

# Minutes

## County of Inyo Water Commission

April 15, 2014

The Chairperson called the Water Commission meeting to order at 6:01 p.m. at the Tri County Fairground, Tallman Building, Bishop, CA. Water Commissioners in attendance were Chairperson Mike Prather, Teri Red Owl, Bruce Dishion, Craig Patten, and Jim Stroh. Present from the Water Department were Bob Harrington and Laura Piper.

### **1. Pledge of Allegiance**

Commissioner Prather announced there was not a flag available so we would forego the Pledge of Allegiance at this meeting.

### **2. Public Comment**

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

### **3. Approval of minutes from February 24, 2014 meeting**

Moved by Commissioner Patten and seconded by Commissioner Dishion to approve the minutes. Motion carried unanimously.

### **4. Briefing on the Chandler Decree**

Dr. Harrington provided background documentation and a detailed explanation of the Chandler Decree; it's relation to the management of Bishop Creek, and the legal analysis of to the Chandler Decree's relation to the Long Term Water Agreement.

Public Comment – Rex Allen – Bishop Resident – Mr. Allen stated he had a question for Dr. Harrington regarding the Hillside and Chandler Decree interpretations. Mr. Allen stated it was not clear to him whether there is a requirement for a certain minimum amount of water to be released at each time period during the summer or that management be conducted so that they will not run out of water? Do the two Decrees forbid management in that respect? Dr. Harrington stated that he cannot provide legal advice but the Hillside Decree deals with Los Angeles groundwater pumping and how it balances with uses on Los Angeles's land and is not concerned with flows below Plant #6. Dr. Harrington stated the Chandler Decree doesn't have provisions for varying from that flow schedule except when it is impossible to meet those flows due to lack of water. Mr. Allen stated he asked the question because he feels they will need that water through September but it is being managed today in such a way that we are going to run out and not have water in the ditches through the winter. Mr. Allen stated there is more water in his ditch today than he has ever seen this time of year in the past 20 years. He stated if the ditches run out of water, LADWP will have to pump water which will essentially wind up going to Los Angeles with the exception of evaporation loss. Dr. Harrington stated at the Bishop Creek Water Association Meeting it was alleged that in times past, Los Angeles & Southern California Edison came to some sort of agreement to hold back flows to deal with maintaining flows later in the season. Mr. Allen stated last year LADWP refused to honor that previous practice and they ran out of water in September. He asked if LADWP can be pressured to honor the previous practice which was effective?

Public Comment – Mark Bagley – Sierra Club – Mr. Bagley stated he thought Dr. Harrington said the Chandler Decree does allow for varying from that firm schedule if there is not enough water to meet that schedule. Dr. Harrington stated there are some provisions in the Chandler Decree that say something to the effect that as water is available. Mr. Bagley asked of Dr. Harrington as a hydrologist, with the driest year on record and based on the information we have now, could an

argument be made that looking at what is available, that full schedule is not going to be able to be met and therefore, the provisions of making some change to that schedule would be in effect? Dr. Harrington stated that is more of a legal question. Mr. Bagley asked from his hydrological review based on now, will there be enough water to meet the flows required by the Decree. Dr. Harrington stated no. Mr. Bagley stated Mr. Yannotta made a clear statement last year that we can't make any adjustment to the Chandler Decree but he understands if there is not enough water you can. Mr. Bagley suggested that the Commissioners look into this or ask County Counsel to look into this issue.

Public Comment - Sally Manning – Bishop Resident & Member of the Bishop Creek Water Association – Ms. Manning stated she has a ditch and pond in her yard that has mostly been dry the past few months. She stated the presentation given on the Chandler Decree is a reminder that it is a document that is 92 years old, written in a different era, under different conditions, and she is disappointed there is not more information. Ms. Manning asked where the information can be obtained on flows for the past 3 years in Bishop Creek; where were they measured; and where is the map that shows what lands the Chandler Decree applies too. Ms. Manning stated she is concerned that the Water Department is not concerned on how much is flowing and where; what are the depths to water; how much did they go over the flows; and what kind of program needs to be brought forward to make this work. Dr. Harrington stated there are records in the Water Department provided by LADWP through the data sharing provisions of the Water Agreement, that there is also information on Bishop Creek flows from the USGS website; and the next agenda item will provide more information on the groundwater conditions in West Bishop.

