

DRAFT ENVIRONMENTAL IMPACT REPORT &
ENVIRONMENTAL IMPACT STATEMENT
LOWER OWENS RIVER PROJECT

PUBLIC COMMENTS

LONE PINE, CALIFORNIA

DECEMBER 4, 2002

NICCOLE M. ROSSY
Certified Shorthand Reporter #10698
P.O. Box 1675, Bishop, California 93515-1675
(760) 872-4718

1 LONE PINE, CALIFORNIA; DECEMBER 4, 2002

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3 (Mr. John Gray present as proctor.)

4 JOHN GRAY: Robert Strub.

5 ROBERT STRUB: Okay. My name is Robert Strub, and
6 the last name is spelled S-t-r-u-b. I'm from Trona,
7 California, and I'm also on the BLM Steering Committee in
8 Ridgecrest, California.

9 We made a request to have you come down and
10 make a presentation to us tomorrow night, but there was a
11 conflict, and so that wasn't able to be done. We'd like
12 you to come down to Ridgecrest sometime before the end of
13 the comment period or extend the comment period so that
14 the members of our committee, which is a diverse group
15 including environmental groups and user groups, can make
16 comments in a fashion that they are used to.

17 Let's see. I would -- I haven't had a
18 chance to review the document. That's why I drove up
19 tonight to pick up the document. But I would hope that
20 the document coordinates with the Lahontan Regional Water
21 Quality Control District Plan that is being -- a new basin
22 plan that's coming out right now, and it doesn't cross
23 swords with that document. I know they are trying to
24 reclassify the uses of the lake, and I imagine they want
25 to reclassify some uses of the delta too.

1 So that's it. I had something else. I
2 would like to see as much bird life supported on the
3 delta, if possible. It has an indirect impact on the
4 flight path of birds and where they land. And at a recent
5 hearing at the Lahontan Regional Water Quality Control
6 Board was brought up by an expert that was hired by IMC
7 that the impact could affect the level of birds landing on
8 Searles Lake and the costs that are associated with
9 managing those birds.

10 Thank you.

11 JOHN GRAY: Thank you, Robert.

12 Rachel Joseph.

13 RACHEL JOSEPH: Good evening, and thank you for this
14 opportunity to speak to you on the Draft EIR/EIS for the
15 Lower Owens River Project.

16 My name is Rachel Joseph, and I am the
17 tribal chairperson for the Lone Pine Paiute-Shoshone
18 Tribe. I would like to begin by letting you know that our
19 tribal staff is continuing to review the Draft EIR/EIS,
20 and formal written comments will be submitted to you by
21 the January deadline.

22 My comments tonight are limited to just a
23 few areas of concern that the tribe has based on our
24 peremptory view of the draft document.

25 As you know, the history of the LORP is a

1 long one, taking ten years to develop, and from all
2 appearances will continue to take time to implement.
3 Given the time, money, and resources that have gone into
4 the planning of LORP, the tribe, as well as others, wants
5 to see the project succeed.

6 While the tribe is pleased that the LORP is
7 proceeding, it has concerns for its long-term success.
8 The EIR/EIS repeatedly states that the LORP will be
9 adaptively managed, which is defined as "subject to
10 funding limitations and consistent with the MOU, project
11 management will be modified if ongoing monitoring and
12 analysis reveal that such modification is necessary to
13 ensure the successful implementation of the project and
14 the attainment of the project goals."

15 The tribe is concerned with the
16 qualification "subject to funding limitations" being added
17 to the definition of "adaptive management." It appears
18 from the discussion on project funding that
19 post-implementation monitoring may be limited or
20 eliminated due to future funding shortfalls. The tribe
21 finds this unacceptable.

22 It must be remembered that the LORP is
23 compensatory mitigation for impacts caused by years of
24 Department of Water and Power's groundwater pumping. DWP
25 should be committed to perform all post-implementation

1 monitoring, regardless of Inyo County's ability to meet
2 its financial obligations for such monitoring. Without
3 monitoring of the ongoing impacts and effects on this
4 rewatering project, there can be no effective adaptive
5 management or successful management.

