

# Minutes

## County of Inyo Water Commission

### October 10, 2011

Water Commissioner Teri Red Owl called the Water Commission meeting to order at 6:00 p.m. in the George Lozito Conference Room, Jill Kinmont Booth School, Bishop, CA. Water Commissioners in attendance were Teri Red Owl, Mike Prather, Mike Carrington, and Sally Symons. Present from the Water Department were Dr. Bob Harrington and Laura Piper.

#### **Pledge of Allegiance**

Commissioner Red Owl led the Pledge of Allegiance

#### **Public Comment**

The Chairperson announced the public comment period and there was no one from the public wishing to address the Commission.

#### **Approval of minutes from August 31, 2011 meeting**

Moved by Commissioner Prather and seconded by Commissioner Symons to approve the minutes of the August 31, 2011 Water Commission Meeting Motion carried unanimously.

#### **Director's report concerning Water Department activities**

Dr. Harrington announced Commissioner Allsup had resigned. Dr. Harrington provided information on the IRWMP Group working with LADWP through the regional plans fiscal agent to get a grant agreement, develop procedures to disburse funds, and monitor projects; the Coso water transfer monitoring; the Water Department's activities on Owens Lake; upcoming meetings with Montgomery Watson the consultant doing the ground water evaluation as well as the Blue Ribbon Advisory Panel; a meeting with Don Sada, the Great Basin spring expert from Desert Research Institute; an overview of the CASGEM statewide groundwater elevation monitoring which will be state mandated starting next year; and an overview on the Salt Cedar crew and program funding. Dr. Harrington informed the Commission that the Planning Department has received another application for groundwater transfer in Rose Valley and since they will withdraw more than 1 acre-foot and it is an interbasin transfer of groundwater, the County's groundwater ordinance will be invoked and the Water Commission will need to make a recommendation to the Planning Commission. Dr. Harrington provided a memo from Commissioner Prather regarding the field trip he and Water Department staff took to Laws. Commissioner Prather provided an overview of the field trip.

#### **Discussion on Annual Operations Plan Dispute**

Dr. Harrington provided information regarding the September 9 Standing Committee meeting during which they considered issues regarding the annual pumping plan and the reduction of pumping in the Thibaut-Sawmill and Taboose-Aberdeen wellfields. He stated LADWP has raised an issue regarding whether a reduction in the annual operations plan has to go through the Water Agreements steps for developing a mitigation plan. The Standing Committee directed staff to do the following: keep pumping within the limits of what the County has requested until the next Standing Committee

meeting; legal staff would develop a joint document to frame the procedural issue; and if LADWP did not amend their pumping plan to conform to what the County was requesting and if the County hasn't received a new pumping plan by the next Standing Committee meeting, the County could proceed with the dispute resolution process over its issue concerning the pumping wells. Dr. Harrington stated the current status is the legal team has not framed the issue, the Water Department has received a modified pumping plan moving the disputed pumping from Thibaut-Sawmill and Taboose-Aberdeen wellfields to Laws and Independence Oak wellfields meeting the request from the County, but maintaining the 91,000 acre feet valley wide that was in the pumping plan. Dr. Harrington explained the Water Department has not had the opportunity to perform the analysis as to what the relocation of the pumping will do in the Laws & Independence wellfields. Dr. Harrington provided the Water Commissioners with the process of the annual pumping plan and the process that is followed between LADWP and the Inyo County Water Department.

Public Comment – Gary Bacoch - Mr. Bacoch asked Dr. Harrington if the Standing Committee meeting will move forward on Monday October 10<sup>th</sup>. Dr. Harrington replied yes.

Public Comment – Daniel Pritchett – Mr. Pritchett asked if the revised pumping plan is consistent with the County's request. Dr. Harrington provided an explanation as to the pumping limits requested. Mr. Pritchard asked if the County and LADWP could not agree on the issues to frame in the document. Dr. Harrington stated it's not that they can't understand the direction but they can't agree on what the issue is. Mr. Pritchett asked if the Technical Group would discuss this issue and Dr. Harrington stated no, there is no science or data involved.

Public Comment – Gary Bacoch – Mr. Bacoch stated he provided a letter at a previous Standing Committee Meeting outlining several comments and questions that have not been answered. He is also concerned that the Brown Act is not being followed at the Standing Committee Meetings. Commissioner Red Owl stated Supervisor Cash wanted to figure out a way to respond to questions at the Standing Committee Meeting. Commissioner Prather asked if any of Mr. Bacoch's questions had been answered previously. Mr. Bacoch stated there were specific questions regarding the Brown Act that had been answered verbally by Inyo County, some written responses but not from County Counsel. Mr. Bacoch stated LADWP has answered older claims but they are making continuing claims on specific items. Commissioner Prather stated we should always answer questions received in written form but his concern is that the same questions are not asked repeatedly. Mr. Bacoch agreed the same questions should not be asked repeatedly.

