

- h. Authorizes and directs the Director of the Inyo County Water Department to file a “Notice of Determination” for the project.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

Background

A copy of Chapter 1 of the LORP EIR/EIS is Attachment A hereto. Attachment A provides a summary of the origin of the LORP, a description of the project, and an outline of the project’s EIR/EIS process. Also, a copy of Chapter 2.2 of the EIR/EIS is Attachment B hereto. Attachment B describes the plans for administrating the LORP and the project’s funding requirements.

As described in the attached sections of the EIR/EIS, LADWP and the County committed to implement the LORP in 1991 as part of the Long Term Water Agreement between the City of Los Angeles and the County of Inyo (“Water Agreement”). In addition to the Water Agreement, as part of its approval of a 1991 Environmental Impact Report (“EIR”), LADWP adopted the LORP as a mitigation measure for environmental impacts caused by LADWP’s groundwater pumping and surface water management practices in the Owens Valley from 1970 to 1990.

Challenges to the legal adequacy of the 1991 EIR were resolved in 1997 with the execution of a Memorandum of Understanding (“MOU”) between LADWP, the County, the California Department of Fish and Game, the California State Lands Commission, the Sierra Club and the Owens Valley Committee. The MOU augmented the description of the LORP contained in the Water Agreement, and required that an EIR on the LORP be jointly prepared by LADWP as the lead agency under CEQA and by the County as a CEQA responsible agency.

Because of financial commitments to the LORP made by the County in the Water Agreement, the County sought federal funds to assist it in fulfilling its obligations. The Water Agreement requires the County to pay one half of the initial construction costs of the project, up to a limit of \$3.75 million. The Water Agreement also requires the County and LADWP, once the LORP has been constructed and completed, to jointly operate and fund the non-pumpback portions of the project. These “post-implementation costs” include the cost of operation and maintenance, monitoring and reporting, and the implementation of adaptive management and mitigation measures. LADWP and the County preliminarily estimated, in the EIR/EIS, that the “post-implementation” costs of the LORP during the 15 years following implementation of the LORP, will be approximately \$13.4 million. After the first 15 years, LADWP has estimated that the shared post-implementation costs will be approximately \$500,000.00 per year.

In 1999, the County obtained the first of several grants administered by the United States Environmental Protection Agency (“EPA”) to cover a portion of the County’s financial obligations for the LORP. The EPA grant funds triggered an obligation under the National Environmental Policy Act (“NEPA”) to prepare an Environmental Impact Statement (“EIS”) that addresses the LORP.

Beginning in 2000, representatives of LADWP, the County, the EPA and consulting firms worked together to prepare a combined EIR/EIS. A court order, issued in litigation brought to enforce the MOU, required the release of the draft EIR/EIS by November 2002 and a final EIR/EIS by June 23, 2004. A draft EIR/EIS was released for public review in November 2002. Following the release of the draft EIR/EIS, the agencies and consultants worked together on the preparation of a final EIR/EIS. However, on May 10, 2004, LADWP announced that the document could not be completed by the court mandated release date of June 23, 2004 if the collaborative process were to continue. Therefore, LADWP assumed full responsibility for completing the document and released a final EIR/EIS on June 23, 2004. The final EIR/EIS was released without further participation from EPA or the County.

The LADWP Board of Water and Power Commissioners certified the Final EIR/EIS, adopted the mitigation measures identified in the EIR/EIS, adopted a Statement of Overriding Considerations, and approved the LORP on July 22, 2004. Shortly thereafter, EPA announced that the EIS portion of the EIR/EIS was inadequate to satisfy its responsibilities under federal law. The determination by EPA meant that EPA could not release any of the federal grant funds earmarked for the LORP until an EIS acceptable to EPA was prepared, and a "Record of Decision" on the EIS was published by EPA.

