

**FINAL
ENVIRONMENTAL IMPACT REPORT &
ENVIRONMENTAL IMPACT STATEMENT**

Volume 2 of 3

Appendix J – Agency and Public Comments on the Draft EIR/EIS

LOWER OWENS RIVER PROJECT

June 23, 2004



CEQA Lead Agency:

**Los Angeles Department of Water and Power
300 Mandich Street
Bishop, California 93514**

NEPA Lead Agency:

**U.S. Environmental Protection Agency
75 Hawthorne Street, WTR-3
San Francisco, California 94105**

CEQA Responsible Agency:

**Inyo County Water Department
163 May Street
Bishop, California 93514**

APPENDIX J COMMENTS ON THE DRAFT EIR

J.1 WRITTEN COMMENTS

Table J-1 lists the agencies and organizations who provided written comments on the Draft EIR for the Lower Owens River Project. This section presents the comment letters. Responses to comments are presented in Appendix K (Section K.1).

**TABLE J-1
LIST OF COMMENT LETTERS**

| Letter Number | Commentor | Date |
|---|---|------------|
| Federal Agencies | | |
| 1 | U.S. Fish and Wildlife Service Judy Hohman, Division Chief, Mojave/Great Basin Deserts | 1/13/2003 |
| 2 | Bureau of Land Management Bill Dunkelberger, Field Manager, Bishop Field Office | 1/13/2003 |
| 3 | Bureau of Land Management Bill Dunkelberger, Field Manager, Bishop Field Office | 1/13/2003 |
| State Agencies | | |
| 4 | Regional Water Quality Control Board - Lahontan Region Joe Kenny, Environmental Scientist | 1/14/2003 |
| 5 | California State Lands Commission Dwight E. Sanders, Chief, Division of Environmental Planning and Management | 1/13/2003 |
| 6 | California Department of Fish and Game Alan Pickard, Deputy Regional Manager, Eastern Sierra – Inland Deserts Region | 1/10/2003 |
| 7 | Great Basin Unified Air Pollution Control District Ellen Hardebeck, Air Pollution Control Officer | 1/9/2003 |
| Other Agencies | | |
| 8 | Inyo County Environmental Health Services Robert L. Hurd, Director of Environmental Health Services | 12/31/2002 |
| 9 | Inyo County Planning Department L. Andrea Clark, Senior Planner/Resource Management Coordinator for Chuck Thistlethwaite, Planning Coordinator | 12/31/2002 |
| 10 | Metropolitan Water District of Southern California Laura J. Simonek, Manager, Assessment and Facilities Planning Unit | 1/9/2003 |
| Organizations, Groups, Businesses, and Individuals | | |
| 11 | Big Pine Paiute Tribe of the Owens Valley Jessica L. Bacocho, Tribal Chairperson | 1/13/2003 |
| 12 | Fort Independence Indian Reservation Richard Wilder, Tribal Chairman | 1/13/2003 |
| 13 | Lone Pine Paiute-Shoshone Reservation Rachel A. Joseph, Tribal Chairperson | 1/10/2003 |