6 On the matter of the pumpback station the
7 tribe would like to again go on record as supporting the
8 proposed 50 cfs pumpback station. The size of the
9 pumpback station, as you all know, has been seriously
10 debated, and from reading the draft EIR/EIS, continues to
11 be an unsettled issue. A 50 cfs pumpback station is
12 legally sanctioned, will result in more water reaching the
13 delta area during seasonal flows, and discourage further
14 groundwater pumping by DWP.

15 Cultural resource protection is always a
16 major concern to the tribe and the Indian community. The
17 tribe is pleased that the roads, transmission lines, and
18 construction activities contemplated during the
19 implementation of LORP will be designed to avoid cultural
20 sites. And we believe that DWP will be coordinating with
21 the tribe and other interested Native Americans on these
22 issues.

23 We want to stress that Native American
24 monitoring should be on site during all construction
25 activities and at any time that cultural resources are

1 encountered or distributed.

2 We recommend that there be some consistency
3 with section 7.3, where they discuss the need for
4 archeological and sensitive sites to be protected, and
5 that was in the discussion I think on the Fish and
6 Wildlife section, and section 5.41 and 5.42, which talks
7 about detail records being available to professionals and
8 others. So we think there needs to be consistency on how
9 those sensitive sites are protected.

10 As I indicated earlier, the tribe will be
11 submitting further comments on the concerns I have raised
12 this evening and on other aspects of the Draft EIR/EIS.
13 But we wanted to take an opportunity to raise some of our
14 concerns and issues at this early stage.

15 Thank you for your time and consideration.

16 JOHN GRAY: Thank you, Rachel.

17 Mike Prather.

18 MIKE PRATHER: My name is Mike Prather. I'm
19 president of the Owens Valley Committee. My comments are
20 at this time more like my individual comments, and the
21 Owens Valley Committee will be submitting more lengthy
22 ones next year.

23 So just briefly, I would like to praise this
24 project that we actually are getting down the road; that
25 we're going to -- there will be water eventually in the

1 river before all of our bumper stickers fade away.

2 It's going to be a good thing for this
3 valley. But we have to ensure that the project is done in
4 such a way that it has the highest quality attainable, and
5 so that's why many of us are here tonight and will be
6 commenting at length in the near future.

7 I share with Rachel the comments on dealing
8 with the funding. Throughout -- threaded through the
9 entire document there seem to be funding limitations,
10 which to me point to the fact that it may be difficult to
11 actually implement the project and certainly to take the
12 project into the future, certain things like control of
13 the beaver being dependent on funding, control of salt
14 cedar depending on funding, tule control depending on
15 funding, monitoring dependent upon funding, adaptive
16 management, the actual philosophical management tool
17 itself dependent on money, which means the whole thing,
18 the whole project itself is shaky, and that makes us
19 nervous after waiting for so long. So I want to second
20 Rachel Joseph on that one.

21 The document also, I think, treats too
22 lightly the connection of this project with the nearby
23 area of Owens Lake, which is the nationally significant
24 important bird area for the National Audubon Society.
25 It's part of the United States Shorebird Conservation

1 Plan, and it has tremendous wildlife value. It is -- its
2 immediate adjacency to the LORP is taken much too lightly,
3 I think, in the document at this time.

4 And, lastly, I would encourage the
5 department and the city to see if we could hastily
6 schedule a meeting in Los Angeles, even if it's after the
7 first of the year. I believe there are people in that
8 city, and this land belongs to them, that have an interest
9 in how it's managed and the kind of work that's proposed
10 to take place up here.

11 So, thank you.

12 JOHN GRAY: Thank you, Michael.

13 Gloria Martinez.

14 GLORIA MARTINEZ: My name is Gloria Martinez. I'm
15 with IMACA Reach as a partner down in Olancha. I live
16 down there, and I'm really speaking for myself as a
17 resident down there.

18 I didn't know what we were talking about
19 today, so I don't have a lot to say on the EIR. But there
20 are a lot of things that concern me.

21 I was born and raised in Los Angeles, worked
22 for DWP, moved to San Antonio, which has an aquifer that's
23 monitored carefully, and there's a lot of water
24 restrictions, but no one -- no one is -- no one feels
25 regret that there are limitations to the way the water is

1 managed in San Antonio, because for the long vision it's a
2 great way to make sure that you always have high-quality,
3 clean water.

