



Los Angeles
Department of
Water & Power

RESOLUTION NO. _____

BOARD LETTER APPROVAL

ANSELMO G. COLLINS
Senior Assistant General Manager
Water System

Aram Benyamini (Sep 11, 2024 16:56 PDT)

ARAM BENYAMIN
Chief Operating Officer

JANISSE QUIÑONES
Chief Executive Officer and Chief Engineer

DATE: September 4, 2024

SUBJECT: Amendment No. 2 to the Agreement with the County of Inyo
Concerning Operation and Funding of the Lower Owens River Project

SUMMARY

The proposed Amendment No. 2 (Amendment) to the Agreement between the County of Inyo (County) and LADWP Concerning Operation and Funding of the Lower Owens River Project (LORP) Agreement will extend the current term of the Agreement by two years from the date Amendment No. 1 expired, to July 11, 2026. This will be the second extension of the Agreement. Amendment No. 1 extended the Agreement until July 11, 2024. The Agreement includes funding guidance for operations, maintenance, and monitoring work in the LORP. Operations, maintenance, and some monitoring of the project will continue in perpetuity to comply with various legal agreements, requiring extension of this Agreement.

City Council approval is not required.

RECOMMENDATION

It is recommended that the Board of Water and Power Commissioners (Board) adopt the attached Resolution authorizing approval of Amendment No. 2.

ALTERNATIVES CONSIDERED

- Operations and maintenance activities and hydrologic monitoring in the LORP will continue in perpetuity to comply with obligations set forth in the 1991 Agreement with the County on a Long Term Groundwater Management Plan for Owens Valley and County (Water Agreement), the 1997 Memorandum of Understanding between LADWP, the County, California Department of Fish and Game (Wildlife), California State Lands Commission, Sierra Club, and the Owens Valley Committee (1997 MOU) and the 2007 Stipulation and Order concerning the LORP (Inyo County Superior Court, Case No. S1CVCV01-29768). Post-implementation costs of the LORP are currently funded jointly by LADWP and the County through the Agreement.
- Alternatives to extending the Agreement for two years are to dissolve the Agreement, renegotiate terms of the Agreement, or extend the Agreement for a different time period. Regardless, LADWP will have continued financial, operational, and monitoring commitments to the LORP per standing court mandates.

FINANCIAL INFORMATION

Costs for LADWP under the Agreement for the duration of the LORP (16 years) have ranged from \$215,359.00 to \$945,902.00 annually, averaging \$471,974.00 annually. The highest cost was associated with the unprecedented runoff associated with the historic snowpack of 2023, which necessitated vast additional maintenance and resources to manage the project.

The original term of the Agreement followed that of the LORP Monitoring, Adaptive Management, and Reporting Plan (MAMP), which required an initial 15-year monitoring period for various ecological components in the LORP following the start of the project. The MAMP is now complete and subsequently no longer requires funding, which greatly reduces cost. However, continued operations, maintenance, hydrologic monitoring, and some adaptive management costs will continue to be funded jointly by LADWP and the County through this extension of the Agreement but are expected to cost less than the annual average in most years.

BACKGROUND

In 1991, LADWP and the County entered into the Water Agreement. The impacts of the Water Agreement and LADWP's groundwater pumping operations in the Owens Valley from 1970 to 1990 were addressed in a 1991 Environmental Impact Report (1991 EIR). The Water Agreement provides for the implementation of the LORP, which includes the rewatering of a portion of the Owens River, establishment of the Blackrock Waterfowl Management Area, enhancement of habitat in the Owens River Delta, and maintenance of several off-river lakes and ponds.

Section XII of the Water Agreement provides that: (1) the County will fund one-half of the LORP initial construction costs, up to a maximum of \$3.75 million, less any funds contributed to cover the initial construction costs by the State of California or other non-LADWP source, (2) LADWP will fund the remaining initial construction costs of the LORP, and (3) LADWP and the County will jointly fund and operate the LORP after it has been implemented, except for the costs of operating and maintaining the pump station, which will be funded by LADWP.

In 1997, LADWP and the County entered the 1997 MOU to resolve challenges to the legal adequacy of the 1991 EIR and the implementation of the LORP. The MOU specified the amount of baseflow to be maintained in the river, the release of seasonal Habitat flows, and a schedule to establish baseflow in the river.

In 2004, LADWP and the County adopted the LORP EIR for the project. The schedule for establishing the baseflow was not met, and Inyo County Superior Court issued a court order for LADWP to establish the baseflow in 2005. LADWP and the County entered into a LORP Funding Agreement in 2005, in which LADWP provided \$5,242,965.00 to the County (\$2,989,932.00 toward the County's implementation commitment, and \$2,253,033.00 to be applied to the County's portion of LORP post-implementation costs).

On July 11, 2007, with LADWP establishing the permanent baseflow in the LORP, the MOU Parties entered into a Stipulation and Order resolving issues with the 2005 Court Order. Post-implementation activities and costs have been jointly managed by LADWP and the County for a period of 15 years, in concurrence with the LORP MAMP. The Agreement was approved by the Board on May 18, 2010, and was effective until July 11, 2022. The Agreement was extended until July 11, 2024, by Amendment No. 1 and was approved by the Board on September 13, 2022.

After July 11, 2024, the required flows will be maintained and flow compliance monitoring required by the Stipulation and Order will continue to be conducted. Beyond those requirements, LADWP and the County will decide what level of operations, maintenance, habitat monitoring, and adaptive management will be conducted in the LORP. This recommendation is to approve Amendment No. 2 to the Agreement, extending the Agreement for two years from the date of expiration of Amendment No. 1 to the Agreement, to maintain a mechanism for continued shared costs between LADWP and the County in the LORP.

ENVIRONMENTAL DETERMINATION

Determine item is in compliance with California Environmental Quality Act (CEQA) Guidelines Sections 15080-15097. In accordance with CEQA, an Environmental Impact Report (EIR) was prepared to analyze the impacts associated with the implementation of the LORP (SCH Number 2000011075). On July 20, 2004, the Board certified the EIR; adopted the Mitigation Monitoring and Reporting Program, Findings of Fact and Statement of Overriding Considerations; and approved the project.

CITY ATTORNEY

The Office of the City Attorney reviewed and approved the Resolution and Easements as to form and legality.

ATTACHMENTS

- Resolution
- Agreement