**TABLE J-1 (CONTINUED)
LIST OF COMMENT LETTERS**

| Letter Number | Commentor | Date |
|----------------------|---|-------------|
| 14 | Lone Pine Paiute-Shoshone Reservation Rachel A. Joseph, Tribal Chairperson | 1/14/2003 |
| 15 | California Indian Legal Services Dorothy Alther | 1/14/2003 |
| 16 | Owens Valley Committee / Sierra Club Mark Bagley, Sierra Club MOU Representative Michael Prather, Owens Valley Committee | 1/14/2003 |
| 17 | AADAP, Inc Mike Watanabe, MSW, Executive Director | 1/9/2003 |
| 18 | Adro Environmental, Inc. Ade Adeniji, Chief Executive Officer ADRO Environmental, Inc. Secretary/Treasurer, California Urban Water Conservation Council | 1/9/2003 |
| 19 | Hilton Los Angeles Airport Jim Davis, Director of Property Operations | 1/7/2003 |
| 20 | Anheuser-Busch, Inc. Gary P. Lee, Plant Manager, Los Angeles Brewery | 1/13/2003 |
| 21 | California Exotic Pest Plant Council Doug Johnson, Executive Director | 1/6/2003 |
| 22 | California Native Plant Society, San Francisco Jacob Sigg, Chair, Invasive Exotics Committee | 1/6/2003 |
| 23 | California Native Plant Society, Bishop Stephen Ingram, President | 1/14/2003 |
| 24 | Center for Biological Diversity Daniel R. Patterson, Desert Ecologist | 1/14/2003 |
| 25 | Community Enhancement Services Zigmund Vays, President | 1/10/2003 |
| 26 | Defenders of Wildlife Cynthia Wilkerson, CA Species Associate | 1/10/2003 |
| 27 | Eastern Sierra Audubon Society James Wilson, President | 1/12/2003 |
| 28 | El Dorado Audubon Society Carolyn Vance, Newsletter Editor | 12/30/2002 |
| 29 | Federal Express Corporation Rick Llewelyn, FedEx Contract Advisor | 1/9/2003 |
| 30 | Friends of Placer County Communities, Inc. Dr. V. Dale Smith, Executive Director | 1/6/2003 |
| 31 | Guess?, Inc. Steve Chapnick, Director of Facilities | 1/3/2003 |
| 32 | Harbor Association of Industry & Commerce Edward J. Rogan, President | 2/14/2003 |
| 33 | Independence Chamber of Commerce Rich White, President Arlene Grider, President | 1/13/2003 |

* Date received is shown; letter not dated.

**TABLE J-1 (CONTINUED)
LIST OF COMMENT LETTERS**

| Letter Number | Commentor | Date |
|----------------------|--|-------------|
| 34 | Inyo County Cattlemen's Association & Inyo Mono County Farm Bureau Zack Smith, President, Inyo Mono Farm Bureau Scott Kemp, President, Inyo County Cattlemen's Association | 1/8/2003 |
| 35 | JBL Professional James Langdon, Facilities Manager | 1/10/2003 |
| 36 | The J. Paul Getty Trust Bradley Wells, Vice President, Finance | 1/14/2003 |
| 37 | Korean Youth Center Dore Burry, Environmental Unit Manager | 1/9/2003 |
| 38 | Lacey Livestock Mark Lacey, Owner | 1/13/2003 |
| 39 | Law Offices of Charles E. Steidtmann Charles E. Steidtmann | 1/3/2003 |
| 40 | League of Women Voters of the Eastern Sierra, Inc Pat Williams, President | 1/8/2003 |
| 41 | Lone Pine Chamber of Commerce & Inyo County Film Commission Bob Meador, DDS, President | 1/13/2003 |
| 42 | Los Angeles Area Chamber of Commerce Russell J. Hammer, President and CEO | 1/9/2003 |
| 43 | Mojave Desert-Mountain Resource Conservation & Development Council Donna C. Thomas, Vice-President | 1/13/2003 |
| 44 | Mono Lake Committee Lisa Cutting, Eastern Sierra Policy Director | 1/14/2003 |
| 45 | Moss Group Richard F. Moss | 1/3/2003 |
| 46 | MountainGate Country Club David Bermudez, Golf Course Superintendent | 1/13/2003 |
| 47 | Park LaBrea Apartments Chris Scroggin, General Manager, Park LaBrea Management | 1/10/2003 |
| 48 | Pestmaster Services, Inc. Ted Erlwin | 1/13/2003 |
| 49 | Rock Creek Pack Station Craig London, D.V.M. | 1/14/2003 |
| 50 | University of Southern California Bingham Cherrie, Associate Vice-President | 1/10/2003 |
| 51 | Volunteers of America Edmund Gonzales | 1/13/2003 |
| 52 | Western San Bernardino County Landowner's Association Douglas Parham, President | 1/13/2003 |
| 53 | Michael Allen | 1/9/2003 |
| 54 | Jan Almquist | 1/14/2003 |
| 55 | Kathy Anderson | 1/13/2003 |
| 56 | Thomas V. Arbanas | 1/7/2003 |

* Date received is shown; letter not dated.

