# 3.0 OVERVIEW OF IMPACT ASSESSMENT

## 3.1 PURPOSE AND FOCUS OF THE EIR/EIS

The proposed project consists of numerous actions to enhance environmental conditions within the LORP planning area (see Figure 1-1). It is a complex project because: it occurs over a large geographic area, involves many different activities, will require many years to reach its objectives, potentially requires adjustments in project activities over time, and involves the often imprecise science of ecosystem restoration. Restoration has been rarely attempted on such a large scale and with such a broad set of objectives.

Although the LORP is designed to improve environmental conditions, implementation of such an ambitious project may also involve incidental and unintended adverse impacts, many of them temporary, to some of the natural resources that the project will otherwise benefit. Overall, however, the Lead and Responsible Agencies believe that the project will result in environmental benefits to the natural resources of the Lower Owens Valley.

The objective of the EIR/EIS is to evaluate the impacts of the proposed LORP in order to allow LADWP, the County, and EPA to make informed decisions about the final design and implementation of the project, and the myriad of details associated with initiating a large project. The results of the environmental review process will assist LADWP and the County in implementing the LORP in the most environmentally sound manner through the adoption of alternatives and mitigation measures that avoid or reduce significant incidental and unintended impacts.

The purpose of the EIR/EIS is not to describe or quantify the environmental benefits of the LORP. The overall benefits of the LORP were originally identified in the MOU, and then documented in detail in the draft LORP Plan and associated Technical Memoranda prepared by the LORP consultant, Ecosystem Sciences, Inc., of Boise, Idaho.

The EIR/EIS does not evaluate the LORP's compliance with the 1991 Agreement or MOU provisions – compliance is determined by the MOU parties and the courts. The role of the EIR/EIS is also not to critique the LORP design, as it is presented in the MOU.

The LORP is a mitigation measure for impacts identified in the 1991 EIR. The courts have determined that this mitigation is adequate for the purposes of the 1991 EIR. CEQA requires that mitigation measures be feasible and effective, and that they be fully implemented. In the EIR/EIS, potential obstacles that could hinder the successful implementation of the LORP as a mitigation measure are identified.

## 3.2 IMPACT ASSESSMENT APPROACH

The complete project description is contained in Section 2.0; the impact assessment was conducted in the following manner:

(a) The assessment is organized by the major LORP elements because they differ greatly -- they occur in different geographic areas or project sites and involve many unique environmental considerations. Hence, there are separate impact chapters for the Riverine-Riparian System, Delta Habitat Area, Blackrock Waterfowl Habitat Area, Off-River Lakes and Ponds, and Land Management Plan (see Sections 4.0 to 9.0). While the impacts of these elements are addressed

individually, the cumulative effect of their concurrent implementation is also presented (see Section 12.0).

(b) Each of the above LORP elements would affect a different array of environmental resources. Hence, the scope of the impact assessment for each element is slightly different from other elements.

(c) Certain impacts are associated with the implementation of the LORP as a whole (such as public health and safety and recreation), and are addressed as such (Section 10.0), rather than being addressed for individual LORP elements.

(d) Environmental resources and issue areas that would not be affected by the LORP, or would only be affected in a negligible manner, were identified early in the impact assessment process and were not considered further. These resources and issue areas are identified in Section 3.5 for the purpose of fully disclosing potential impacts.

(e) The focus of the impact assessment was on identifying significant impacts, as defined using both CEQA and NEPA. Whenever possible, specific thresholds of significance were used, particularly those based on (1) the definitions of "significance" in the *CEQA Guidelines* (Sections 15064, 15065) and *CEQA Statute* (Public Resource Code 21088; and (2) the thresholds used in the *CEQA Guidelines Environmental Checklist*.

(f) Two primary types of impacts were identified: (1) direct adverse impacts due to actions associated with implementation of the LORP; and (2) indirect, incidental, or unintended adverse impacts.

(g) The significance of individual impacts was classified as shown below.

Class I Impacts. Unavoidable significant impacts. The impacts cannot be avoided if the project is implemented, and cannot be mitigated to a level of insignificance. For these impacts, LADWP (as the CEQA lead agency) must adopt a "Statement of Overriding Considerations" under Section 15092(b) of the *CEQA Guidelines* if the project is approved. This statement is a finding that the project should be implemented even though it will cause significant impacts to the environment. Inyo County must issue the same finding when it takes action on the project as the CEQA Responsible Agency. EPA, as the federal lead agency under NEPA, must identify mitigation measures in the EIS but is not required to implement them. However, EPA must explain in their Record of Decision (ROD) why these impacts are acceptable in light of the project benefits.

Class II Impacts. Significant environmental impacts that can be mitigated to a less than significant level. The EIR/EIS identifies mitigation measures that will have that effect. LADWP (as the CEQA lead agency) must adopt those mitigation measures if the project is approved. LADWP must make "findings" under Section 15091(a) of the *CEQA Guidelines* that the project as mitigated will not have a significant effect on the environment. Inyo County must issue the same findings when it takes action on the project as the CEQA Responsible Agency. EPA must identify in the ROD which mitigation measures are included in its approval, and explain in the ROD why impacts are acceptable.

Class III Impacts. Environmental impacts that are considered adverse but less than significant. Mitigation measures may be identified to further reduce adverse impacts but the lead agencies are not required to adopt them.

Class IV Impacts. Beneficial impacts.