Public Comment – Daris Moxley – Ms. Moxley stated she has a lease in West Bishop that has been in her family since the 1930's. Ms. Moxley stated in the past whenever Bishop Creek has been low, LADWP has allowed a variance on the Chandler Decree and every year an agreement has been made between LADWP and Southern California Edison. Commissioner Prather asked if there was anything in writing to verify this and she said she could only provide names.

Public Comment – Deborah Hess – Southern California Edison – Ms. Hess stated that Ms. Moxley is correct and in the past there has been an agreement between LADWP & Southern California Edison but she does not have any documentation. She stated last year they requested a variance which was denied. Ms. Hess stated Southern California Edison is willing to work with the people that are party to the Chandler Decree.

Commissioner Prather stated he is concerned that there is no paper trail for this agreement. He stated he has had calls that say the Bishop Creek Water Association Board is difficult to talk to and won't discuss operations, some ditches have water, some don't, and if you're a past employee of something you may have more water than someone else. Commissioner Prather stated the disparity is hard to understand.

Commissioner Patton stated the County is no part of the Chandler Decree but that doesn't relieve the responsibility for the Commission to represent the people in these issues. Commissioner Patten stated the responsibility lies with the Bishop Creek Water Association, LADWP, and Southern California Edison and he doesn't see them agreeing to anything. He stated the Commission would do what they could to help but it is going to be a bad year with the drought conditions.

Public Comment – Burt Almond – Retired SCE employee - Mr. Almond stated he is in no way representing Southern California Edison, and he is here solely to offer data he has accumulated due to his 33 year career in the Bishop Hydro Division. Mr. Almond stated a number of those years he was a hydrographer and kept the numbers for the snow survey data, forecast data, and managing the water throughout the runoff year. Mr. Almond provided an explanation in detail and at length on the history of the Chandler Decree and its relation to the management of Bishop Creek flows; water storage; and carry over. He stated the variance was a handshake between the organizations and the data shows the facts and proves it worked all those years (1920's forward) until the year 2012-2013. Mr. Almond stated we are in a second year of the decision being made to not store water and leave the Chandler Decree flows with the two agencies not cooperating and stated he is disappointed in the agencies.

Public Comment – Rex Allen – Mr. Allen stated he believes LADWP is up to nefarious activities. Mr. Allen asked if there is any way that the County can help even though they are not a party to the Chandler Decree. Commissioner Prather stated that the Water Agreement didn't affect anyone's water rights. Commissioner Prather stated it does discuss past practices of water use and if somehow that was changed by the LADWP by some sort of action that is when the County could consider if there is a violation of the Water Agreement. Dr. Harrington stated that the County is not a party to the Chandler Decree and the County did its due diligence to make sure there was not a conflict with the Water Agreement. Dr. Harrington stated the County doesn't have a role in negotiating regarding the Chandler Decree. Dr. Harrington stated once a flow table is described and set through the courts it is hard to undo in the future and ties the hands in ways that may be unforeseen. Dr.

Harrington stated if everyone could agree on something and would sign off on it, they could make it change.

Commissioner Patton suggested a briefing be put together for the Board of Supervisors to highlight any potential action on their part, letters to Los Angeles or Southern California Edison regarding the water management. Commissioner Prather suggested a briefing to the Board to include this evening's discussion for their review and possible action on their part. Commissioner Prather asked that this be included on the next Water Commission agenda.

Public Comment – Burt Almond – Former SCE employee - Mr. Almond stated the Emergency Drought Resolution brought forth by the Board of Supervisors in February 2014 pertains to this instance. He read a section “be it further resolved that the Bishop Creek Water Association, LADWP and other involved agencies, utilities and other individuals do what they can to equitably allocate the available water to creeks and ditches in the Bishop area to mitigate to the extent possible, the hardships resulting from the dry creeks, wells, ditches, and ponds during the extent of the drought period and during the period of recovery and be it further resolved that the Water Associations in Inyo County, LADWP and other involved agencies, utilities and individuals do whatever they can to equitably allocate the available water to creeks and ditches in Inyo County area to mitigate to the extent possible the hardships resulting from dry creeks, wells, ditches, lakes, ponds during the drought period and recovery period”.

