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March 30, 2010

Mr. Gregory Brown
Environmental Scientist
State Water Resources Control Board
Division of Water Rights

RE: Comments on the Mono Basin Stream Restoration and Monitoring Program: Synthesis of Instream Flow Recommendations to the State Water Resources Control Board and the Los Angeles Department of Water and Power (Draft Report for Public Comment, January 27, 2010)

Dear Mr. Brown:

My family and I have been supporters of the Mono Lake Committee (MLC) for many years. You may be aware that my father, Elden Vestal, a respected inland fisheries biologist with the California Department of Fish and Game for 41 years, provided testimony that critically influenced the landmark decision of the State Water Resources Control Board in 1994, that required the restoration of the Mono Basin including the trout fisheries in Rush and Lee Vining Creeks. In early 2009, I began working as a volunteer with members of the MLC staff, and I attended the Restoration Meeting in Bishop, California, April 28-29, 2009. I also attended the second day of the recent Restoration Meeting in Sacramento, February 22-23. Thus, I am engaged and following the progress of restoration in the Mono Basin with intense interest.

The body of work done by the Stream Scientists and others to create a foundation for understanding the ecology of Mono Lake and its tributaries is truly impressive, and they all are to be congratulated for their work. In particular, the work on Rush and Lee Vining Creeks that is summarized in the "Synthesis of Instream Flow Recommendations to the State Water Resources Control Board and the Los Angeles Department of Water and Power" (Draft Report for Public Review and Appendices, January 27, 2010) in general provides a solid scientific basis for making changes in the flow regimen that hopefully will optimize and accelerate the restoration of the trout fisheries and the associated riparian areas in these two important tributaries to Mono Lake while still permitting the gradual restoration of Mono Lake to the target elevation of 6,391 feet. My review and understanding of the draft Synthesis Report was very much enhanced by the excellent presentations of the Stream Scientists at the meeting in Sacramento. Although there has been definite progress, it is clear from the studies that restoration is far from complete. I have particular concern for the situation with Rush Creek in which the data show that the trout population in the lower section of the steam below the Narrows does not support significant numbers of larger brown trout. According to the "Fisheries for Rush, Lee Vining, Parker, and Walker Creeks 2007-08", none of the annually sampled sections in Rush Creek met the target of meeting four out of the five

termination criteria. The County Road and Upper sections met two of the five criteria, whereas the Lower section failed to meet any of the termination criteria. During the period 2000-2007, the Stream Scientists found no brown trout larger than 15 inches in the Lower section. There were similar problems for Lee Vining Creek.

Although I have a strong medical research and scientific background, my main qualifications to comment on the Synthesis Report are that I am a dedicated fly fisherman, conservationist, and environmentalist. I definitely want the restoration of the entire Mono Basin, which suffered greatly from the diversions of water by the Los Angeles Department of Water and Power (LADWP), to be ecologically sound and sustainable. I do have several modest recommendations:

(1) Termination criteria should be left in place as written in Order 98-07 and appropriate monitoring at appropriate intervals must continue. The monitoring should acquire data suitable for comparison to the existing data sets in order to continue to evaluate progress. The Los Angeles Department of Water and Power (LADWP) must continue to be accountable for successful restoration of the fishery in Rush Creek and Lee Vining Creek. However, it is reasonable to have additional discussion and try to achieve consensus agreement on what successful restoration will look like. The Synthesis Report is not very clear on this issue. The last paragraph of the Executive Summary on p. 3, states "The Stream Scientists suggest that the current termination criteria specified in Order 98-07 have served their purpose...., but have limited utility in the next phase of instream flow implementation and monitoring" etc. Then on p. 126 in Sect. 7.2 Adaptive Management, the report reads "The adaptive management process begun in Orders 98-05 and 98-07 should continue, but without the termination criteria." On p. 116, however, in the mid-first column, the report reads "The Fisheries Stream Scientists recommend that the termination criteria metrics in the Hunter (2007) memorandum continue to be annually computed..." and then in the section immediately above reiterates the point that there are no scientifically quantifiable data to provide a picture of the trout population that the streams supported on a self-sustaining basis prior to 1941 (Hunter 2007). The rest of that section up to Sect. 7.1 Future Monitoring seemingly attempts to lower the expectations for restoration and provides the rationale. Hunter proposed among several metrics monitoring the number of "catchable trout...(≥9"). It seems to me that this issue of changing or eliminating the current termination criteria is so important that perhaps an independent assessment of the justification for this recommendation should be made.

