



INYO COUNTY WATER DEPARTMENT

January 19, 2021

MEMORANDUM

To: Members of the Inyo County Water Commission

From: Aaron Steinwand, Water Director

Subject: Roles and Responsibilities of the Water Commission, January 21, 2021 meeting

At its November 16, 2020 meeting, the Water Commission requested an item to discuss the roles and responsibilities of the Water Commission be placed on the agenda for the January 21 meeting. This memo briefly reviewing the history and the duties of the Commission prepared to assist the discussion.

In 1980, the Inyo County Board of Supervisors drafted and the voters of Inyo County passed an ordinance to regulate groundwater pumping through a groundwater management plan utilizing a permit procedure. The 1980 ordinance formed the Water Commission and identified numerous duties for review and approval of pumping permits. The City of Los Angeles commenced litigation challenging the ordinance, and in 1983 the Inyo County Superior Court found the ordinance unconstitutional. Subsequently, Inyo County and Los Angeles began negotiations and studies that would ultimately result in the 1991 Inyo/Los Angeles Long-Term Water Agreement (LTWA) to settle the CEQA litigation over the water supply for the second LA aqueduct. As a consequence of the legal challenges and approval of the LTWA, duties originally assigned to the Water Commission by the 1980 ordinance were extinguished. This has left the Water Commission primarily fulfilling an advisory role to the Board or Planning Commission, or as a forum for the public to express their views on water issues. With respect to the 1980 ordinance and the disposition of Los Angeles' litigation, the Water Agreement provides that (Section XXVIII):

...the County, its agents, servants, officers and employees, and all other persons acting in concert with the County, are enjoined from applying, implementing, or enforcing in any manner whatsoever, the County of Inyo Owens Valley Groundwater Management Ordinance ... provided however, that the Inyo County Water Department and Inyo County Water Commission may remain in existence to carry out the provisions of [the Water Agreement].

Within the Water Agreement, two Commissioners serve on the Inyo/Los Angeles Standing Committee (Section II) which is the decision-making body overseeing many of the LTWA activities and projects. Each agency has one vote, usually cast by the member serving as Chairman of the Board of Supervisors unless delegated to another. Even though the role of the Water Commission is largely advisory, that

responsibility should not be underestimated. During the development of the LTWA, the Water Commission served an important role as a forum for the public to voice concerns and comments on water-related issues which continues to the present.

In 1999, the Board of Supervisors adopted Resolution 99-43, which set forth the purpose and duties of the Water Commission (the portion of 99-43 pertaining to the Water Commission is attached). In addition to the role of advisors to the Board, Resolution 99-43 provides that the Water Commission evaluate the hydrogeological and related environmental impacts of any proposed transfer or transport of water regulated by Ordinance 1004 (the groundwater ordinance), and based upon the evaluation, develop recommended mitigation measures, project conditions, and groundwater monitoring, management, and/or reporting program. The Water Commission proposes findings and submit these recommendations to the County Planning Commission. Resolution 99-43 and Inyo County Code Section 15.12.040 also provide that the Water Commission serve as environmental review board and lead environmental agency for the purpose of the California Environmental Quality Act on all projects permitted, carried out, approved, funded or processed by the Water Department. Such projects include, but are not limited to, the Lower Owens River Project, enhancement/mitigation projects undertaken pursuant to the Long Term Agreement, mitigation projects adopted in the FEIR, groundwater pumping by the City of Los Angeles under the LTWA, and salt cedar control or other invasive plant control undertaken pursuant to the LTWA. As the LTWA mitigation projects progressed from planning and permitting to implementation and monitoring, the need for the Water Commission's role as environmental review board and lead agency diminished. The role of the Commission could still apply, however, when additional CEQA compliance necessary to revise the LTWA projects or if the Water Department undertakes other new projects .

Resolution 99-43 provides that the Water Department serves as staff to the Water Commission to coordinate Water Commission meetings, record minutes at meetings, develop meeting agendas, and perform other administrative support functions for the Water Commission; however, this provision does not grant the Water Commission the authority to direct Water Department work or personnel.