Pursuant to court order, the County was required to take action with respect to the certification of the EIR/EIS within two weeks of certification of the EIR/EIS by the LADWP Board. Consequently, your Board considered this matter on August 3, 2004. On that date, your Board directed that consideration of certification of the EIR/EIS and consideration of approval of the LORP be deferred until EPA determined whether it would disburse approximately \$5.2 million in federal grant funds to the County to cover a portion of the County's share of the LORP expenses. The Board also directed staff to work with EPA and LADWP to: (a) achieve an EIR/EIS that is acceptable to the three agencies, (b) to secure the federal grant funds for the County at the soonest possible time, and (c) to begin construction of the LORP at the soonest possible time. The Board reconsidered the EIR/EIS and approval of the LORP on August 17, 2004 and again on September 7, 2004, and on each occasion, your Board deferred consideration of the LORP, and provided the same direction to staff as your Board provided on August 3, 2004.

In late 2004, LADWP, the County and EPA commenced a process for completing an EIS on the LORP that would meet EPA's responsibilities under federal law.

On August 8, 2005, in litigation over LADWP's failure to implement the LORP, the Inyo County Superior Court issued an order that includes the following:

- A. An injunction against the use of the Second Los Angeles Aqueduct.
- B. A stay of the injunction pending compliance with conditions that include the following:
 1. A limitation on LADWP's groundwater pumping in the Owens Valley;
 2. A requirement that LADWP recharge the groundwater basin in the Laws area of the Owens Valley;
 3. A requirement that LADWP not reduce uses of water in the Owens Valley;
 4. A requirement that LADWP pay \$5,000 per day commencing on September 5, 2005 into an escrow account established by LADWP and the County until LADWP has established a permanent baseflow of approximately 40 cfs in the LORP;
 5. A requirement that the proceeds of the escrow account only be used to pay the costs of: (1) the Special Master (see 10 below), (2) the County's share of the post-implementation costs of the LORP, (3) the cost of monitoring habitat indicator species for a five-year period at the direction of the California Department of Fish and Game in an amount not to exceed \$100,000.00, and (4) the costs of the escrow account;
 6. A requirement that initial releases of water into the LORP commence by January 25, 2007;
 7. A requirement that a permanent baseflow of approximately 40 cfs be established in the LORP by July 25, 2007;
 8. A requirement that LADWP submit monthly reports concerning its compliance with the Court Order;
 9. A requirement that LADWP submit a revised plan for its groundwater pumping and groundwater recharge operations by September 30, 2005;
 10. The appointment of a Special Master to monitor compliance with the Court Order.
- C. If LADWP fails to comply with the Court imposed conditions, the issuance of a permanent injunction against the use of the Second Los Angeles Aqueduct that is to remain in effect until LADWP establishes a permanent baseflow of approximately 40 cfs in the LORP.

Before LADWP can begin construction of the LORP, it must first obtain certain permits from the U.S. Army Corps of Engineers ("Corps"). The Corps must utilize the EIS prepared by EPA to determine the environmental effects of the issuance of its permits. The Corps estimated that its permits would be issued approximately 30 calendar days after the publication of a Record of Decision on the EIS. However, the Corps reported to LADWP that if an EIS were not to be prepared by EPA, the Corps would be able to perform its own analysis of the environmental effects of the issuance of

its permits, and would be able to issue the permits in December 2005—several months before the permits could be issued if a LORP EIS were to be prepared.

If EPA grant funds are not used for the implementation of the LORP, there is no need for the EPA to prepare an EIS on the LORP. Earlier this year, to expedite the implementation of the LORP by eliminating the need for the EPA to prepare an EIS, LADWP informed the County that it was willing to forego a \$862,200.00 grant to LADWP from EPA for the LORP, and offered to provide \$5,393,033.00 to the County if the County would forego \$5,393,033.00 in grant funds from EPA for the LORP. On September 6, 2005, your Board approved an agreement with LADWP whereby the County agreed to forego the \$5,393,033.00 in consideration of the provision of \$5,393,033.00 to the County by LADWP. By letter dated September 20, 2005, the County informed EPA that the County would forego the use of the EPA grant funds for the implementation of the LORP.