4 And when I moved up here to Owens Valley, I
5 found out we didn't have that here. We didn't have the
6 water, and the water that is going to LA is not -- it's
7 not really being watched for long-term quality use.
8 People wash their driveways with their hoses. They wash
9 their cars out in the street. They run water like there's
10 no end to it. And when I go home, I'm very water
11 conscious. You know, it's our water that's being taken
12 down there.

13 So I thought I would talk about that. And I
14 know it's not anything about what we were supposed to be
15 talking about, but I just had to come up and say it, that
16 conservation for Los Angeles as we go into the 21st
17 century should really be something that is talked about.
18 I think as such a large city, to make it a responsible
19 city, would bring world attention to -- and really be
20 grateful as a pattern, a leader for the world, because
21 water is not an unlimited quality, we all know that --
22 quantity.

23 Being down in Olancho my concern is: Will
24 my well go dry? We know that they have the -- they have
25 sold certain property to -- I think the water is going to

1 land up being pumped into the aqueduct and then taken down
2 into Ridgecrest, which we understand they need water. But
3 what is that going to mean for the south county? What is
4 it going to mean for my well? Are there any guaranties?

5 I know it's written in that there are a lot
6 of protection that they are not going to be able to pump
7 as much as they want. But, still, with that going out of
8 the county, with the pumping -- groundwater pumping, it's
9 a concern for us down there.

10 And even though we don't always call the
11 water department, I know I think I've talked to several
12 different people here, we're all concerned as residents
13 down here that the wells just don't go all dry. And we
14 just wonder what's going to happen. And that's what I
15 have to say.

16 Thank you very much.

17 JOHN GRAY: Thanks, Gloria.

18 Make sure I read this right, Frank --
19 Francis --

20 FRANCIS PEDNEAU: Pedneau.

21 JOHN GRAY: Sorry.

22 FRANCIS PEDNEAU: My name is Francis, with an "I,"
23 Pedneau, P-e-d-n-e-a-u. I'm a life-long resident of Lone
24 Pine. I was born just up the street here. And I
25 represent myself, and I'm past president of the Owens

1 Valley Warm Water Fishing Association.

2 My comments are at this time only on that
3 portion of the EIR/EIS that I've been able to read to this
4 point. Page S-13, Table S-1, Mitigation Measure F-1,
5 One-time Fish Stocking Program. My comment: Black bass
6 fish stocks should be from fish that originate in the
7 Owens River water system. 1992 studies by California
8 Department of Fish and Game on black bass samples from
9 Haiwee Reservoir included that the black bass in the Owens
10 River system are an almost pure strain of northern
11 largemouth bass. We oppose the introduction of any
12 possible crossbred species.

13 Page 2-23, paragraph 2.3.5.3, Seasonal
14 Habitat Flows. "The timing of the seasonal habitat flows
15 is designed to coincide with seed production by willows
16 and cottonwoods in the floodplain (e.g. late spring/early
17 summer) thereby providing an opportunity to stimulate
18 growth of new trees on the floodplain adjacent to the
19 river channel." My comment: This is also the peak
20 spawning time for largemouth bass and blue gill. How is a
21 fishery to survive if their spawn is continually
22 interrupted?

23 Page 2-26, paragraph 2.3.6, Channel Clearing
24 Prior to Phase I Releases. "Prior to initiating Phase 1
25 releases, LADWP will mechanically remove sediments and

1 marsh vegetation obstructions from 10,800 feet,
2 approximately two miles, of river channel downstream of
3 the river intake." My comment: There are many more miles
4 of obstructions. Why do you propose to leave them in
5 place?

6 Page 4-2, paragraph 4.2, Proposed Projects,
7 Phase I and II Releases. My comment: We object to this
8 release schedule. In 1993, the OVWWFA, the Owens Valley
9 Warm Water Fishing Association, in response to request for
10 comment regarding a proposed water release schedule warned
11 the release schedule would result in a massive fish kill.
12 We were informed that, Thanks for your input, but we know
13 better and we will proceed as planned. What resulted was
14 thousands upon thousands of dead fish, piles of dead bass
15 on the banks of Owens River. For the success of the LORP,
16 it is not necessary to deliberate kill massive amounts of
17 fish. We urge you to implement the original rewatering
18 plan of 1999.

