

LA Times article, July 26, 2005

DWP Told to Restore Part of River

Judge orders the L.A. agency to bring a 62-mile stretch of the Lower Owens River back to life or be barred from using a key aqueduct.

California section front page

By Louis Sahagun, Times Staff Writer

A frustrated judge ordered Los Angeles water officials Monday to restore portions of a once vibrant Inyo County river, or be barred from using an aqueduct that transports millions of gallons of water to Southern California each day.

To compel the Los Angeles Department of Water and Power to act, Inyo County Superior Court Judge Lee E. Cooper imposed fines and limited the amount of water the agency can pump in the Owens Valley.

The fines could reach millions of dollars, and the limits on pumping will force the agency to buy water elsewhere. DWP officials acknowledged that Monday's action will mean higher water rates, though it is impossible to predict by how much.

Cooper imposed fines of \$5,000 a day until the agency completes the long-delayed plan to restore a 62-mile stretch of the Lower Owens River. The fines will begin accruing Sept. 5.

"No excuses will be accepted," Cooper said during a two-hour court hearing in Independence.

Cooper said failure to abide by his ruling would result in a permanent ban against using the so-called Second Los Angeles Aqueduct, an \$89-million facility that has been exporting water for domestic use in Los Angeles since 1970.

The Lower Owens River Project was conceived in 1991 to mitigate excessive groundwater pumping by the DWP that had destroyed 100 acres of habitat in the Owens Valley from 1970 to 1990.

In a legal agreement, the DWP agreed in 1997 to create and sustain healthy and diverse habitat for fish, waterfowl and shorebirds, as well as stands of cottonwood and willows, by mid-2003. The failure of the DWP to meet that deadline is the latest in a series of delays by the agency in the Owens Valley, Cooper said.

"DWP has been in violation of the California Environmental Quality Act since 1973; they are still in violation," Cooper said. "It's been more than 30 years. That's incredible."

In a prepared statement, DWP General Manager Ronald F. Deaton said his agency "will fully cooperate with today's ruling" and move forward with the river restoration project "as quickly as possible."

Deaton said the court-ordered limits on groundwater pumping would have to be offset by purchases of water from the Metropolitan Water District, the principal water wholesaler for Southern California. Those costs will have to be passed on to consumers.

Tom Erb, DWP director of water resources, said agency officials "are still trying to evaluate how much water we will have to make up for next year."

Cooper also ordered the agency to limit groundwater pumping in the Owens Valley to about 57,412 acre-feet annually about 60% of what the agency planned to pump this year.

In addition, the DWP will have to recharge the Owens Valley aquifer each year. The \$5,000-a-day fines will continue until water is flowing in the river at a rate of 40 cubic feet a second.

"This ruling is a huge hammer hanging over Los Angeles' head," said Don Mooney, an attorney involved with the lawsuit, which was brought two years ago by the California Department of Fish and Game, California State Lands Commission, Sierra Club and Owens Valley Committee.

The lawsuit accused the DWP of deliberately missing deadlines for implementing the river project, which would cost about \$39 million to launch.

The project the largest river restoration effort ever attempted is more than two years behind schedule.

"America is getting a river and a precedent," said Carla Schneidlinger, president of the Owens Valley Committee, a group dedicated to preserving the river.

"Functioning river systems are becoming increasingly endangered throughout the American West as water is diverted for agriculture and cities," she said. "Right now, the Lower Owens is a ghost of what it once was."

The river was reduced to a trickle in 1913 when the Owens River Aqueduct began delivering water to Los Angeles.

The Second Los Angeles Aqueduct opened in 1970. Beginning just south of the Owens dry lakebed, and ending 200 miles to the south in the San Fernando Valley, it added 50% more capacity to the water system.

The two Los Angeles aqueducts deliver about 430 million gallons a day to the city. Historically, about 70% of the city's water comes from the eastern Sierra, the DWP said. Wells in the San Fernando Valley and other local groundwater basins supply 15%, and purchases from the Metropolitan Water District furnish 15%.

The DWP's pledge to restore the river was followed by postponements due to circumstances that DWP officials insisted were beyond their control. Critics called the delays part of a legal tactic aimed at saving water and money for the city.

"The city has missed at least 13 deadlines over the past five years," Mooney said.

On Monday, Cooper ordered the appointment of a special water master to monitor DWP's compliance, and report to his court monthly.

"I'm hoping this water fight is over, but you never know," said botanist and Sierra Club activist Mark Bagley. "By some calculations, the groundwater pumping reductions and penalties ordered by the judge are still going to leave the city with a net financial gain from their delays."