Because neither LADWP nor the County will be using EPA grant funds to implement the LORP, no EIS on the LORP will be prepared. Although the document adopted by LADWP is titled an EIR/EIS, if your Board takes the actions recommended, with respect to the EIR/EIS, it will only be certifying that the EIR portion of the document complies with CEQA. There is no requirement that the title of the document be formally changed from an “EIR/EIS” to an “EIR.”

Resolution of Legal Challenge to the Adequacy of the EIR/EIS

Following the certification of the EIR/EIS by LADWP, the Sierra Club filed a lawsuit in the Inyo County Superior Court challenging the legal adequacy of the EIR/EIS. On July 25, 2005, pursuant to a stipulation, the Inyo County Superior Court issued a Judgment in the case that includes the following:

1. A finding by the Court that the portion of the EIR that addresses the impacts of the LORP to the “brine pool transition area” is not adequate under CEQA; however, the Court specifically found the remainder of the EIR that addresses the vast majority of the impacts of the LORP is in compliance with CEQA;
2. Direction to LADWP to prepare a focused environmental analysis that addresses the impacts of the LORP to the “brine pool transition area” by February 10, 2006;
3. Direction to LADWP to set aside and vacate the findings by the LADWP Board that, with regard to the “brine pool transition area, . . . impacts to existing aquatic and wetland habitats of the Delta would therefore range from beneficial to less than significant” and direction to the LADWP Board to reconsider its findings, or consider new findings, regarding the “brine pool transition area” once LADWP has completed a focused, environmental analysis;
4. An injunction preventing LADWP from operation of the portion of the LORP that could affect the “brine pool transition area;” and,
5. Direction to LADWP to proceed with construction of the remainder of the LORP (including the pumpback station).

Because of the Court’s Judgment, your Board is not being requested to make any findings regarding the impact of the LORP to the “brine pool transition area” or to approve that portion of the LORP that affects the “brine pool transition area.” Instead, once the LADWP Board has certified the supplemental environmental analysis ordered by the Court, your Board will be requested to consider the analysis, to make findings and to take other appropriate actions concerning the portion of the EIR/EIS that addresses the impacts of the LORP to the “brine pool transition area.”

The Court’s Judgment does not require the County await the completion of the supplemental analysis before considering certification of the remainder of the EIR/EIS. The LORP cannot be constructed unless the County issues certain grading and building permits, and some of these permits cannot be issued unless the County has certified the EIR/EIS. Since the Court has found the EIR/EIS to be legally adequate (except for the portion of the document that addresses the “brine pool transition area”), has ordered LADWP to proceed with construction of the LORP, and has ordered LADWP to establish a permanent baseflow in the river by a specified date, it is recommended that the County not prevent LADWP from constructing the LORP by not certifying the EIR/EIS.

Litigation Alleging that LADWP and the County Have Failed to Comply with the MOU

On January 14, 2005, the Sierra Club and the Owens Valley Committee filed a lawsuit alleging the LADWP and the County have failed to comply with the MOU. The lawsuit includes the following allegations:

1. The monitoring and adaptive management plan presented in the EIR/EIS fails to comply with the requirements of the MOU;
2. The August 2002 LORP Plan (prepared by Ecosystem Sciences, Inc.), and the project described in the EIR/EIS fail to provide the protocols for monitoring data analysis required by the MOU;
3. The project described in the EIR/EIS restricts the purpose and use of seasonal habitat flows in a manner inconsistent with the MOU;
4. The project described in the EIR/EIS lacks augmentation of the 200 cfs seasonal habitat flows as an adaptive management tool and this will lead to not attaining the project goals set forth in the MOU;
5. The project described in the EIR/EIS does not provide for the enhancement and maintenance of the brine pool transition area through adaptive management, as required by the MOU;
6. Certain documents have not been provided to the signatories of the MOU, as required by the MOU;
7. In violation of the MOU, the project described in the EIR/EIS is not consistent with the recommendations in the August 2002 LORP Plan with regard to modifying the magnitude of seasonal habitat flows;
8. The August 2002 LORP Plan and the EIR/EIS do not contain a final monitoring plan, which is a violation of the MOU (the LORP Plan only contains a draft monitoring plan); and,
9. The August 2002 LORP Plan fails to meet the requirements of the MOU with regard to content; therefore, LADWP and the County failed to carry out their MOU imposed duty to direct Ecosystem Sciences in the preparation of an adequate LORP Plan that meets the requirements of the MOU.