**TABLE J-1 (CONTINUED)
LIST OF COMMENT LETTERS**

| Letter Number | Commentor | Date |
|----------------------|--|-------------|
| 57 | Richard Arnold | 1/9/2003 |
| 58 | Janice Aten-McRoberts | 1/9/2003 |
| 59 | Rod Ayers | 1/14/2003 |
| 60 | Rosanne Beach | 1/12/2003 |
| 61-69 | <i>Numbers 61 through 69 were not assigned to any letters.</i> | -- |
| 70 | Don and Debbie Becker | 1/13/2003 |
| 71-79 | <i>Numbers 71 through 79 were not assigned to any letters.</i> | -- |
| 80 | Janice and Rod Bedayn | 1/9/2003 |
| 81 | Dan Beets | 1/14/2003 |
| 82 | Jean Benner | 1/14/2003 |
| 83 | L. Berlin and E. Pachucki | 1/14/2003 |
| 84 | Roger Berning | 1/8/2003 |
| 85 | Larry and Ruth Blakely | 1/10/2003 |
| 86 | Patricia Boyer | 1/11/2003 |
| 87 | Karen M. Brorson | 1/13/2003 |
| 88 | Michael Brorson | 1/13/2003 |
| 89 | Stacey Brown, MD | 1/15/2003* |
| 90 | Tom Budlong | 1/7/2003 |
| 91 | John Burnstrom | 1/8/2003 |
| 92 | David Carle | 1/8/2003 |
| 93 | Marvin B. Center | 1/10/2003 |
| 94 | Richard Cervantes | 1/7/2003 |
| 95 | Laurie Chamberlin | 1/13/2003* |
| 96 | L.K. Chavez | 1/10/2003 |
| 97 | Cheryl Chipman | 1/9/2003 |
| 98 | Charles Church | 1/7/2003 |
| 99 | Michelle Cobos | 1/10/2003 |
| 100 | Don and Lorelee Cole | 1/10/2003* |
| 101 | Charlene Collins Big Pine Paiute – Owens Valley Indian Water Commissioner | 1/10/2003 |
| 102 | Beverly Coons | 1/10/2003 |
| 103 | Don Coustaus | 1/11/2003 |
| 104 | Diana Cunningham | 1/9/2003 |
| 105 | Barbara and Tom Danielsen | 1/4/2003 |
| 106 | Estelle Delgado | 1/10/2003 |
| 107 | Kelly Denver | 1/10/2003 |
| 108 | Don C. Dillinger | 1/13/2003* |

* Date received is shown; letter not dated.

**TABLE J-1 (CONTINUED)
LIST OF COMMENT LETTERS**

| Letter Number | Commentor | Date |
|----------------------|--------------------------|-------------|
| 109 | Paula Dillinger | 1/13/2003* |
| 110 | Nicole Dondero | 1/10/2003 |
| 111 | Dorothy Dowell | 1/13/2003 |
| 112 | Kathy Duvall | 1/13/2003* |
| 113 | Jack and Marilyn Ferrell | 1/8/2003 |
| 114 | Karen Ferrell-Ingram | 1/14/2003 |
| 115 | Clara Fields | 1/10/2003 |
| 116 | Joyce E. Floyd | 1/12/2003 |
| 117 | Kim F. Floyd | 1/12/2003 |
| 118 | Patricia Foley | 1/13/2003 |
| 119 | Gail E. Fox | 1/10/2003 |
| 120 | Sally Gaines | 1/10/2003 |
| 121 | Carolyn Gann | 1/14/2003* |
| 122 | Martha S. Gilchrist | 1/10/2003 |
| 123 | John Gorham | 1/9/2003 |
| 124 | Ross and Maiya Gralia | 1/13/2003* |
| 125 | Andrew M. Harvey | 1/13/2003* |
| 126 | Victoria Hamilton | 1/14/2003 |
| 127 | Marilyn Hayden | 1/13/2003* |
| 128 | Mark A. Heckman | 1/13/2003* |
| 129 | Darla J. Heil | 1/14/2003 |
| 130 | Jo Heindel | 1/14/2003 |
| 131 | Tom Heindel | 1/14/2003 |
| 132 | Sarah C.V. Hendrickson | 1/8/2003 |
| 133 | Julie L. Hess | 1/10/2003 |
| 134 | Charlotte Heubson | 1/6/2003 |
| 135 | Rosanne Higley | 1/8/2003 |
| 136 | Raimundo T. Huarto | 1/9/2003 |
| 137 | Robert A. Hudson | 1/7/2003 |
| 138 | William A. Hunt | 1/15/2003* |
| 139 | Barry K. Hutten | 1/15/2003* |
| 140 | Charles Irvine | 1/10/2003 |
| 141 | J. Mendoza Iwens | 1/14/2003 |
| 142 | Ralph Iwens | 1/14/2003 |
| 143 | Lisa Jaeger | 1/14/2003 |
| 144 | Robert Jellison | 1/14/2003 |
| 145 | Sherman Jensen | 1/13/2003 |