Public Comment - Sally Manning – Ms Manning asked if the Water Department can take action on the modified pumping program and she questions whether LADWP is allowed to modify a pumping program in this way according to the Water Agreement. She said the Independence Oak wellfield can not handle any additional pumping and it is surrounded by a ring of death. She would not recommend the County agree to this shift in the pumping program. Dr. Harrington stated the agreement contains a provision that LADWP can revise the pumping plan and the County will be provided the opportunity to comment.

Commissioner Carrington and Commissioner Prather provided their opinion on mitigation measures in the Laws area and Mr. Clarence Martin of LADWP provided an explanation of the irrigation program in the Laws area.

Public Comment - Daniel Pritchett – Mr. Pritchett asked Commissioner Prather whether LADWP should or should not use Terry McLendon as a consultant. Commissioner Prather stated that work done out there hasn't been any more effective than any other consultant. Mr. Pritchett stated Terry McLendon should not be used as a consultant.

Commissioner Red Owl stated the increased pumping in the two areas LADWP has selected would only create more issues. The Commissioners unanimously stated their concern over the increased pumping in the Laws and Independence wellfields. Motion made by Sally Symons and seconded by Mike Prather for staff to express to the Board of Supervisors the Water Commissioners did not recommend the shift of pumping to other wellfields in their original recommendation concerning the modified pumping plan. Dr. Harrington said he would relay the Water Commissions concern with the modified pumping plan to the Board of Supervisors.

## **Review LADWP's response to the Water Department's report concerning conditions in vegetation parcel Blackrock 94**

Dr. Harrington reported on the response from LADWP to the Water Department concerning the report on Blackrock 94 vegetation conditions and causes which make a number of contentions regarding the report written by the Water Department. He stated the Water Department is currently reviewing the report and it will require an extensive response. Dr. Harrington provided a few of LADWP's contentions:

- LADWP contends that the Water Department unilaterally designed and conducted the line point program and the County has ignored repeated objections regarding vegetation monitoring methods. Dr. Harrington explained the Water Department has been reporting their methods and results since 1991 to LADWP. The LADWP report sites a monitoring report program analysis written by a consultant in 2000 that the County has never seen nor has it been reported to the Tech Group for their consideration.
- LADWP sites a 2004 report from Montgomery Watson that the County has not seen. These allegations are put forth with data LADWP have never shared with the County. The County has also made public record requests in 2006 for these documents.
- LADWP states that the monitoring program LADWP established in 2004 is better than the one we've been using since 1991. The County only became aware of LADWP's monitoring program in 2010. He stated there are many technical issues to be resolved and questions to be asked regarding the different methods of both the County and LADWP which should be dealt with at the Technical Group.
- LADWP says the Water Agreement states the Technical Group will look at live cover which they believe the Water Department has been wrong by looking at perennial cover. They state the line point information can't differentiate between a decline in grass cover verses a shrub encroachment.
- A large part of the Water Departments report compares parcel Blackrock 94 with its neighboring parcel Blackrock 99; LADWP contends this comparison as an impacted parcel versus a controlled parcel is inappropriate because Blackrock 94 is buffered by the aqueduct which maintains the water table in the parcel and the Water Department agrees, it does have a higher water table and that's what makes it appropriate.
- LADWP states the statistical tests used by the County are inappropriate.
- LADWP says that the multivariate statistical analysis that the Water Department did showing conversion cover type from grass to shrubs is inappropriate.
- LADWP criticized the spectral mixture analysis using satellite imagery.

Dr. Harrington stated despite all the contentions some data the Water Department presented were not addressed in the report and the Water Department would provide a detailed response to all the allegations.

Public Comment - Daniel Pritchett – Daniel stated he briefly read the report and said one section stated the vegetation monitoring data is not suitable at all for analysis of relationships with depth to water yet their own consultant did this in 2005 reports. Mr. Pritchett said in the 1976 EIR it states succession to zero vegetation or shrubs are a specific impact to lower water tables.

## **Discuss Water Commission's letter to Board of Supervisors**

Commissioner Prather read the Water Commissions letter they will send to the Board of Supervisors. Dr. Harrington made comment that the Interim Management Plan was adopted by the Standing Committee as a 3 year plan and is has expired. The Commission discussed the letter accepting a few revisions which they will present to the Board. Moved by Commissioner Prather and seconded by Commissioner Symons to approve the letter to the Board of Supervisors as amended.