LADWP and the County have each responded to the lawsuit. A status conference on the litigation is scheduled for 10:00 a.m. on November 21, 2005; however, no trial date has been set. The litigation does not prevent the County from certifying the EIR/EIS. Certification of the EIR/EIS and approval of the LORP by the County will not increase the County's exposure to liability in the lawsuit. If in the future, the Court should order that a portion or portions of the project description in the EIR/EIS be modified, appropriate action then will be taken in accordance with the order of the Court.

The County's Responsibilities as CEQA Responsible Agency

CEQA responsible agencies are agencies, other than the lead agency (in this case, LADWP), that have some discretionary authority for carrying out or approving a project. In its role as a responsible agency for the LORP, the County will jointly implement and fund the project with LADWP. In addition, the County will use the EIR/EIS to consider the environmental impacts of the issuance of grading and building permits required for the project.

With regard to the EIR/EIS, LADWP, as the CEQA lead agency, is responsible for overall compliance with CEQA. Once LADWP certified the EIR/EIS, as a responsible agency, the law provides that the County generally must rely on the EIR/EIS, and ordinarily is not entitled to prepare a separate EIR. See Section 15096(e) of the CEQA Guidelines which provides that if a responsible agency believes that a final EIR is not adequate for its use, the responsible agency must do one of the following:

- Challenge the adequacy of the EIR in court within 30 days of the filing of a Notice of Determination or be deemed to have waived any objection to the adequacy of the document;
- Prepare a subsequent EIR if permissible under CEQA Guidelines Section 15162 and Public Resources Code Section 21166.
- Assume the lead agency role if allowed by CEQA Guidelines Section 15052(a)(3).

Concerning a court challenge by the County to the adequacy of the EIR/EIS, after the certification of the EIR/EIS by LADWP, your Board considered the EIR/EIS and directed that staff not commence a court challenge to the adequacy of the document. Since that time, the Inyo County Superior Court has ruled that the EIR/EIS is legally adequate (except for the portion of the document that addresses the "brine pool transition area"). Under these circumstances,

the County is barred by the statute of limitations, and by the Court's Judgment, from now challenging the adequacy of the EIR/EIS.

With regard to the preparation of a subsequent EIR by the County, CEQA Guidelines Section 15162 provides that a responsible agency shall not prepare a subsequent EIR, unless based upon substantial evidence in light of the whole record, one or more of the following circumstances exist:

1. Substantial changes are proposed in the project which will involve new significant environmental impacts or an increase in the severity of identified environmental impacts of the project (*no such changes in the LORP are proposed*);
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions to the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of identified environmental impacts of the project (*no such changes have occurred with regard to the LORP*);
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time of the certification of the previous EIR shows any of the following: (a) the project will have one or more significant effects not discussed in the EIR, (b) significant effects identified in the EIR will be substantially more significant than shown in the EIR, or (c) mitigation measures or alternatives found not to be feasible would in fact be feasible, but the lead agency declines to adopt the measure or alternative (*no such new information has been presented*).

Under the circumstances, it does not appear that CEQA would authorize the County to prepare a subsequent EIR on the LORP.

Concerning the possibility of the County assuming the role of the CEQA lead agency, CEQA Guidelines Section 15052(a)(3) provides that a responsible agency may only assume the duties of a lead agency when the lead agency has prepared inadequate environmental documents without consulting with the responsible agency, and the statute of limitations has expired for a challenge of the actions of the lead agency. With regard to the LORP, the Court has already found that the EIR/EIS is legally adequate (with the exception of the portion of the document that addresses the "brine pool transition area"); therefore, the County is not authorized under CEQA to assume the role of the lead agency.