19 Page 11-5, Alternative Initial Release
20 Regime I, Gradual Baseflows and Deferred Seasonal Habitat
21 Flows. In 1999, this was the promised release schedule.
22 Why is it not now?

23 Thank you.

24 JOHN GRAY: Thank you, Francis.

25 I believe this is all the speakers that we

1 have. Is there anyone else that decided they want to make
2 a comment?

3 GENE MATHERN: Is it possible to ask a question?

4 JOHN GRAY: If it's a question about the meeting, I
5 can answer that. Otherwise, we'll close the meeting.
6 Some of the agency people will be here afterwards if you
7 want to talk with them individually.

8 Is it a question about the meeting and the
9 environmental process?

10 GENE MATHERN: Let me speak for a minute.

11 JOHN GRAY: Okay. Come on up and give your name so
12 we know who you are.

13 GENE MATHERN: My name is Gene David Mathern. I'm a
14 resident of Lone Pine. And I have -- I looked at the map
15 over here, and it shows that the Firestone Mill and the
16 well that's on BLM land that I'm a claim holder on that
17 was transferred to Mr. Dwight McNaughton is part of the
18 MOU. So, therefore, I think I have a right to make a
19 comment and a statement.

20 I'm a little bit nervous

21 JOHN GRAY: That's fine. Go ahead.

22 GENE MATHERN: So I -- my mill site claim and my
23 water well that pumps 350 gallons a minute is within the
24 framework of the MOU; therefore, I have a legal right to
25 be here and to make statements and comments and ask

1 questions, okay?

2 Right now we're under an order to tear down
3 our mill, and the well services the mill, and the Lower
4 Owens River water could conceivably have an impact on my
5 well. And bearing on mitigating factors as to why the BLM
6 has gone to tear down my mill, which is valued at 14
7 million dollars and runs, okay?

8 Now, I also notice that there's no drawing
9 on the map of the MacGiver Canal. It just so happens that
10 the 1,400 acres that Mr. McNaughton bought in the land
11 exchange for approximately \$258 an acre, okay, the
12 configuration of the property touches the MacGiver Canal,
13 okay? Now, the MacGiver Canal, as you move south towards
14 the Owens Lake, comes into the Lower Owens River, but it's
15 not shown on the map.

16 Now, why I've worked up my courage to come
17 up here and say what I'm saying is that I'm finding out
18 that whether you are dead or you are dying or you are
19 almost dead, if you have a chance, you better make it, and
20 you better do it when the time is right.

21 Having to do with my mill, for example, I
22 almost died and couldn't respond, okay? Six volunteer
23 fire department people carried me out my window at night
24 from pneumonia. So I'm having to go through problems in
25 order to get the mill and save it from the BLM tearing it

1 down. So I'm here, I'm alive, and now is the chance for
2 me to talk, okay?

3 To continue, so there's nothing on the map
4 that shows any potentiality of a facilitator, defined as a
5 front man that has the best of interest, in working with
6 the City of Los Angeles Department of Water and Power.
7 According to my attorney, the name of the game is big
8 business and the name of the game is water. And back --
9 side deals and back-in deals and you name it.

10 Now, the 1,400 acres, like I say, the
11 configuration of the 1,400 acres that Mr. McNaughton has
12 touches the MacGiver Canal. And I want to go on record,
13 and I don't know if I did it specifically, but the 5th of
14 June 2000 we've submitted a 201-page civil complaint
15 against Inyo County government for breach of public trust,
16 and within it we indicated an anticipatory breach of
17 contract by Mr. McNaughton with the County of Inyo
18 relevant to the -- I think it's called the joint powers
19 agreement between the federal government and the State of
20 California, as far as jurisdiction goes.

21 Now, all this land here is within the MOU,
22 so I'm not going far afield on the subject matter, okay?
23 It says right there, and the lines are drawn on the map,
24 okay?

