



## Review of Legal Developments

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### The Mono Lake Cases

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In fall of 1994, the California Water Resources Control Board will amend the City of Los Angeles' water right licenses for diversions from streams tributaries to Mono Lake, located in the remote eastern Sierra Nevada. This administrative order will conclude litigation challenging the State Water Board's licenses that authorized diversions of all natural flows in these streams. The State Water Board's order will substantially reduce Los Angeles' prior diversions from the Mono Basin. Even if the State Water Board's order is appealed, the Mono Lake Cases establish fundamental legal precedents requiring an appropriator in California to keep fish in good condition downstream of its diversion facility, and to avoid unnecessary harm to the wildlife and even the beauty of the affected water resources.

#### BACKGROUND

The Mono Lake Cases concern the amount of diversions that Los Angeles can undertake in compliance with the Fish and Game Code and the public trust doctrine. Since the turn of the century, Los Angeles has looked north to supplement its limited local ground and surface water resources, which are sufficient for a small fraction of the city's current population.

In 1913, Los Angeles constructed an aqueduct to export water from the Owens River. Los Angeles then planned to extend the aqueduct into the next watershed north, the Mono Basin, located approximately 350 miles from the city. In 1934, Los Angeles applied for the State Water Board's permits for diversions from Rush, Lee Vining, Walker, and Parker creeks, the principal tributaries to Mono Lake.

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Beginning in the 1920's, Los Angeles purchased and, to a lesser extent condemned, existing riparian and appropriative rights and associated land titles on the tributaries and also littoral rights to Mono Lake itself (see *City of Los Angeles v. Aitken*, 10 Cal.App.2d 460 [1935]). As a result of such acquisitions, Los Angeles now controls these streams and undertakes the only significant diversions from its facilities down to Mono Lake.

On 11 April 1940, the State Water Board granted water right permits to Los Angeles. It rejected protests arguing that the plan of diversion would dry up Mono Lake, the second largest in California and a significant nesting and feeding ground for ducks, gulls, and other migratory waterfowl. The protests also opposed the likely resulting harm to the brown and rainbow trout fisheries in the tributaries that contributed to Mono County's tourist economy as the most popular angling destination in California.

Even though statutory law authorized denial of a permit application to "conserve the public interest" (Cal. Water Code § 1254, Stats. 1921 ch. 329 § 1), the State Water Board determined that the plan of diversion would put the water to the highest and best use recognized by state law, namely, municipal supply (Cal. Water Code § 1254). It concluded that, given that priority, it had no authority to deny the permit application even though the Water Code also recognized environmental values (Water Rights Dec. 8042 and 8043 [11 Apr. 1940]).

It is indeed unfortunate that the City's proposed development will result in decreasing the aesthetic advantages of Mono Basin but there is apparently nothing that this office can do it prevent it. . . . This office . . . has no alternative but to dismiss all protests based upon the possible lowering of the water level in Mono Lake and the effect that the diversion of water from these streams may have upon the aesthetic and recreational value of the Basin.

These permits authorized diversions in amounts substantially greater than the average natural flows of the streams and did not include any condition expressly designed to avoid environmental harms.

Los Angeles promptly extended its aqueduct into the Mono Basin via the Mono Craters Tunnel, constructed the necessary diversion facilities on the tributaries, and began operations. Diversions averaged just over 51,000 acre-feet a year until 1970, when Los Angeles completed an expansion of aqueduct capacity. In 1974, without further hearing, the State Water Board finalized the 1940 permits as licenses and, again, included no condition to avoid environmental harms. Between 1970 and 1980, Los Angeles diverted an average of 100,000 acre-feet a year, or five-sixths of the tributaries' average flows.

These diversions caused significant damage to the natural resources of the Mono Basin. By 1980, Mono Lake had shrunk, stranding boat docks and beaches and creating a broad, dusty shoreline. The lake had also sunk more than 40 vertical feet. By nature a sink without outlet, the lake became substantially more saline as a result of the diversions, thus endangering its suitability as a nesting and feeding area for migratory waterfowl. The diversions also periodically had dried up the tributaries and caused catastrophic damages to the trout fisheries and associated riparian vegetation, channel forms, wetlands, and springs.