Public Comment – Steve Levine – Member Bishop Creek Water Association – Mr. Levine stated he would encourage the Water Commission to take this to the Inyo County Board of Supervisors. Mr. Levine stated he works for a utility, and can assure you that there are many members of the Bishop Creek Water Association that do not have water that are currently thinking about contacting the Inyo County Court because they feel they need to have their properties re-assessed due to the lack of water and believe they are overpaying their taxes. Mr. Levine stated he believes water is not being distributed equitably in West Bishop.

Public Comment – Susan Kunze – Ms. Kunze stated she was surprised to see water coming down her creek this morning and said it had been seven months since Bishop Creek Water Association and LADWP have turned on the two ditches that flow to her home on Sierra Vista Way. Ms. Kunze stated a change in LADWP water management practices have dried up ditches on the Bishop Cone and its implementation by the Bishop Creek Water Association has caused considerable financial harm to a purposely selected membership of the Association by selectively damaging their properties through the loss of surface water flows. Ms. Kunze stated many members of the Association had no change in their water flows in the past seven months and these members include those that are making these decisions regarding the water flows. Ms. Kunze stated the Association does not equitably apportion the water as required by them in their by-laws. She stated there is no one to represent the few of them that are BCWA members that have lost their surface water flows over the past seven months and these members have no way to have open discussion about the violation of equitable apportionment of water due them by the Association by-laws as the Association Board began prohibiting the discussion of operational issues at their meetings. She stated any questions must be submitted in writing with no point of contact given. Ms. Kunze stated there is now no one to represent and protect those Inyo County residents who are suffering significant financial losses and have guarantee of loss in the future.

Public Comment – Philip Anaya – Mr. Anaya thanked Ms. Deb Murphy of the Inyo Register regarding her article of August 2013. He stated LADWP and the public has known about these issues since that time and during that period of time organizations such as the Bishop Chamber of Commerce, Inyo County Water Commission, Inyo County, and the City of Bishop have all sent letters to both SCE and LADWP requesting a cooperative adaptive management for this coming year. He stated LADWP should have some responsibility for these wells going dry this last year. Mr. Anaya said LADWP stated they did not have knowledge of what was going to be occurring with the management practices but he stated surely they know this year that if they repeat the same management practices, that they will have a larger knowing responsibility for anyone's well's that goes dry next year. Mr. Anaya stated LADWP is the only entity not willing to participate in an adaptive management plan.

Public Comment – Bob Prendergast – LADWP – Mr. Prendergast stated LADWP is willing to participate in modification of the Chandler flows or some other reduction that would allow water to be distributed throughout the Bishop Cone. Mr. Prendergast stated there are a number of parties that have to be involved and it is more than just the Bishop Creek Water Association. He stated this year LADWP will take its Bishop Creek water that it has rights too and keep a minimum base flow in the Bishop Creeks and everything other than that will be diverted for use on the Bishop Cone or for other uses. Mr. Prendergast stated Inyo County under the Water Agreement has a stake in it that LADWP cannot reduce or take any action to reduce the Bishop Creek flow unless the County agrees that any resulting reductions in irrigation would be acceptable. He stated LADWP is willing to do this, they have met with the Bishop Creek Water Association, and met with the County

Mr. Prendergast stated this year, LADWP anticipates that as runoff starts, LADWP will maintain minimum in stream flows in Bishop Creek, begin diverting water for irrigation, and if there is enough water to supply water for irrigation, anything after that will go through the Bishop Creek Water Association ditches. Mr. Prendergast reiterated that if the parties can get together and come up with a resolution, the City is more than willing to participate.

Public Comment – Susan Kunze – Ms. Kunze wanted to know if changes made under the Chandler Decree mean an actual change to the Chandler Decree or MOU that works around it.

