CALIFORNIA Water Boards

GAVIN NEWSOM GOVERNOR

JARED BLUMENFELD SECRETARY FOR ENVIRONMENTAL PROTECTION

Lahontan Regional Water Quality Control Board

June 28, 2019

File: Environmental Doc Review
Inyo County

Larry Freilich, Mitigation Manager
Inyo County Water Department
P.O. Box 337
Independence, CA 93526
lfreilich@inyocounty.us

Comments on the Draft Environmental Impact Report, Owens River Water Trail Project, Inyo County, State Clearinghouse Number 2018051049

The California Regional Water Quality Control Board, Lahontan Region (Water Board) staff received a Draft Environmental Impact Report (DEIR) for the above-referenced Project (Project) on May 13, 2019. The DEIR was prepared by Inyo County (County) and submitted in compliance with provisions of the California Environmental Quality Act (CEQA). Based on our review of the DEIR, we recommend the following: (1) the DEIR acknowledge that future or long-term maintenance of Project components may require a permitting action by the Water Board; and (2) the DEIR address how water quality objectives for dissolved oxygen and turbidity will be attained throughout project construction. Our comments are outlined below.

WATER BOARD'S AUTHORITY

All groundwater and surface waters are considered waters of the State. All waters of the State are protected under California law. State law assigns responsibility for protection of water quality in the Lahontan Region to the Lahontan Water Board. Some waters of the State are also waters of the United States. The Federal Clean Water Act (CWA) provides additional protection for those waters of the State that are also waters of the United States.

The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains policies that the Water Board uses with other laws and regulations to protect the quality of waters of the State within the Lahontan Region. The Basin Plan sets forth water quality standards for surface water and groundwater of the Region, which include designated beneficial uses as well as narrative and numerical objectives which must be maintained or attained to protect those uses. The Basin Plan can be accessed via the Water Board's web site at http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/references.shtml.

WATER QUALITY CONCERNS

We agree that the Project will improve the recreational beneficial uses of the Lower Owens River. However, poor Project implementation and inadequate mitigation has the potential to negatively affect water quality. Our comments on the Project are outlined below.

1. The DEIR identifies the need for ongoing maintenance activities. Please be advised that any maintenance needed to maintain waterways, including drainage and vegetation management, will likely require a permitting action by the Water Board. Early consultation with Water Board staff is recommended.

2. **Mitigation Measure HYD-1a: In-Stream Measures to Minimize Pollution, Sediment Loading, and Dissolved Oxygen Impacts** – Mitigation measure HYD-1a fails to adequately address how changes in dissolved oxygen and turbidity in-stream water quality will be minimized during Project construction. Avoiding work during storm flows or during periods when in-channel flows exceed 70 cubic feet per second will not necessarily prevent dissolved oxygen and/or turbidity in the Owens River. The DEIR should include adequate mitigation measures that, when implemented, will reduce potential impacts to water quality to a less than significant level. Water quality monitoring and adaptive management strategies should be included as part of the mitigation strategy for this Project.

3. The Project must comply with all applicable discharge prohibitions, as specified in the Basin Plan. The Basin Plan (Chapter 4) prescribes the following region-wide waste discharge prohibition.

   "The discharge of waste that causes violation of any numeric water quality objective contained in this Plan is prohibited."

4. The Owens River below Tinemaha Reservoir is assigned the following beneficial uses: municipal and domestic supply (MUN); agricultural supply (AGR); groundwater recharge (GWR); contact and noncontact water recreation (REC-1, REC-2); commercial and sportfishing (COMM); cold freshwater habitat (COLD); wildlife habitat (WILD); rare, threatened, or endangered species (RARE); and spawning, reproduction, and development (SPWN). To maintain these beneficial uses, the Project must comply with all applicable water quality objectives for the Owens River, as specified in the Basin Plan.

   The main water quality concerns associated with this Project are dissolved oxygen and turbidity, though other constituents may also be of concern such as pH, changes in temperature, and oil and grease. The water quality objectives for dissolved oxygen and turbidity are defined below.

a. The Basin Plan (Chapter 3) prescribes the following numeric water quality objective for dissolved oxygen that applies to all surface waters, including the Owens River.