#### HISTORY OF MONO LAKE CASES

In 1979, the Mono Lake Committee and the National Audubon Society sued to enjoin Los Angeles' diversions on the theory that the waters, bed, and shores of the navigable Mono Lake are protected by the public trust doctrine. This complaint was an unprecedented effort to apply this judge-made or common law to limit a municipal appropriation of water resources in California.

Based historically in English law, the public trust doctrine was imported into the colonies, then assumed by the states after the Revolution (Walston 1982). The doctrine holds that a state owns "all of its navigable waterways and the lands lying beneath them 'as trustee of a public trust for the benefit of the people'" (*Colberg, Inc. v. State of California*, 67 Cal.2d 408, 416 [1967] [citation omitted]). Upon its admission as a State in



1852, California acquired title as trustee to such trust resources (*Eldridge v. Cowell*, 4 Cal. 80 [1854]). Although other cases had settled that the State holds a generally irrevocable interest in the submerged lands of such navigable waters (*City of Berkeley v. Superior Court*, 26 Cal.3d 515 [1980]) and may regulate structures or activities that impair navigation and similar trust purposes (*People v. Gold Run Ditch and Mining Company*, 66 Cal. 138 [1884]), no previous case had addressed whether this doctrine also applies to limit water appropriations, which the State Water Board otherwise regulates under the statutory Water Code.

In 1983, the California Supreme Court ruled. It stated that the case (33 Cal.3d at 441):

brings together for the first time two systems of legal thought: the appropriative water rights system which since the days of the gold rush has dominated California water law, and the public trust doctrine which, after evolving as a shield for protection of tidelands, now extends its protective scope to navigable lakes.

The Court acknowledged that the Water Code establishes the exclusive method for appropriation in the State (see 33 Cal.3d at 441 et seq.; Cal. Water Code § 1225). It determined that the Water Code itself authorized the State Water Board to protect the scenic and recreational uses of Mono Lake and other water resources (33 Cal.3d at 443). It further noted that the Water Code, as amended in 1955, contained express protection for the public trust uses (Ibid at 446 n. 27). Nevertheless, the Court rejected Los Angeles' argument that the common-law doctrine had been "subsumed" into the statutory law (Ibid at 445). The Court found that "both the public trust doctrine and the water rights system embody important precepts which make the law more responsive to the diverse needs and interests involved in the planning and allocation of water resources" (Ibid).

The Court held that the State Water Board, in 1940 and again in 1974, had violated the public trust doctrine in authorizing Los Angeles' diversions without consideration or avoidance of harms to the trust resources of Mono Lake and its tributaries (Ibid at 446-8). The Court further extended the doctrine by holding that it restricts diversions from nonnavigable tributaries in order to protect downstream navigable waters (Ibid at 437). Although not mandating any specific relief, the Supreme Court directed that further consistent proceedings be undertaken in trial court.

Meanwhile, anglers and conservation organizations filed further complaints to protect the tributary fisheries that had been reestablished as a result of spills from Los Angeles' facilities during heavy winter floods. Like the then-separate case concerning Mono Lake, these complaints sought to enforce the public trust doctrine to limit tributary diversions. They also asserted, as a separate ground for relief, California Fish and Game Code section 5937, which provides in relevant part that:

The owner of any dam shall allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam to keep in good condition any fish that may be planted or exist below the dam.

The plaintiffs argued that Section 5937 was violated because no fishways existed at Los Angeles' facilities in the Mono Basin, and the State Water Board's licenses required no releases for the benefit of the downstream fisheries.

Fish and Game Code section 5937 dates back nearly to statehood. As first enacted in 1870, Section 5937's predecessor required, "as far as practicable," a fishway over any obstruction in a stream (1870 Cal. Stats. 663-4, ch. 457 § 3; see generally Baiocchi 1980). That law did not specify any water release and allowed exceptions to the general requirement for fishway installation. A 1937 amendment, which is today's Section 5937, requires passage or release of water from a dam for the benefit of the downstream fishery (1937 Cal. Stats. 1400, ch. 456 § 1). Notwithstanding this historical lineage, no judicial case prior to the Mono Lake Cases had determined whether or how an appropriation under the Water Code must be conditioned to comply with Fish and Game Code section 5937.

In this round of litigation, the Mono County Superior Court issued preliminary injunctions, under authority of the public trust doctrine, requiring modest releases from



Los Angeles' facilities for the benefit of the downstream fisheries. The trial court did not rule on the applicability or effect of Fish and Game Code section 5937.