Turning to the powers of the County that are separate from the powers discussed above under CEQA Guideline Section 15096(3), in its role as a responsible agency, the County generally would have authority to impose mitigation for environmental impacts, adopt alternatives to the project, and to disapprove projects on the basis of their environmental impact if such action is found to be necessary to lessen or avoid the direct or indirect environmental impacts of that part of the project to be carried out by the responsible agency. (See CEQA Guidelines, Sections 15041 and 15096(g).) In the case of the LORP, the County will be jointly funding and carrying out the entire project; thus, the County must consider whether such action is necessary to lessen or avoid the adverse impacts of the project.

The adverse impacts of the LORP that are less than significant, and the adverse impacts that cannot be mitigated to less than significant because there are no feasible mitigation measures, are described in the EIR/EIS. The EIR/EIS concludes that all but two of the potential impacts of the LORP will be less than significant. The Inyo County Superior Court has found that the EIR/EIS is legally adequate (with the exception of its analysis of the impacts to the "brine pool transition area"). Therefore, the conclusions of the EIR/EIS with regard to the significance level of the adverse impacts of the project and as to the feasibility of mitigation measures and alternatives have been found to be legally adequate and, under these circumstances, the County must rely on the conclusions in the EIR/EIS.

Although, the County must rely on the conclusions in the lead agency's CEQA document, it should be emphasized that under CEQA the County has the discretion to not approve the LORP. The EIR/EIS concludes that water quality degradation from initial channel rewatering due to suspension of organic material, and fish kills which may occur due to the water quality degradation, cannot be feasibly mitigated to a less than significant level and, thus, are unavoidable significant adverse impacts of the project. In order to approve a project with unmitigated significant

adverse impacts, as a responsible agency, the County must adopt a statement of overriding considerations. The proposed Statement of Overriding Considerations for the LORP (contained in Exhibit 1 to the attached Resolution) finds that the benefits of the project outweigh the adverse impacts of the project and, thus, the project should be implemented. However, your Board is not required to adopt the proposed Statement of Overriding Considerations and your Board may, in the exercise of its discretion, not approve the LORP in order to avoid one or both of the unmitigated significant adverse impacts of the LORP.

Finally, the law provides time limits as to when a responsible agency is required to act following approval of an EIR by a lead agency, Government Code Section 65952 requires that a responsible agency generally must act within 180 days after the lead agency approves the EIR. Also, as has been previously noted, the County was required by Court order to take action on the EIR/EIS within two weeks of LADWP's certification of the EIR/EIS. The County took action within the two-week period, but deferred consideration of approval of the EIR/EIS until the status of the EPA grant funds was determined. The Inyo County Superior Court was aware of the County's action, and did not impose any requirements on the County to act before the status of the grant funds was known. However, the status of the EPA grant funds has been known since September 2005; therefore, it would be advisable for the County to take prompt action concerning the EIR/EIS.

FINANCING:

As previously noted, the Water Agreement requires the County to pay one-half of the initial construction costs of the project, up to \$3.75 million. The Water Agreement also requires the County and LADWP, once the LORP has been constructed and completed, to jointly operate and fund the non-pumpback portions of the project. Also as previously noted, the Water Agreement obligations remain in effect whether or not the County certifies the EIR/EIS and/or approves the LORP.

LADWP and the County preliminarily estimated in the EIR/EIS that the "post-implementation" costs of the LORP during the 15 years following implementation of the LORP would be approximately \$13.4 million; thus, the County's share of this estimated amount would be approximately \$6.7 million. (This estimate will be revised in the near future to cover the additional monitoring requirements imposed by the Lahontan Regional Water Quality Control Board, and to cover any additional monitoring requirements that may be imposed by the Corps of Engineers.) After the first 15 years, LADWP has estimated that the shared post-implementation costs would be approximately \$500,000.00 per year.

