Mr. Greg Brown
California State Water Board
gbrown@waterboards.ca.gov

Ms. Victoria Whitney, Chief
Division of Water Rights
State Water Resources Control Board
vwhitney@waterboards.ca.gov

Reference: Rush & Lee Vining Creeks-Instream Flow Study-released August 2009, comment period ending September 18, 2009.

Mr. Brown and Ms. Victoria Whitney,

We, the Mammoth Fly Rodders respond to this study as an early day litigant in the court battles to save a reborn Rush Creek beginning in the fall of 1984.

Our chief concerns of the report are, after twenty-five years of litigation and court ordered decisions, why hasn't the Rush Creek trophy trout fishery which existed in 1941, described in court proceedings as brown trout averaging 14 inches in length, and reaching weights three-quarters to two pounds with larger individuals not uncommon…recovered?

The California Appellate Court decision, SWRCB 1631, amended in 98-05, was specific in ordering the LADWP to restore that fishery.

In review of the report we found the following:

Though the report(s) were heavily footnoted with 144 documents and scientific references from dozens of fisheries scientists, we found the findings to be scientifically incomplete, and shockingly

lean in supportive substance considering the Los Angeles Department of Water & Power invested more than ten years of effort and a fortune in funding.

Much of the comparative reference material on brown trout behavior is from studies in Sweden, Norway, Scotland, and the Iberian Peninsula. A few (USA) domestic fisheries are referenced but none with the characteristics of Rush Creek.

The most glaring omission is no reference was made of the magnificent existing brown trout fishery in Rush Creek above Grant lake reservoir to Silver lake...a fishery the California Department of Fish & Game wild trout electro-fishing unit discovered in the 1980's held hundreds of brown trout exceeding 14 to 25 inches with individuals over 30 inches, a three mile stream section in almost the same condition as it was in 1941, complete with sunken logs and over hanging cover, riffles and spawning gravels, and most importantly, deep pools with slow moving water mandatory for large trout survival.

In addition there are dozens of brown trout fisheries in Idaho, Wyoming, Montana, and the intermountain west with dammed rivers, streams, and creeks with the same characteristics as Rush Creek, streams that are reduced to flows as low as 7 cfs in the winter and support brown trout fisheries with large trout.

A common statement of fact appears throughout the August 2009 report. Though there are excellent spawning beds, pocket pools, cover from a reborn riparian ecosystem, abundant aquatic food types, there are almost no slow moving deep water pools…a must for the survival of a large trophy trout fishery.

The first two miles of the creek were reconstructed by Trehey & Associates to provide the deep-water habitat so critical for winter

survival. Plans at the time were to reconstruct deep pools all the way to Mono Lake.

From MGORD to the Trehey Stump Pool, the large Brown trout fishery is recovered. For some reason construction was stopped, and the lower five miles from the Stump Pool to Mono Lake were abandoned to a method of recovery referred to as "let-nature-dig-the-pools-naturally." A process that will take hundreds of years because of inadequate stream flows.

Conclusions within the report say it all.

First we shall dispel two common myths as to why the trophy trout fishery has not recovered.

(Myth #1.) Grant lake Reservoir is drawn down to a level feeding Rush Creek with deadly warm water temperatures.

Not true. If this were true the fishery would have crashed years ago. GLR has been drawn down to a minimum pool almost every year since it was constructed in 1915. GLR is situated above an elevation of 7,000 feet, in a deep canyon, and is shaded most of the day, with a rapid cooling temperature recovery rate.

(Myth #2.) Rush Creek water temperatures often rise to lethal levels above 70 degrees.

Not true. I refer to the temperature water tables in a second LADWP report, "The Effects of flow, Reservoir Storage, and Water Temperatures on Trout in Lower Rush and Lee Vining Creeks, Mono County California." dated May 2009.

In graph after graph recorded temperatures range in the optimum range for a thriving Brown trout fishery, between 50 degrees (F) and 65 degrees (F). This range of temperatures are the same as I

recorded in a three day fly fishing visit in July of 2006 with air temps in the 80's and 90's…and again, during a filming session in July of this year, 2009…when the temperatures were also in the 80's and 90's.

Further proof from the report clearly identifies the facts there is little to no deepwater habitat crucial to a thriving large trout fishery.

Page 67…Sec. 4.1…paragraph one.

"…however. There was little winter holding habitat in Upper Rush Creek at any flow tested…"

Page 41…Sec. 3.5…paragraph two.

"…when compared to the four mapping reaches located below the narrows, the Upper Rush mapping reach contained relatively low amounts of both winter holding and foraging habitats, due to relative lack of pool units in this steeped reach of Rush Creek…"

Page 33…Sec.3.3…paragraph three.

" In a third LADWP Rush Creek report, "the Radio Telemetry-Movement Study of Brown Trout," dated July 2009. "

Page 4…paragraph one.

" In comprehensive evaluation of habitat by resident brown trout populations native to streams in Norway and Scotland, Heggenes (2002) found macro-habitats favored by juvenile and adult brown trout were deep and slow-flowing pool areas.

The mapped reaches of Rush Creek contained significantly less winter holding habitat than foraging habitat, indicating that cover

was not available within much of the polygons with suitable depth and velocities…"

In fact the report identify only one section that contains an abundance of brown trout meeting the court ordered criteria, The return ditch from Mono Gate #1, reconstructed by Trehey & Associates, referenced as MGORD.

The answers to satisfying the California court orders to restore the fishery to 1941 conditions are simple. Construct a series of ponds of at least one-half acre in area, with depths of six to ten feet deep, throughout the abandoned lower five miles of the creek all the way to Mono lake.

An important consideration for the construction of ponds by the Los Angeles Department of Water and Power is the example of the Qwyhee River on the border of Oregon and Idaho. Spring flows are as high as 5,000 cfs to 20,000 cfs. Winter flows are dropped to 5 to 7 cfs. The trophy brown trout fishery survives with these low flows because there are dozens of large deep pools for winter survival.

In summation. To meet the court order SWRCB 1631 let's say in layman's terms. Trout mansions and trout apartment complexes must be created, with habitat for dozens of large individuals, pools that are 200 X 200 feet in area with depths of six to ten feet deep, not a few 20 X 30 foot studio apartments capable of housing only one or two large brown trout.

Much less water would be required as in the flow regimen of the Owyhee River…and more water would be available for transportation to Los Angeles.

Sincerely,

Richard Dahlgren
Founding President
Mammoth Fly Rodders

Cc: Mono County Board of Supervisors
c/o Lynda Roberts
lroberts@mono.gov

Brad Henderson
California Department of Fish & Game
Bishop, Ca
bhenderson@dfg.ca.gov

Others: Blind