California Trout, Inc., the Mono Lake Committee, and the National Audubon Society then filed further complaints in Sacramento County Superior Court expressly seeking amendment of Los Angeles' water rights to comply with the Fish and Game Code. After defeat in the trial court on this legal issue, the Third District Court of Appeal mandated that the State Water Board so condition Los Angeles' water rights to provide permanent protection for the tributary fisheries (*California Trout, Inc. v. State Water Resources Control Board*, 207 Cal.App.3d 585 [1989] [*CalTrout I*] and *California Trout, Inc. v. Superior Court*, 218 Cal.App.3d 187 [1990] [*CalTrout II*]).

In *CalTrout I*, the Court of Appeal rejected Los Angeles' argument that Fish and Game Code section 5937 merely established a fishway duty and could not affect the appropriation of water for the highest uses recognized by the Water Code (207 Cal.App.3d at 600). Although not reaching the general question of how Section 5937 affects appropriations, the Court reasoned that a companion provision, Section 5946, requires that any license to appropriate water in Mono or Inyo counties after 9 September 1953 be "conditioned on full compliance with Section 5937" (Ibid at 601). Enacted in 1953 on the basis of legislative concern that Los Angeles' Aqueduct would otherwise cause catastrophic impacts on wildlife (Ibid at 597), Section 5946, read together with Section 5937, requires a "minimum in-stream flow for preservation of fish" in good condition at Los Angeles' facilities in the Mono Basin (Ibid at 622).

The Court of Appeal in *CalTrout II* remanded the litigation to trial court and the State Water Board, which were to share concurrent jurisdiction to provide appropriate remedies. Thereafter, the separate proceedings involving the tributary fisheries (pursuant to *CalTrout II*) and Mono Lake (pursuant to *National Audubon*) were consolidated before Judge Terrence M. Finney in El Dorado Superior Court (see Mono Lake Water Rights Cases, El Dorado Superior Court Coordinated Proceeding Nos. 2284 and 2288). Judge Finney was to provide interim remedies that will remain in effect until the State Water Board amends Los Angeles' water rights on a permanent basis.

On 6 December 1989, Judge Finney enjoined further diversions by Los Angeles as necessary to maintain Mono Lake at its then current elevation (6,377 feet above sea level). On 19 June 1990, he ordered minimum releases for the benefit of the tributary fisheries, somewhat greater in volume than set in the injunctions preceding *CalTrout II*. Together, these injunctions have had the effect of halting Los Angeles' diversions from the Mono Basin since late 1989.

Judge Finney has also overseen a restoration program for the tributaries, including tree plantings, digging of pools, placement of spawning gravels, and incision of channels in some areas, to remedy some of the degradation caused by Los Angeles' operations. In November 1990, all of the parties to the judicial proceedings, including Los Angeles, entered into an agreement to reestablish the historical conditions that benefitted the tributary fisheries, or equivalent conditions insofar as historical conditions cannot be re-created. The Restoration Specialist, an agent of the El Dorado Superior Court, has undertaken 3 years of planning and field work.

Now, 53 years after the issuance of Los Angeles' permits, the Mono Lake Cases are before the State Water Board, which will amend these licenses in compliance with the public trust doctrine and Fish and Game Code section 5937. The State Water Board's adjudicatory hearing began in October 1993, lasted more than 40 days, and resulted in an evidentiary record (including expert exhibits, declarations, and transcripts) in excess of 30,000 pages. Its order is scheduled to be released on or about 30 September 1994, after which any aggrieved party may seek judicial review.

#### DECIDED LAW

The law governing Los Angeles' future diversions from the Mono Basin now appears to be settled on the following points:

First, in the license amendments, the State Water Board will specify "precise" water

releases necessary to comply with the Fish and Game Code section 5937 (*CalTrout II*, 218 Cal.App.3d at 212). These releases must be generally sufficient, as required by that statute, to maintain the fisheries downstream of Los Angeles' facilities "in good condition." Furthermore, the Court of Appeal mandated that the license amendments must specifically "reestablish and maintain the fisheries which existed" in the tributaries prior to the commencement of Los Angeles' diversions in 1941 (*Ibid* at 194). The Court reasoned that the remedy for the harms caused by diversions violating Fish and Game Code section 5937 is a return to the conditions that existed before such violations began.