Under the agreement titled: "*Agreement between the County of Inyo and the City Of Los Angeles Department of Water and Power Regarding Funding for the Lower Owens River Project*" approved by your Board on September 6, 2005, the County will receive a firm credit of \$5,242,965.00 against its obligation to pay \$3.75 million in LORP construction costs and against its obligation to pay one-half of the LORP post-implementation costs. Thus, \$2,253,033.00 of the \$5,242,965.00 will be a credit against the County's post-implementation costs. This sum will be adjusted annually by a consumer price index once LADWP has established the permanent baseflow of 40 cfs in the river.

Under the August 8, 2005 Order of the Inyo County Superior Court, the County is authorized to use the majority of the \$5,000.00 a day payments made by LADWP to cover a portion of the County's post-implementation cost obligations. LADWP currently plans to establish the permanent baseflow in the river by approximately January 2007. If this goal is met, the \$5,000.00 a day payment will total approximately \$2,400,000.00, plus accrued interest, over the 16 month period from September 2005 to January 2007.

Therefore, given the \$2,253,033.00 under the agreement with LADWP, and an estimated \$2 million from the \$5,000.00 a day payments, the County now has approximately \$4.25 million (plus accrued interest) to offset a portion of its estimated \$6.7 million obligation for LORP post-implementation costs during the first 15 years of the project.

Although there is no firm commitment, it is hoped that with Congressional assistance, all or a portion of the EPA grant funds totaling \$5,242,965.00 that were earmarked by Congress for the County's share of the LORP implementation costs can be redirected for use to cover a portion of the County's post-implementation costs. Further, it is hoped that addition funds for the LORP can be obtained from Congress or from other sources.

It should be pointed out that under Mitigation Measure PS-1, LADWP and the County are required to enter into an agreement for the Owens Valley Mosquito Abatement Program ("OVMAP") to abate the potential increase in mosquitoes resulting from the LORP. The EIR/EIS states that OVMAP estimates that the cost of implementing Mitigation Measure will be approximately \$109,000.00 per year. The estimated cost of approximately \$109,000.00 a year is a post-implementation cost to be shared equally by LADWP and the County.

It should also be noted that under Mitigation Measure V-2, the Inyo-Mono Agricultural Commissioner will develop protocols for monitoring and controlling new infestations of perennial pepperweed and other noxious weeds that may result from the LORP. The Measure provides that a Memorandum of Understanding between the Agricultural Commissioner and LADWP will be entered into that will outline the responsibilities of each agency under the protocols. LADWP will provide \$50,000.00 per year to the Agricultural Commissioner for the first seven years of LORP implementation to fund this effort. LADWP will also provide \$150,000.00 per year to the Agricultural Commissioner to fund the control of existing perennial pepperweed and other noxious weed populations outside of the LORP area that could serve as seed sources for the LORP area. If the funds to be provided by LADWP are exhausted, and continuation of the control work is required, funding for the work will be a post-implementation cost to be shared by LADWP and the County

Finally, Mitigation Measure V-3 requires the Inyo County Salt Cedar Control Program to implement measures to monitor and treat new saltcedar infestations in the LORP area and to treat existing saltcedar populations in the LORP area. The Measure provides that protocols are to be developed by the Inyo County Salt Cedar Program in cooperation with LADWP for conducting the work. Under the Mitigation Measure, LADWP will provide up to a total of \$1.5 million in matching funds to the County, with a guarantee that at least \$560,000.00 will be provided, to assist in funding the costs of implementing the mitigation measure. If the matching funds are exhausted, and continuation of the salt cedar control work is required, funding for the work will be a post-implementation cost to be shared by LADWP and the County.