* Date received is shown; letter not dated.

**TABLE J-1 (CONTINUED)
LIST OF COMMENT LETTERS**

| Letter Number | Commentor | Date |
|----------------------|-----------------------------|-------------|
| 146 | Lana Johns | 1/13/2003 |
| 147 | Mark Johns | 1/13/2003 |
| 148 | Earl Johnson | 1/10/2003* |
| 149 | Jeremiah S. Joseph | 1/13/2003* |
| 150 | Bachittar S. Juneja | 12/26/2002 |
| 151 | Cindy Kamler | 1/10/2003 |
| 152 | Karen M. Keehan | 1/14/2003 |
| 153 | Vanessa Keller | 1/10/2003 |
| 154 | Andrea Lawrence | 1/13/2003* |
| 155 | Kelli Levinson | 1/14/2003* |
| 156 | Joann Lijek | 1/13/2003* |
| 157 | Carolyn Lynch | 1/13/2003 |
| 158 | Roberta McIntosh | 1/10/2003* |
| 159 | Marian McDural | 1/10/2003 |
| 160 | Bruce and Cheryl Mack | 1/10/2003 |
| 161 | Anthony Marks | 1/10/2003 |
| 162 | Charlotte Martinez | 1/10/2003 |
| 163 | Sylvia Maxey | 1/10/2003 |
| 164 | Stacey Mike | 1/10/2003 |
| 165 | Tracey Mike | 1/10/2003 |
| 166 | Daniel J. Miller | 1/10/2003 |
| 167 | Haley Miller | 1/10/2003 |
| 168 | Sally Miller | 1/15/2003* |
| 169 | Jacob E. Morgan | 1/7/2003 |
| 170 | Gaylune M. Muese | 1/10/2003 |
| 171 | Lawrence Nahm | 1/10/2003* |
| 172 | Star Narcoon | 1/10/2003 |
| 173 | Tom Noland | 1/14/2003* |
| 174 | Dick Noles | 1/13/2003* |
| 175 | Cheryl and Greg Norlin | 1/13/2003* |
| 176 | Debby Parker | 1/13/2003 |
| 177 | Robert H. Paschall | 1/8/2003 |
| 178 | Jim Paulus | 1/7/2003 |
| 179 | Francis and Francee Pedneau | 1/10/2003 |
| 180 | Kirk Peek | Not Dated |
| 181 | Beth S. Porter | 1/13/2003 |
| 182 | Randall K. Porter | 1/14/2003* |

* Date received is shown; letter not dated.