Second, the State Water Board cannot consider economic or social consequences in determining what flow regimes—what reductions in Los Angeles' licensed diversions—are necessary to reestablish and maintain the historic fisheries in the Mono Lake tributaries. Whereas the State Water Board generally balances all relevant considerations in determining the public interest in an appropriation, Fish and Game Code sections 5937 and 5946 require that Los Angeles' licenses set aside water needed to maintain fisheries in good condition. The California Legislature "resolved the competing claims for the beneficial use of water in these streams in favor of preservation of their fisheries" (*CalTrout II*, 218 Cal.App.3d at 195). The Court of Appeal did not thereby prohibit Los Angeles' diversions from the Mono Basin; it mandated that the future diversions be limited to those waters not needed for reestablishment and maintenance of the historic fisheries.

Third, the license amendments must, "whenever feasible," avoid harm to public trust uses of Mono Lake and its tributaries (*National Audubon*, 33 Cal.3d at 446). The State Water Board has an affirmative duty to protect such trust uses, including commercial fishing and related activities, navigation, recreation, scientific study, and aesthetic enjoyment (*Marks v. Whitney*, 6 Cal.3d 251 [1977]; *National Audubon*, 33 Cal.3d at 434-435). The doctrine is (*National Audubon*, 33 Cal.3d at 441):

an affirmation of the duty of the state to protect the common heritage of streams, lakes, marshlands and tidelands, surrendering the right of protection only in those rare cases when the abandonment of that right is consistent with the purposes of the trust.

Fourth, neither the Water Code (establishing municipal supply as the highest use) nor the public trust doctrine has an absolute priority (*National Audubon*, 33 Cal.3d at 447-8 n. 30). The Water Code recognizes that the "prosperity and habitability of much of the state requires the diversion of great quantities of water from its streams for purposes unconnected to [trust uses]" (*Ibid* at 426). However, the water law of the State is an "integration" of the Water Code and the public trust doctrine (*Ibid*). Accordingly, the State must avoid "needless destruction" of trust values in authorizing diversion—must "attempt, so far as is feasible, to avoid or minimize any harm to those [trust] interests" (*Ibid*).

Thus, the State Water Board must examine Los Angeles' foreseeable water demands and the costs of alternatives to the historical diversions from the Mono Basin. The license amendments must reduce such diversions to avoid unnecessary harm to public trust uses—that is, avoid the environmental harm caused by diversion of a block of water for which a feasible supply alternative exists. In sum, the Board must follow this logic path in applying the public trust doctrine:

What harm to public trust uses, both in the tributaries and Mono Lake, has resulted from past storage and diversions under Los Angeles' licenses? What foreseeable harm to such uses might result from continuing diversions even after compliance with Fish and Game Code section 5937?

If harm to public trust uses is reasonably foreseeable, what feasible alternatives exist to the storage or diversion which might cause that harm? What harm to public trust uses is unnecessary?

What remedy, in addition to that imposed for compliance with Fish and Game Code section 5937, will avoid unnecessary harm to the trust resources of Mono Lake and its tributaries?

Fifth, the State Water Board has a duty of “continuing supervision” to assure protection of public trust uses (*National Audubon*, 33 Cal.3d at 447). Los Angeles has not acquired and, even after these license amendments, can never acquire “a vested right to appropriate water in a manner harmful to the interests protected by the public trust” (Ibid at 445). The State Water Board and courts retain permanent jurisdiction, under the common-law doctrine, to reexamine “past allocation decisions that may be incorrect in light of current knowledge or inconsistent with current needs” (Ibid at 447).

#### CONTESTED ISSUES IN STATE WATER BOARD’S HEARING

As Mark Twain said, “Liquor is for drinking, water is for fighting.” The evidentiary hearing in the Mono Lake Cases was one of the longest ever conducted by the State Water Board since its creation in 1914. Active parties presenting evidence included Los Angeles, the State Water Board, three other state agencies (the California Department of Fish and Game, the California Department of Parks and Recreation, and the State Lands Commission), and three conservation organizations (California Trout, Mono Lake Committee, and National Audubon). The parties’ disputes principally concerned factual issues that arose in applying *CalTrout II* and *National Audubon*.