(2) I recommend that the feasibility and advisability of at least partial rewatering of the West-Side Springs in the Rush Creek bottomlands be explored for possible implementation. These springs also are known as the Vestal Springs. This idea was introduced in 1999 by Peter Vorster and Scott Stine in a discussion paper entitled "Feasibility of Rejuvenating the West-Side Springs of the Rush Creek Bottomlands, Mono County, California". They suggest that an increase in spring flow would provide an indirect benefit to the Rush Creek fishery by helping to stabilize stream temperatures and by increasing conductivity. A direct benefit would accrue if fish were able to swim from Rush Creek into the Vestal Springs.

(3) If the instream flow recommendations do not result in accelerated progress with restoration of the Rush Creek and Lee Vining fisheries, I recommend that the adaptive management approach be evaluated and perhaps supplemented with careful physical restoration methods, particularly in Lower Rush Creek. This view is shared by Dr. Eric Larsen, a geomorphologist at University of California at Davis. Dr. Larsen, who brings experience with the initial restoration efforts of Trihey and Associates, is a consultant to the Mono Lake Committee. He has reviewed the reports of the Stream Scientists with particular attention to the draft Synthesis Report and the "Pool and Habitat Studies on Rush and Lee Vining Creeks" (July 2009). As stated above, adequate stream and fisheries restoration has not been achieved. The scientifically based flow recommendations proposed by the Stream Scientists deserve a reasonable period of time, preferably including at least one wet year to allow for further improvements in pool formation, to have an impact on the characteristics of the fish population, riparian areas, and stream morphology. If there has been little or no progress, particularly with Lower Rush Creek, the adaptive management approach to restoration deserves reassessment and modification. This will be especially true if LADWP cannot comply or declines to comply with the proposed instream flow recommendations.

(4) Finally, I strongly urge that all text that calls into question the validity of my father's testimony and that of other individuals on the quality of the trout fishery in Rush Creek be removed from the Synthesis Report and all subsequent documents. This only serves to cast doubt on a fishery that by all description was very impressive and merely provides an excuse for failure to achieve adequate restoration. My father was the District Fishery Biologist in the Inyo–Mono area from 1939 to 1950, interrupted by World War II. My father's meticulous notes, his excellent memory of his own fishing experience, and his records from the Rush Creek Test Stream Project in 1947-51 (see California Fish and Game 40(2):89-104, 1954) as stated in his testimony at the hearings in 1994 and his deposition on January 11, 1990, with a photograph of an 18 inch female Brown trout (E Vestal #5 1-11-90) was corroborated by several other Mono Basin fisherman. There is very persuasive additional photographic evidence on file at the Pamona Public Library (Frasher Postcard Collection) and in the files of the Eastern Sierra Museum of Bishop, California (Henry Golas, curator). I have attached digital files of some of these photographs. Frankly, I am convinced that the evidence that Rush Creek was a trophy trout stream comparable to ones with which I am familiar in Idaho and Oregon (South Fork of the Boise River, Big Wood River, Silver Creek, Big Lost River, Owyhee River) is incontrovertible. To suggest otherwise is disingenuous. Let's focus on restoration of the fishery in Rush Creek, and let's do what it takes to get it done.

Thank you for considering my thoughts on the stream restoration in the Mono Basin and proposed instream flow recommendations. Please make this letter and the attached photographs part of the public record. I am submitting this letter electronically tonight in order to comply with the deadline of March 30, 2010, for public comment. However, I will forward a printed copy by surface mail.

Sincerely,

Robert E. Vestal, M.D.

Attachments

cc: Steve Herrera, SWRCB
Bruk Moges, LADWP
Lisa Cutting, MLC
Steve Parmenter, CDF&G
Mark Drew, CalTrout
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