> *"The dissolved oxygen concentration, as percent saturation, shall not be depressed by more than 10 percent, nor shall the minimum dissolved oxygen concentration be less than 80 percent of saturation. For waters with the beneficial uses of COLD, COLD with SPWN, WARM, and WARM with SPWN, the minimum dissolved oxygen concentration shall not be less than that specified in Table 3-6."*

Table 3-6
WATER QUALITY CRITERIA FOR
AMBIENT DISSOLVED OXYGEN CONCENTRATION[1,2]

	Beneficial Use Class			
	COLD & SPWN[3]	COLD	WARM & SPWN[3]	WARM
30 Day Mean	NA[4]	6.5	NA	5.5
7 Day Mean	9.5 (6.5)	NA	6.0	NA
7 Day Mean Minimum	NA	5.0	NA	4.0
1 Day Minimum[5,6]	8.0 (5.0)	4.0	5.0	3.0

1 From: USEPA. 1986. Ambient water quality criteria for dissolved oxygen. Values are in milligrams per liter (mg/L).
2 These are water column concentrations recommended to achieve the required intergravel dissolved oxygen concentrations shown in parentheses. For species that have early life stages exposed directly to the water column (SPWN), the figures in parentheses apply.
3 Includes all embryonic and larval stages and all juvenile forms to 30-days following hatching (SPWN).
4 NA (Not Applicable).
5 For highly manipulatable discharges, further restrictions apply.
6 All minima should be considered as instantaneous concentrations to be achieved at all times.

b. The Basin Plan (Chapter 3) prescribes the following narrative water quality objective for turbidity that applies to all surface waters, including the Owens River.

> *"Waters shall be free of changes in turbidity that cause nuisance or adversely affect the water for beneficial uses. Increases in turbidity shall not exceed natural levels by more than 10 percent."*

5. **Mitigation Measure HYD-2** – The DEIR indicates that the Project would reduce the likelihood of overbank topping that causes flooding, though there was little discussion or evaluation as to why this mitigation measure was necessary to avoid potential impacts to water quality and hydrology. Please evaluate in the DEIR why overbank topping is a concern and how implementation of this mitigation measure with avoid or reduce potential impacts to a less than significant level.

6. All excess soil excavated as part of the Project that is not used onsite should be stockpiled in an upland location such that it will not be transported by wind or water into a surface water. An adequate combination of sediment and erosion control Best Management Practices must be implemented and maintained to temporarily stabilize the stockpiled soils until such time that they are reused and/or permanently stabilized.

7. Equipment staging areas and hazardous materials (i.e. oils and fuels) should be sited in upland areas outside surface waters and adjacent flood plain areas.

PERMITTING REQUIREMENTS

A number of activities associated with the proposed Project may have the potential to impact waters of the State and, therefore, may require permits issued by either the State Water Board or Lahontan Water Board. The required permits may include the following.

8. Streambed alteration and/or discharge of fill material to a surface water may require a CWA, section 401 water quality certification for impacts to federal waters (waters of the U.S.), or dredge and fill waste discharge requirements for impacts to non-federal waters, both issued by the Lahontan Water Board. All unavoidable permanent impacts to waters of the State must be mitigated to ensure no net loss of beneficial use and wetland function and value. Water Board staff coordinate mitigation requirements with staff from federal and other state regulatory agencies. In determining appropriate mitigation ratios for impacts to waters of the State, we consider Basin Plan requirements (minimum 1.5 to 1 mitigation ratio for impacts to wetlands) and utilize 12501-SPD Regulatory Program Standard Operating Procedure for Determination of Mitigation Ratios, published December 2012 by the US Army Corps of Engineers, South Pacific Division.

9. Land disturbance of more than 1 acre may require a CWA, section 402(p) storm water permit, including a National Pollutant Discharge Elimination System General Construction Storm Water Permit, Water Quality Order 2009-0009-DWQ, obtained from the State Water Board, or individual storm water permit obtained from the Lahontan Water Board.

We request that the draft DEIR recognize the potential permits that may be required for the Project, as outlined above, and identify the specific activities that may trigger these permitting actions in the appropriate sections of the environmental document. Information regarding these permits, including application forms, can be downloaded from our website at http://www.waterboards.ca.gov/lahontan/. Early consultation with Water Board staff regarding potential permitting is recommended.

Thank you for requesting our consultation. If you have any questions regarding this letter, please contact me at (760) 241-7305 (tiffany.steinert@waterboards.ca.gov) or Jan Zimmerman, Senior Engineering Geologist, at (760) 241-7376 (jan.zimmerman@waterboards.ca.gov). Please send all future correspondence regarding this Project to the Water Board's email address at Lahontan@waterboards.ca.gov and be sure to include the Project name in the subject line.

Per

Tiffany Steinert, GIT
Engineering Geologist

cc: Nick Buckmaster, CA Dept. of Fish and Wildlife (nick.buckmaster@wildlife.ca.gov)
State Clearinghouse (SCH 2018051049) (state.clearinghouse@opr.ca.gov)

R:\RB6\RB6Victorville\Shared\Units\JAN's UNIT\Tiffany\CEQA\Owen's River Water Trail.docx