## **Public Comment**

Sally Manning – Ms Manning stated the Rose Valley; north Little Lake well has gone 0.05 feet below the trigger. She wondered if the decline in the water table was due to the Coso Hay Ranch pumping. Ms Manning stated Little Lake is in trouble and the County is allowing it to be threatened. She said she believes it is inappropriate for the County to assist

LADWP in the testing on Owens Lake. Ms Manning also stated the Owens Lake Management Plan has gone by the wayside and why would LADWP need the Owens Lake Management Plan if the County is helping LADWP to get the water from under the Lake and then why also would they need the Audubon Society. Commissioner Prather asked to respond to the above and Ms. Manning stated she was not interested in Commissioner Prather's response. Commissioner Red Owl said she would entertain Commissioner Prather's comment after public comment. Ms. Manning stated she wanted to make a comment on the Laws revegetation and said she knew LADWP's proposed plan was not going to work. Ms. Manning said revegetation in the area can work if LADWP is willing to provide the water which they are reluctant to do. She said progress on Laws revegetation has been reported at Technical Group Meetings and she is glad someone is following up on the report. She stated the Commissioners did not offer public input on the action they took on approving the above letter to the Board of Supervisors. She said if they provide the Supervisors with the letter asking if there is a plan, because there isn't a plan and not having a plan is the plan. The people in the County have been victimized by LADWP taking advantage of this environment and even after 20 years of management the valley is not getting what the Long Term Water Agreement was supposed to provide due to the County's failure of leadership. She doesn't know what the Commission expects the Board to offer in that respect.

Commissioner Prather provided input that Ms. Manning provides comments that imply some sort of certainty concerning matters that are not certain, but she is welcome to her opinion. He stated he doesn't see a problem with the County working with LADWP on a groundwater aquifer study at Owens Lake. It is Audubon's position that in order to seek a resolution of the complex issues at Owens Lake, you really need to look at all the facts and can't be in opposition to everything. He also believes that vegetation can be grown in Laws and commented on Margo Griswald's reputation and the fact she has local respect from many people. He believes the County should be conducting the tests on Owens Lake.

Gary Bacoach – He would like to remind the Commission that his opinion of the Brown Act is that you make items on the agenda clear as to what is supposed to happen at a meeting, i.e., with exception to item 5 and 7 all items are clear. Item 5 and 7 are not clear and the public had no idea they were going to take action on any item.

Commissioner Prather stated he appreciated Mr. Bacoach's comments on the Brown Act and stated the Water Commissions intent is not to do anything underhanded and they try to provide transparency to the public. On these particular items he would hope that Mr. Bacoach would agree with their concern to inquire as to the impacts on the pumping matters and item 7 he believes is just an inquiry, functioning as a Water Commission. Mr. Bacoach stated he agreed with the items but would like them phrased differently on the agenda.

Sally Manning – Ms Manning said from the Director's report it sounds as though the County is proceeding to work with LADWP on the first well they are going to pump but she does not see any plan for this test. Do they know how much water will be pumped, where is the environmental review, and she believes CEQA needs to occur and people have a right to respond to this process. She doesn't believe the County should be directly involved in this test. Commissioner Prather stated if there is no finding of significant impact an environmental document might not be necessary and it also could be a categorical exception. Ms. Manning stated there could be a significant impact and the public needs the ability to respond and CEQA needs to occur. Ms Manning said hydrological studies have been done on Owens Lake over the years; a previous consultant went to great lengths to figure out if there was water under the lake. What they determined is if you pump water you are going to dry up the springs and wetlands around the lake. Commissioner Prather said he believes the County is trying to safeguard as best they can the environment in the valley. One of the possible partial solutions could be the groundwater under Owens Lake which the County is willing to explore to reduce pumping elsewhere.

Daniel Pritchett – Mr. Pritchett stated he doesn't agree with Commissioner Prather's comment that the County is doing this testing on Owens Lake to reduce pumping elsewhere and he said there is no evidence to show this. He believes more water will go down the aqueduct and will not help ease pressure elsewhere in the valley. Mr. Pritchett stated the county has suffered dramatic impacts of groundwater pumping over a long period of time and said if LADWP finds a way to legally pump water under Owens Lake, they will. He also stated that the County by providing testing of the wells on Owens Lake is doing the "dirty work" for LADWP and this is not sound County policy. Commissioner Prather said he does not believe it is considered "dirty work". Daniel Pritchett questioned the previous discussions regarding Daris Moxley's lease. This was discussed at great length by the Commissioners, Dr. Harrington, and the public. Mr. Pritchett

stated he believed the Water Commission should discuss the priorities of the Water Department and present the items they believe are most important to the Board of Supervisors.

**Schedule Next Water Commission Meeting**

The next Water Commission meeting was scheduled for November 8, 2011 at 6:00 p.m. in Independence, CA.

**Adjourn**

The Chairperson adjourned the meeting at 8:20 p.m.