##### Fish in Good Condition

Under Fish and Game Code section 5937, Los Angeles shall release enough water to maintain downstream “fish in good condition.” That objective refers to more than the health of isolated fish and encompasses a self-sustaining fishery that roughly fills the carrying capacity of a given tributary.

*CalTrout II* directed the State Water Board to establish specific requirements for flows below Los Angeles’ facilities to serve this objective. The parties submitted flow recommendations that were generally based on the Instream Flow Incremental Methodology (IFIM) (Bovee 1982). That model employs surveys of channel transects, censuses of fish population over time and by location, and other scientific protocols to predict the relative availability of trout habitat under alternate flow regimes. For Rush Creek, the largest of the Mono Lake tributaries, the California Department of Fish and Game (CDFG) and Los Angeles submitted competing studies; for the other three tributaries, the CDFG undertook the only such field studies. The parties then presented expert testimony about the scientific validity of the studies’ data and protocols.

The parties’ recommendations for compliance with Section 5937 varied by a factor of three for certain months. They differed partly as a function of different data and protocols in the IFIM studies. However, the State Water Board’s order will likely not be affected by these technical issues. The IFIM merely correlates flow and habitat availability—without directly addressing what remedy would maintain a given tributary fishery in good condition (Bovee 1982:1–2). These technical issues are surrogates for a more fundamental question about the Section 5937 objective here: Does “good condition” mean that the tributary fisheries should be comparable to those that now exist elsewhere in the eastern Sierra Nevada, or superior?

##### Environmental Baseline

Because the Court of Appeals, in *CalTrout II*, mandated that the preproject fisheries be reestablished and maintained in the Mono Lake tributaries, the parties submitted extensive evidence about the relevant conditions before 1941. Unfortunately, no fish census had been conducted before that date. Accordingly, the parties drew inferences about the historical fisheries through contemporaneous photographs of the tributaries, including their channel forms and vegetation; other photographs of anglers with their catches; first-hand testimony of old-timers who had walked, fished, or otherwise observed these tributaries before 1941; and contemporaneous documents prepared by



CDFG wardens, U.S. Forest Service biologists, and even Mark Twain, who visited the area in the late 1800's.

Absent any comprehensive surveys of fisheries and their habitats before 1941, these historical records were fragmentary in scope. They were somewhat inconsistent, because they were prepared by different people with different skills and purposes at different times. As a result, this evidence was used to reach black-and-white conclusions about the historical conditions on the tributaries.

Los Angeles argued that the preproject fisheries had already been substantially degraded by irrigation diversions and sheep and cattle grazing and were sustained only by stocking of hatchery trout. In sum, Los Angeles characterized the fisheries as average for the region. By contrast, the CDFG and the conservation organizations concluded that these same fisheries contained robust wild trout, superior in size, quality, and population to counterpart fisheries, then or now, elsewhere in the eastern Sierra Nevada.

### Restoration of Preproject Conditions

One of the most unusual issues in the State Water Board's proceeding, which was convened principally to reduce diversions, was whether Los Angeles should also undertake restoration of fish habitat in the Mono Lake tributaries. The threshold legal issue was whether the State Water Board even had authority to require such restoration. Los Angeles took the posture that license amendments to comply with Section 5937 should only concern future storage and release of water, whereas the resource agencies and conservation organizations argued as well for physical remedy for past, unlawful damages to the fish habitat.

The tributary channels are substantially different today—shorter, straighter, and shallower—than before 1941. Until the first injunction, Los Angeles' operating regime periodically dried up the tributaries, thus destroying most riparian vegetation, then occasionally allowed the passage of winter floods, which in turn caused catastrophic erosion of the channels. Conservation organizations submitted evidence that these channel changes since 1941 prevent or at least interfere with the reestablishment of healthy trout fisheries. Even though continuous flows have occurred since 1989 under the interim injunctions, nearly all two-year-old trout in Rush Creek die; and in Lee Vining Creek, in some years, nearly all one-year-olds die. Using fish census data and regression analysis, expert witnesses concluded that inadequate habitat—and specifically, the sluiceway quality of degraded channels—contributed to the instability and early mortality of the fisheries. Los Angeles did not generally dispute the factual conclusion that inadequate habitat limits the recovery of the fisheries.