**TABLE J-1 (CONTINUED)
LIST OF COMMENT LETTERS**

| Letter Number | Commentor | Date |
|----------------------|--|-------------|
| 183 | Richard Potashin | 1/14/2003 |
| 184 | Colleen Reardon | 1/10/2003 |
| 185 | Linda Reynolds | 1/10/2003 |
| 186 | Virginia M. Reynolds | 1/10/2003 |
| 187 | Stanley Richardson | 1/14/2003 |
| 188 | Donald and Barbara L. Rivenes | 1/17/2003 |
| 189 | E. Richard and Tamra Y. Roloff | 1/11/2003 |
| 190 | Robert Robertson | 1/10/2003 |
| 191 | Carma Roper | 1/13/2003 |
| 192 | Lynnette Royce | 1/13/2003* |
| 193 | Tim Rudolph | 1/11/2003 |
| 194 | Barbara Schuck | 1/13/2003* |
| 195 | Andy Selters | 1/13/2003 |
| 196 | Edward H. Shelander | 1/14/2003 |
| 197 | Hazel Dehy Shelander | 1/14/2003 |
| 198 | Nick Sprague | 1/14/2003* |
| 199 | Sara Steek | 1/8/2003 |
| 200 | Howard Steidtmann | 1/9/2003 |
| 201 | R. Steward | 1/10/2003 |
| 202 | Tucheh P. Stone | 1/9/2003 |
| 203 | Thomas J. Talbot | 1/7/2003 |
| 204 | William A. Talbot | 1/7/2003 |
| 205 | Frederick E. Tan | 1/13/2003 |
| 206 | Sherryl Taylor | 1/13/2003 |
| 207 | Thaddeus W. Taylor III | 1/14/2003 |
| 208 | Robert J. Vance | 1/13/2003* |
| 209 | Sara M. Vance | 1/10/2003 |
| 210 | Derrick E. Vocolka | 1/13/2003 |
| 211 | Mary Vocolka | 1/13/2003 |
| 212 | Douglas Wachowiak | 1/10/2003* |
| 213 | Nancy Peterson Walter and John H. Walter | 1/13/2003 |
| 214 | Jason Warren | 1/10/2003 |
| 215 | Samuel R. Wasson | 1/14/2003 |
| 216 | Carol Wells | 1/10/2003* |
| 217 | Marshalle Wells | 1/9/2003 |
| 218 | Janet Westbrook | 1/13/2003 |
| 219 | Bryce A. Wheeler | 1/10/2003 |

* Date received is shown; letter not dated.

**TABLE J-1 (CONTINUED)
LIST OF COMMENT LETTERS**

| Letter Number | Commentor | Date |
|----------------------|---|----------------------------|
| 220 | Charles D. Wheeler | 1/9/2003 |
| 221 | Wilma A. Wheeler | 1/7/2003 |
| 222 | Steven M. White | 1/9/2003 |
| 223 | Judy Wickman | 1/5/2003 |
| 224 | Steve Wiebold | 1/14/2003 |
| 225 | Carol A. Wiley | 1/10/2003 |
| 226 | Earleen J. Williams | 1/10/2003 |
| 227 | Harry C. Williams | 1/14/2003 |
| 228 | Jack R. Williams, Jr. | 1/10/2003 |
| 229 | John C. Williams | 1/10/2003* |
| 230 | Earl Wilson | 1/14/2003 |
| 231 | Earl Wilson | 1/14/2003 |
| 232 | John Wilson | 1/10/2004 |
| 233 | Breanne Zaragoza | 1/14/2003 |
| 234 | Barbara and Robert Toth | 1/13/2003 |
| 235 | Linda M. (<i>signature not legible</i>) | 1/10/2003 |
| 236 | R. (<i>signature not legible</i>) | 1/9/2003 |
| 237 | Mark Belles | 11/16/2002 |
| 238 | James R. Kahn, M.D. | 1/5/2003 |
| 239 | Andrew D. Morin | 11/26/2002 |
| 240 | R. Paul Policarpio | 12/23/2002 |
| 241 | Jeanne Walter | 12/19/2002* |
| 242 | American Reward Mill, Inc. Gene D. Mathern, President/CEO Janet R. Blackburn, Secretary/Treasurer | 1/11/2003 and 1/14/2003 |
| 243 | Phyllis Sam | 1/10/2003 |
| 244 | L. Missbrenner, El Dorado Audubon (<i>signature not legible</i>) | Not Dated |
| 245 | Tamara L. Coleman, El Dorado Audubon | Not Dated |
| 246 | Jean Casom, El Dorado Audubon | Not Dated |
| 247 | Alfred J. Missbrenner, El Dorado Audubon | Not Dated |
| 248 | Lindsay Romo, El Dorado Audubon | 12/19/2002 |
| 249 | (<i>signature not legible</i>) El Dorado Audubon | 12/19/2002 |
| 250 | Mary Parsell | Not Dated |
| 251 | Donna Bray, El Dorado Audubon | Not Dated |
| 252 | Arthur Beland, M.D., Audubon Society | Not Dated |
| 253 | Linda Boag, El Dorado Audubon | Not Dated |
| 254 | Chuck Mitchell, El Dorado Audubon | Not Dated |

