetland function and values. An updated analysis shall be provided by April 1, 2019 and April 1, 2024, unless the Executive Officer determines that "no net loss" requirements have been fulfilled based on information provided by the Discharger in the 2014 report or subsequent reports of analyses.

I, PATTY Z. KOUYOUMDJIAN, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on June 19, 2013.

---

PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER

## **ENCLOSURE 2**

This page is intentionally left blank.



ANTONIO R. VILLARAIGOSA  
*Mayor*

Commission  
THOMAS S. SAYLES, *President*  
ERIC HOLLOMAN, *Vice President*  
RICHARD F. MOSS  
CHRISTINA E. NOONAN  
JONATHAN PARFREY  
BARBARA E. MOSCHOS, *Secretary*

RONALD O. NICHOLS  
*General Manager*

April 29, 2013

Ms. Patty Kouyoumdjian  
California Regional Water Quality Control Board  
Lahontan Region  
2501 Lake Tahoe Boulevard  
South Lake Tahoe, California 96150

Attention: Ms. Tobi Tyler and Mr. Robert Tucker

Dear Ms. Kouyoumdjian:

Subject: Comment Letter - Revocation of the National Pollutant Discharge Elimination System (NPDES) Permit for Lower Owens River Project (LORP), Waste Discharger ID (WDID) No. 6B140407009

The Los Angeles Department of Water and Power (LADWP) thanks the staff of the California Regional Water Quality Control Board, Lahontan Region (CRWQCB) for the effort to revoke the LORP NPDES Permit.

As indicated by the annual and monthly reports, the water quality of LORP has returned to natural conditions since the flow was increased to a minimum of 40 cubic feet per second starting in December of 2006, and there have been no adverse anthropogenic effects. LADWP is currently in the process of evaluating and reporting the "no net loss" of wetlands in the LORP area; this will soon be submitted to staff. LADWP thus agrees with CRWQCB and supports the revocation of the LORP NPDES Permit.

If there are any questions, please give Mr. Clayton Yoshida of the Wastewater Quality and Compliance Group a call at (213) 367-4651.

Sincerely,

Katherine Rubin  
Manager of Wastewater Quality and Compliance

CY:ki

c: Ms. Tobi Tyler - CRWQCB  
Mr. Robert Tucker - CRWQCB  
Mr. Clayton Yoshida

Water and Power Conservation ... a way of life