Public Comment – Mike Scheltz – Mr. Sheltz stated since October he has been challenged by the Bishop Creek Water Association. Mr. Shultz stated he went out of town for a few days. He stated when he left the flow was 39 and when he returned the flow was 53.1. Mr. Sheltz was told that at 44 the gates would open and he would have water but the gates were still locked so he called the Association Water Master. He said the Water Master stated he was waiting on a phone call from one of two individuals. Mr. Sheltz called the first individual and he stated they were considering not opening up one of the gates and opening up the gate that served Sunrise and Sierra Vista which are the larger properties that use the water for irrigation. Mr. Scheltz stated they were not going to open his gate and cause an adverse effect on the Sunrise and Sierra Vista irrigation and according to the by-laws he didn't feel that was fair, it should be an equitable distribution. He called the second person that stated when the flow came up he would have water, but never received a reply.

Public Comment – Daris Moxley – Ms. Moxley stated she takes exception with Mr. Prendergast's assessment that the water would be used on LADWP leases before it got to the Bishop Creek Water Association members. She stated her lease is below the Bishop Creek Water Association so Bishop Creek Water Association should be getting the water. She asked why is the water going to the South Indian Ditch. Ms. Moxley recommended not making changes to the Chandler Decree and leaving it like it is.

Public Comment – Sally Manning – Ms. Manning hopes the County understands it has a significant responsibility with regard to water on the Bishop Cone. Ms. Manning stated the Water Agreement does apply to the Bishop Cone and it is not excluded. She stated the memo handed out this evenings states "certain lands in the Bishop area continue to be irrigated as they were in 81/82" it also says that "canals have to be operated in accordance with past practices". She stated something that is not in the memo is that vegetation needs to be maintained and vegetation that wasn't mapped during the Water Agreement that they call "other" vegetation that might exist along ditches, creeks, canals and even in peoples yards, all of this matters because it is vegetation that we deserve and habitat for the animals, birds, and fish. Ms. Manning stated this is an issue everyone became aware of when the wells went dry in Bishop. She stated it is up to the County to propose a plan to help out and if there is not a plan, LADWP will decide where the water goes.

Commissioner Prather stated he is working with the Audubon group and they are trying to save water on Owens Lake in return for habitat protection, significant amounts, so they are looking into saving half the water which would be close to 50,000 acre feet. Commissioner Prather stated if nothing else happens, the water is going to go downhill. He stated the County is interested in keeping at least 1/3 of that water in the valley and they need to support in that.

Public Comment – Mark Bagley – Sierra Club – In terms of what the Water Commission might do he would like to suggest that they ask County Counsel to give them an assessment of the exceptions that are provided in the Chandler Decree and given Mr. Prendergast's comments, contacting the LADWP attorneys to see if they agree and move forward with a variance. Mr. Bagley stated Mr. Almond has provided good information and has made a suggestion on how to manage the available water so that water is available all year with reduced flows. Mr. Bagley stated the Cattleman's Association needs to be brought into the conversation and the Water Department could assist in facilitating some of those discussions.

Public Comment – Rick Apted – Lake Sabrina Employee – Mr. Apted stated he concurred with Mr. Almond. He stated last year was the first year he was out of business by August. He stated the tourist industry is being destroyed and the County still wants their taxes and fees that he has to borrow from someone else to pay and he doesn't think that makes any sense.

The Chairperson called a break at 7:34 p.m.

The Chairperson reconvened the meeting at 7:45 p.m.

## **5. Briefing on Bishop groundwater conditions**

Dr. Harrington provided a PowerPoint presentation on the wells and water conditions in the west Bishop area.

Public Comment – Dave Patterson – West Bishop Resident – Mr. Patterson stated he remembered a discussion regarding the quantity of leaves and debris in the ditches and how that affected porosity of the ditch. He stated he recalled someone saying if you clean out the ditches there will be more seepage into the aquifer. Mr. Patterson asked since these ditches have all gone dry for a number of months, they are more porous now? Dr. Harrington stated yes, that is true with not just leaves but fine sediment will clog the large pores.

Public Comment – Terry Russi – Bishop Resident – Mr. Russi asked if well T391 is in the vicinity of Shepard Lane and is the well information public record. Dr. Harrington stated there is a state law that states driller's logs are confidential and not public records however, the production well information and drillers logs are shared with public agencies. Mr. Russi stated the bottom 10 feet of his well is now sediment.

Dr. Harrington and Mr. Russi discussed various wells in the west Bishop area.

Public Comment – Phillip Anaya – Mr. Anaya asked about free flow wells along the Owens River and is there any data on how that correlates into any of this?