(h) CEQA requires that the lead agency identify feasible measures for all significant impacts (Class I and Class II), if available, that would mitigate those impacts to a less than significant level. These measures must be adopted by the lead agency if they are considered feasible. Mitigation measures for less than significant impacts are voluntary under CEQA. Under NEPA, feasible mitigation measures for all impacts must be identified whether they are significant or not. The federal lead agency need not adopt the mitigation measures identified in an EIS, but should identify all relevant, reasonable mitigation measures that could alleviate the environmental effects of a proposed action. Accordingly, in the Draft EIR/EIS, mitigation measures were identified as CEQA mitigation or NEPA mitigation. During the preparation of the Final EIR/EIS, LADWP determined that, with the exception of Mitigation Measure P-2 (as numbered in the Draft EIR/EIS), all mitigation measures that were identified in the Draft EIR/EIS to further reduce Class III impacts (i.e., voluntary mitigation) will be adopted by LADWP. It should also be noted that Mitigation Measures AQ-1 and AQ-2 were revised since the publication of the Draft EIR/EIS and will be adopted by LADWP as revised and presented in the Final EIR/EIS. Table S-1 presents all mitigation measures that will be adopted by LADWP.

## 3.3 KEY CEQA REQUIREMENTS AND CONSIDERATIONS

Section 15151 of the CEQA Guidelines state that "*An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.*"

The emphasis of an EIR is to be an informational document which informs public agency decision-makers and the public generally of the significant environmental effects of a project, identifies possible ways to minimize the significant effects, and describes reasonable alternatives to the project. It must focus on the significant effects on the environment, which should be discussed with emphasis in proportion to their severity and probability of occurrence. Effects that are insignificant and unlikely to occur need not be discussed in an EIR (Section 15143).

The CEQA Guidelines note that a lead agency need not engage in speculative analysis if there is insufficient information to make an informed impact assessment (Section 15145).

CEQA Guidelines Section 15131 states that economic or social information may be included in an EIR or may be presented in whatever form the agency desires. The Guidelines further state: "*Economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes.*" However, the Guidelines state that economic or social effects of a project may be used to determine the significance of physical changes caused by the project.

## 3.4 KEY NEPA REQUIREMENTS AND CONSIDERATIONS

NEPA and its implementing regulations (40 CFR 1500-1508) govern preparation of an EIS and describe what must be included in the analysis. The process "*is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.*" (40 CFR 1500.1(c)). NEPA encourages joint EIR/EIS documentation. Similarly to the requirements for CEQA, NEPA regulations state that an EIS "*shall provide full and fair discussion of significant environmental impacts and shall inform decision makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment…. An environmental impact statement is more than a disclosure document. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions,*" including funding decisions (40 CFR 1502.1).

The analysis of environmental impacts must include "*any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented…*" It must include discussions of: direct, indirect and cumulative effects; possible conflicts between the proposal and the objectives of Federal, regional, State, local and Tribal land use plans, policies and controls; energy and natural resource requirements; urban quality, historic and cultural resources; and mitigation measures (40 CFR 1502.16, 1508.8). Direct effects are caused by the action and occur at the same time and place, while indirect effects are later in time or farther removed in distance, and may include growth-inducing effects and other effects related to project-induced changes (40 CFR 1508.8). The analysis must include ecological, aesthetic, historic, cultural, economic, social, or health effects. Effects may also be both beneficial and detrimental (40 CFR 1508.8). Cumulative effects are those that result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency or action undertakes them. They can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7).

The alternatives analysis is the core of the analysis, and "*should present the environmental impacts of the proposal and alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public*" (40 CFR 1502.14).

The analysis must ensure professional and scientific integrity, and identify the methodologies used (40 CFR 1502.24). The agency is required to "*make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives.*" Federal agencies must coordinate and consult with other federal agencies, to ensure consistency with, for example, the National Historic Preservation Act, the Endangered Species Act, the Clean Water Act, and other environmental review laws and executive orders. In addition, the EIS must list all federal permits, licenses, and other entitlements, which must be obtained (40 CFR 1502.25).

The EIS must identify all the indirect effects that are known, and make a good faith effort to explain the effects that are not known but are "reasonably foreseeable." (40 CFR 1508.8(b)) "Reasonably foreseeable" impacts includes those which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis is not based on pure conjecture, and is within the rule of reason (40 CFR 102.22). In addition, the EIS must note when there is incomplete, uncertain, or unavailable information. If the incomplete information relevant to reasonably foreseeable significant impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include that information in the EIS. However, if this information cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known,

the EIS shall: (1) note that such information is incomplete or unavailable; (2) discuss the relevance of the incomplete or unavailable information to evaluating significant impacts; (3) provide a summary of existing credible scientific evidence which is relevant to evaluating the significant impacts; and (4) evaluate such impacts based upon approaches generally accepted in the scientific community.

All relevant, reasonable mitigation measures that could improve the project are to be identified. Mitigation measures discussed in an EIS must cover the range of impacts of the proposal. Mitigation measures must be considered even for impacts that by themselves would not be considered "significant." Mitigation measures must be identified even if they are outside the jurisdiction of the lead agency, and thus would not become a commitment of the lead agency (40 CFR 1502). This serves to alert agencies that can implement these extra measures, and may encourage them to do so. However, the probability of the mitigation measures being implemented must also be discussed.

## 3.5 ISSUE AREAS NOT CONSIDERED IN THE EIR/EIS

The lead agencies have determined that the proposed project would not result in any direct impacts to the following resources and/or issue areas, and as such, they are not addressed in the EIR/EIS:

- Traffic
- Noise
- Public Services, including police, fire, sewer, schools, emergency services
- Aesthetics
- Hazardous Materials