*CalTrout II* mandated the reestablishment of the historical fisheries in the Mono Lake tributaries. Because fish habitat there was shown to have lessened in quantity and worsened in quality since 1941, and because there was at least tacit agreement that the recovery of fisheries will depend on the repair of habitat degradation, the parties presented extensive evidence in the State Water Board's hearing about the mechanisms by which such habitat recovery could occur.

Expert witnesses for the resource agencies and conservation organizations testified that natural processes—the combined forces of rains, ice and snow, roots, and flows in tributary channels—would take hundreds of years to reverse some of the damages that Los Angeles' operations caused to these channels. Accordingly, they sought an active program of restoration to supplement such natural processes. By contrast, Los Angeles argued that, even since the first injunction in the mid-1980's, the tributaries were recovering their ecological balance. Los Angeles concluded that continued flows, in combination with a grazing moratorium and related measures, would result in natural recovery of the fish habitat. The parties further disagreed whether the interim restoration program under judicial control had accelerated the natural recovery of the tributaries, although California Trout introduced undisputed evidence showing localized increases in fishery population in the vicinity of newly dug pools and similar measures.

## Price of Environmental Compliance

The parties disagreed about the economic consequences of reduced diversions from the Mono Basin, which (before the interim injunctions) were approximately one-seventh of Los Angeles' total water supply. Although such consequences are irrelevant, as a matter of law, to the Fish and Game Code section 5937 remedy, the State Water Board may consider them in determining whether to release additional water, under the public trust doctrine, for the benefit of trust resources other than the fisheries.

As discussed earlier, the parties recommended different amounts of release for the benefit of the tributaries and lake, and thus different amounts of authorized diversions from the Mono Basin into the Los Angeles Aqueduct. Los Angeles proposed that its earlier diversions be reduced by approximately 50%; CDFG and CalTrout by 67%; and Mono Lake Committee and National Audubon by 100% until Mono Lake reaches a higher elevation.

All parties agreed that improved conservation by Los Angeles' customers would soften the impact of any such reduced diversions, but the purchase of some new water supply may be necessary as Los Angeles' population grows. California Trout, Mono Lake Committee, and National Audubon estimated that the costs associated with their recommended remedies would be less than several million dollars a year covered, in part, by federal and state grants; Los Angeles replied that its customers would pay more than twenty million dollars a year on their water bills as a result.

In sum, although the law governing the Mono Lake Cases is more or less settled, the parties to the State Water Board's proceeding fundamentally disagreed about the content and consequences of the license amendments. The contested factual issues are: (1) What flow regimes will bring back the historical fisheries in the tributaries? and (2) What will Los Angeles residents pay to bring their Mono Basin facilities into compliance with Fish and Game Code section 5937 and the public trust doctrine? The State Water Board's order will, for the first time, adjudicate the facts to determine what flow regimes satisfy *CalTrout II* and *National Audubon*.

## CONCLUSION

Fifty-three years ago, the State Water Board permitted Los Angeles to divert the natural flows of the principal tributaries to Mono Lake, notwithstanding the foreseeable degradation to fisheries and other trust resources. That decision was consistent with state law as commonly understood at the time. However, after one decision by the California Supreme Court and two by the Court of Appeals, the public trust doctrine and Fish and Game Code section 5937 have been reinvigorated into legal mandates that will reduce Los Angeles' licensed diversions. The State Water Board's order will eventually result in the reestablishment of the historical fisheries and other trust resources in the Mono Basin. The Mono Lake Cases will also establish legal precedents whose consequences for water appropriations elsewhere in California and the West are, as yet, uncertain but profound.

## EPILOGUE

Shortly before this issue of *Rivers* went to press, the State Water Board adopted its order amending Los Angeles' water right licenses in this matter. The order allows diversions projected to average 12,300 acre-feet a year until Mono Lake has risen 16 vertical feet; and then, 30,800 acre-feet a year thereafter. (For comparison, the average flow in these tributaries is 124,200 acre-feet a year.) The order requires additional restoration of the tributaries and wetlands adjacent to the lake.

A copy of the order, entitled "Decision 1631," may be obtained from the State of California Water Resources Control Board, Division of Water Rights, P.O. Box 100, Sacramento, CA 95812.

On 28 September 1994, Los Angeles and the conservation organizations that brought





the Mono Lake Cases agreed not to appeal the State Water Board's order. A future issue of *Rivers* will report on this order, which appears to have ended one of the West's bitterest disputes over municipal water rights.

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