Public Comment – Daris Moxley – Ms. Moxley stated Dr. Harrington had provided a graph on depth to water on T389 and has there been measurements since then or was that the last measurement. Dr. Harrington stated Sally Manning had provided that graph at the last Water Commission meeting. Dr. Harrington stated measurements have been taken since then and W T389 is the well he was referring to that had recovered somewhat in the last few weeks. Ms. Moxley asked if well W407 was pumping. Dr. Harrington stated no.

Public Comment – Don Kunze – Mr. Kunze asked for clarification on what Ms. Moxley pointed out on Well 407. He stated the Water Department gave LADWP a green light to turn that well on anytime they want. Dr. Harrington stated the Water Department stated they did not think Well 407 was the cause of the sharp decline in the water table but that's not to say with the ditches not running that turning Well 407 on wouldn't have a significant effect. Mr. Kunze stated when you're looking at the wells on the back side of the canal and up on Dixon, those ditches and streams go down to the Buckley Ponds all year round. Mr. Kunze stated that's probably why the drop wasn't noticed in west Bishop because they keep water in those year round and the Bishop Creek canal as well. Mr. Kunze stated they cannot irrigate, it causes the draw down to be faster than what their well can recharge. As long as they are only washing the dishes, flushing the toilet, they are ok for right now. Mr. Kunze stated if LADWP is allowed to go back to the 116 second feet on Bishop Creek and they are allowed to dry up the ditches even earlier this year, there has been no recovery and they are going to be devastated and he hopes the County will prevent this from happening.

Public Comment – Sally Manning – Ms. Manning stated she saw correlation in the data except it looks like a significant drop at the very end of most of the test wells that seem to be correlated with the most recent change in management at the local LADWP office. Ms. Manning stated she knows for a fact that LADWP went out and strategically located monitoring wells next to places that would make them look good, such as wells right next to ditches and stated that is misleading. She stated one thing she feels needs to be pointed out is all the wells that start with 400 are new wells that went in since the Water Agreement. She stated one of the reasons LADWP wanted the Water Agreement was so they could replace wells on the Bishop Cone. Ms. Manning stated they were supposed to replace the wells with a similar size well but they are using bigger wells that are more efficient but do pump more water. She stated W411 was turned on April 1 and that tends to generally draw the water table down under the Bishop Cone and especially along the edges on the north and west sides.

Public Comment – Rick Delmas – Mr. Delmas asked Dr. Harrington what the cumulative effect is going to be assuming LADWP is going to continue pumping. Dr. Harrington stated what will happen with continued pumping in light of the change of operations of the ditches will be like that seen in the Highland area, an area that has in the past been buffered from effects of pumping by recharge from surface water conveyances will no longer be buffered. Dr. Harrington stated what is happening in West Bishop, hydrologically is unprecedented in the period of record of the monitoring wells. Dr. Harrington provided an explanation on the causes of land subsidence.

Public Comment – Rex Allen – Mr. Allen stated he was previously on the Board of the Bishop Creek Water Association and at that time LADWP had a policy of supplying and delivering free of charge material they would dump in your pond that did a good job of sealing.

Commissioner Stroh stated the roll of the County with regard to the Chandler Decree seems "toothless". He stated the

County is using “good will” in these discussions. He stated the County did pass a drought resolution which can provide assistance to people with well issues as there are grants available.

#### **6. Briefing on dispute over vegetation conditions in parcel Blackrock 94**

The Commissioners moved to table this item to the next meeting.

#### **7. Public Comment**

Sally Manning – Ms. Manning stated she is concerned that the briefing on the Blackrock 94 dispute has been removed from the agenda and stated it is a timely issue. She stated there is a resolution going forward to the Standing Committee in one week, and she is concerned that the public will not be able to attend the meeting in Los Angeles. Commissioner Prather stated the meeting will be televised. She stated the proposal on the table put together by the Water Department in her view is terrible. She stated the County loses if this proposal is accepted as a resolution to the Blackrock 94 dispute.

#### **8. Schedule next Water Commission Meeting**

The next Water Commission Meeting will be scheduled via email after open dates have been decided.

#### **9. Adjourn**

The Chairperson adjourned the meeting at 8:36 p.m.