25 Now, the anticipatory breach of contract

1 proviso that took us 90 days to put together and 201 pages
2 implied that at some future date Mr. McNaughton could
3 arbitrarily or unilaterally breach the contract with the
4 Inyo County government for the 1,400 acres. And
5 potentially out of the -- existed to have entered into a
6 private deal with the City of Los Angeles Department of
7 Water and Power with the potentiality to put down 40 more
8 wells on the property, which would effectively or could
9 effectively double the production of approximately 60 to
10 70,000 acre feet of water into the McGiver Canal, down the
11 McGiver canal to the Lower Owens River, and then on the
12 lake.

13 Now, I propose to you that that might be a
14 factor in why the City of Los Angeles Department of Water
15 and Power wants to all of a sudden have a pumpback station
16 at 150 cubic feet per second instead of 50 feet per
17 second, okay?

18 I also suggest that might be another reason
19 why two years has gone by and the agreement has not been
20 reached. Meaning, in effect, I stand in the way. The
21 Firestone Mill stands in the way.

22 Now, I'm not making charges and allegations
23 because if and when I do, my Beverly Hills attorney will
24 file charges and allegations. What I'm doing is making my
25 statement in public in a public forum while I'm still

1 upright, because in May I almost died, and I wouldn't be
2 here talking to you guys.

3 So I want you to think about it. Let me
4 just recap it again. The 1,400 acres was essentially sold
5 to Mr. Dwight McNaughton, et al., there's other people
6 that are with him, for roughly \$258 an acre, and the mill
7 that this \$14 million dollar -- the mill site that the \$14
8 million dollar mill sits on, that we spent over two years
9 making operational and BLM wants to tear it down, and we
10 can hire 50 people, you know, for work, is five acres
11 times \$250, and that's the value of the land. And, yet,
12 there's a \$40,000 bond, they want to tear it down, and I'm
13 the guy that's got the well, okay? And the well is within
14 the framework of this thing here. And the well services
15 the mill, okay?

16 Now, just once again, the configuration of
17 the Independence Conway Ranch land exchange is such that
18 on the five parcels they touch the MacGiver Canal, and the
19 potentiality exists that at a future date a side deal or
20 prior deal could be made or entered into by Mr. McNaughton
21 and his group. And if he was here, I would talk to him,
22 okay? I'm not being adversarial. I'm just laying it out
23 there for view for the rest of my town folk.

24 And the land is such that it has potential
25 to put 40 more wells on the property and increase the flow

1 by anywhere from 60,000 to 70,000 acre feet of water,
2 doubling the production of water and shipment to Los
3 Angeles into the MacGiver Canal, down Sedsane, the Lower
4 Owens River, and down onto the dry lake.

5 And I'm proposing and suggesting maybe that
6 is why there has been a two-year time delay, until they
7 got rid of me, got me out of the picture, okay, as a
8 threat to the deal or potentiality of the deal, okay? And
9 they want to increase the size of the pumpback station
10 three-fold from 50 cubic feet per second to 150 cubic feet
11 per second, okay?

12 Now, I state that this has been a major
13 concern to me and the group that I represent and that
14 there's a whole lengthy history involved in the attempt to
15 save the Firestone Mill, which included 86 other investors
16 that are -- they are losing three or four million dollars
17 and maintaining the mill since 1978. So, anyway, that's
18 all I got to say.

19 JOHN GRAY: And, Gene, maybe if you could stay
20 around after the meeting and show me on the map where the
21 location of the mill is, that would be helpful for me.

22 And if you could fill out a speaker form so
23 we know you spoke and have a record of that.

24 Is there anyone else who wants to make a
25 formal comment, fill out a speaker card?

1 Is it a question about the meeting or the
2 environmental process?

3 ROBERT STRUB: More of the environmental process.

4 You have a federal agency here, the EPA,
5 which is taking part in the plan. Is this going to follow
6 the guidelines of NEPA?

7 JOHN GRAY: Of course. The document is prepared in
8 accordance with NEPA, and the entire process will have to
9 be in accordance with that law.

10 ROBERT STRUB: And the public process also?

11 JOHN GRAY: That's true.

12 ROBERT STRUB: As far as hearings and presentations?

13 JOHN GRAY: Right. And you can speak to EPA staff
14 after the meeting if you want to get more details about
15 those requirements.

16 ROBERT STRUB: I don't know NEPA. I know one person
17 in my steering committee does know NEPA, and that would be
18 a question he would ask.

19 (Public comments concluded.)

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