In 2020, Inyo County Board of Supervisors conducted a first reading of a proposed ordinance to replace 1004. The Board placed final decision on the revised ordinance on hold temporarily, but may consider the ordinance again in the future. In the proposed ordinance, the role of the Water Commission was greatly expanded. Rather than submitting recommendations to the Planning Commission consideration, the Water Commission would administer the ordinance which includes receiving, hearing, and deciding every application for a water transfer or transport permit. Additional roles could include setting monitoring and reporting requirements as part of the permit conditions and hearing appeals of any Water Department decisions regarding permits. The Water Commission would serve as the environmental review board and lead environmental agency for CEQA review of projects receiving permits.

Resolution 99-43, Part II, Section III. Inyo County Water Commission

A. Purpose

The purpose of the Inyo County Water Commission is to assist in the implementation of the County Policy on Extraction and Use of Water, Agreement, FEIR, MOU and Ordinance No. 1004 as set forth below.

1. Remain informed and educated about issues relating to water resources.
2. Conduct meetings to inform and educate the public about, and to solicit public opinion on, all issues, decisions, projects, programs and activities arising out of, or associated with, the Agreement, the FEIR, the MOU, and the transfer and transport of water regulated by Ordinance No. 1004.
3. Continuously review implementation of the Agreement, the FEIR, the MOU, and any transfer or transport of water regulated by Ordinance No. 1004 and submit periodic written recommendations or advice to this Board, together with reports on the views of the public, concerning issues, decisions, projects, programs and activities arising out of, or associated with, the implementation of the Agreement, the FEIR, the MOU, and any transfer or transport of water regulated by Ordinance No. 1004. At least every six months, the commission shall submit written recommendations, advice and reports to the Board, and/or present such recommendations, advice and reports to the Board at a workshop.
4. Evaluate, the hydrogeological and related environmental impacts of any proposed transfer or transport of water regulated by Ordinance 1004, and based upon the evaluation, identify and develop recommended mitigation measures, project conditions, a monitoring, groundwater management and/or reporting program, and proposed findings, and submit these recommendations to the County Planning Commission.
5. Serve, as required by Section 15.12.040 of the Inyo County Code, as the environmental review board and lead environmental agency for the purpose of the California Environmental Quality Act on all projects permitted, carried out, approved, funded or processed by the Water Department. Such projects include, but are not limited to, the Lower Owens River Project, enhancement/mitigation projects undertaken pursuant to the Long Term Agreement, mitigation projects adopted in the FEIR, groundwater pumping by the City of Los Angeles under the Long Term Agreement, and salt cedar control, other invasive plant control, and weed control undertaken pursuant to the Long Term Agreement. The environmental responsibilities of the Commission do not include serving as the environmental review board or lead agency in regard to the issuance of a conditional use permit pursuant to Ordinance 1004, the release of any land pursuant to the Long Term Agreement, the rehabilitation and development of parks pursuant to the Long Term Agreement, or the transfer of town water systems under the Long Term Agreement.
6. Conduct meetings, as may be requested by this Board, inform and educate the public about, and to solicit public opinion on, water resource issues and decisions which arise outside of the Agreement, the FEIR, and the MOU;

7. Submit, as may be requested by this Board, recommendations or advice, together with reports on the views of the public, concerning water resource issues and decisions which arise outside of the Agreement, the FEIR, the MOU and Ordinance 1004;
8. Designate two members of the commission to serve on the Standing Committee.
9. The responsibilities of the Water Commission do not extend to the implementation of the provisions of the Agreement for the Transfer of the Town Water Systems (Section XI) the Release of City Owned Lands (Section XV), nor to the implementation of provisions of the Agreement for Park Rehabilitation, Development, and Maintenance (Section XIV. B). These responsibilities are delegated to other commissions and departments of the County as set forth below. For informational purposes, the Water Commission is to receive copies of any status reports concerning these activities that may be presented to the Board of Supervisors.