RECOMMENDATIONS:

It is recommended you're your Board take the following actions:

1. Consider the information contained in the EIR/EIS; and
2. Adopt the Resolution which is Attachment C hereto. The proposed Resolution:
 - a. Certifies that your Board has reviewed and considered the information in the EIR/EIS;
 - b. Certifies that the EIR/EIS has been prepared in accordance with the provisions of CEQA with the exception of the analysis of the impacts of the LORP on the "brine pool transition area;"
 - c. Approves and adopts the findings contained in the document titled "*Findings and Statement of Overriding Considerations*" (Exhibit 1 to the Resolution) that describe the potential environmental impacts of the proposed LORP and of the mitigation measures that will minimize all but two of the impacts of the project to a level that is less than significant;
 - d. Approves and adopts the mitigation measures for the LORP identified in the EIR/EIS;
 - e. Adopts the Statement of Overriding Considerations contained in the document titled "*Findings and Statement of Overriding Considerations*" (Exhibit 1 to the Resolution) for the two impacts of the LORP that cannot be feasibly mitigated to a less than significant level (water quality degradation from initial channel rewatering due to suspension of organic material, and fish kills which may occur due to the water quality degradation);

- f. Adopts the Mitigation Monitoring and Reporting Program (Exhibit 2 to the Resolution) which describes the mitigation measures, their implementation, the parties responsible for their implementation, the method of reporting on the implementation of the mitigation measures, and the parties responsible for the reporting;
- g. Approves the LORP, directs staff to proceed with the joint implementation and funding of the project with LADWP, and to consider the issuance of grading and building permits required for the project; and,
- h. Authorizes and directs the Director of the Inyo County Water Department to file a Notice of Determination for the project.

ALTERNATIVES:

- 1. Defer action with regard to the certification of the EIR/EIS and the approval of the LORP; or
- 2. Consider the information contained in the EIR/EIS and direct staff to prepare a resolution that disapproves the LORP because the unmitigated adverse impacts of the project are not outweighed by the beneficial impacts of the project. The resolution should:
 - a. Certify that your Board has reviewed and considered the information in the EIR/EIS;
 - b. Certify that the EIR/EIS has been prepared in accordance with the provisions of CEQA with the exception of the analysis of the impacts of the LORP on the “brine pool transition area;”
 - c. Approve and adopt the findings contained in the document titled “*Findings and Statement of Overriding Considerations*” (Exhibit 1 to the Resolution) that describe the potential environmental impacts of the proposed LORP and of the mitigation measures that will minimize all but two of the impacts of the project to a level that is less than significant;
 - d. Approve and adopt the mitigation measures for the LORP identified in the EIR/EIS;
 - e. Not adopt the findings and the Statement of Overriding Considerations for the two impacts that cannot be feasibly mitigated to a less than significant level;
 - f. Not approve the LORP because water quality degradation from initial channel rewatering due to suspension of organic material, and fish kills which may occur due to the water quality degradation, are both unavoidable significant adverse impacts of the project that cannot be feasibly mitigated to a less than significant level;
 - g. Not adopt the Mitigation Monitoring and Reporting Program which describes the mitigation measures, their implementation, the parties responsible for their implementation, the method of reporting on the implementation of the mitigation measures, and the parties responsible for the reporting;
 - h. Not direct staff to proceed with the joint implementation and funding of the project with LADWP; and,
 - i. Not authorize and direct the Director of the Inyo County Water Department to file a Notice of Determination for the project.

Neither of the two alternatives is recommended because the substantial beneficial aspects of implementing the LORP would not occur, and the primary mitigation measure for some of the adverse environmental impacts of LADWP’s groundwater pumping in the Owens Valley from 1970 to 1990 would not be implemented.

OTHER AGENCY INVOLVEMENT:

LADWP, Corps of Engineers, Sierra Club, Owens Valley Committee, California Department of Fish and Game, California State Lands Commission, Lahontan Regional Water Quality Control Board.

APPROVALS

<p>COUNTY COUNSEL:</p>	<p>AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i></p> <p style="text-align: right;">Approved: _____ Date _____</p>
<p>AUDITOR/CONTROLLER:</p>	<p>ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i></p> <p style="text-align: right;">Approved: _____ Date _____</p>
<p>PERSONNEL DIRECTOR: N/A</p>	<p>PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i></p> <p style="text-align: right;">Approved: _____ Date _____</p>

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received) _____ Date: _____