* Date received is shown; letter not dated.

**TABLE J-1 (CONTINUED)
LIST OF COMMENT LETTERS**

| Letter Number | Commentor | Date |
|----------------------|--------------------------------------|-------------|
| 255 | Brad Lane, El Dorado Audbon | Not Dated |
| 256 | Eleanor J. Beland, El Dorado Audubon | Not Dated |
| 257 | Carolyn Vance, El Dorado Audubon | 12/19/2002 |
| 258 | Jan Gaffrey, El Dorado Audubon | Not Dated |
| 259 | Rich Sonnenberg | Not Dated |

* Date received is shown; letter not dated.

J.2 ORAL COMMENTS RECEIVED DURING PUBLIC MEETINGS

Public meetings were held in Lone Pine (December 4, 2002) and Bishop (December 5, 2002) to receive oral comments on the Draft EIR/EIS. Table J-2 lists the people who spoke at the public meetings, summarizes their comments, and provides a cross-reference to the written transcripts of the meetings. The transcripts are presented after the written comment letters. Responses to comments are presented in Appendix K, Section K.2.

**TABLE J-2
LIST OF ORAL COMMENTORS**

| Commentor | Comment Numbers | Transcript Page |
|---|------------------------|------------------------|
| Lone Pine Meeting (December 4, 2002) | | |
| Robert Strub, BLM Steering Committee, Ridgecrest | RS-1 to RS-4 | pp. 2-3 and p. 19 |
| Rachel Joseph, Lone Pine Paiute-Shoshone Tribe | RJ-1 to RJ-5 | pp. 3-6 |
| Mike Prather, Personal comments from the Owens Valley Committee President | MP-1 to MP-3 | pp. 6-8 |
| Gloria Martinez, Olancha | GMO-1 to GMO-2 | pp. 8-10 |
| Francis Pedneau, Lone Pine, Past President of the Owens Valley Warm Water Fishing Association | FP-1 to FP-4 | pp. 11-12 |
| Gene Mathern, Lone Pine | GMLP-1 to GMLP-5 | pp. 13-18 |
| Bishop Meeting (December 5, 2002) | | |
| Dorothy Alther, Owens Valley Indian Water Commission | DA-1 to DA-8 | pp. 2-7 |
| Bruce Klein, Friends of the Owens River and Owens Lake Rowing and Sailing Society | BK-1 to BK-3 | pp. 8-11 |
| Scott Kemp, Lessee of Delta Lease and Representing Inyo-Mono County Cattleman's Association | SK-1 to SK-5 | pp. 12-15 |
| Derrick Vocelka, Personal comments from a board member of the Owens Valley Committee | DV-1 to DV-7 | pp. 16-18 |
| Gregory Smith, Personal comments from a member of the Owens Valley Committee | GS-1 to GS-3 | pp. 19-20 |
| Jo Heindel, Big Pine | JH-1 | pp. 21-24 |
| Tom Heindel, | TH-1 to TH12 | pp. 25-31 |
| Daniel Pritchett, | DP-1 to DP-4 | pp. 31-36 |
| Ceal Klingler, Bishop | CK-1 to CK-4 | pp. 37-40 |
| James Wilson, Representing the Eastern Sierra Audubon Society | JW-1 to JW-4 | pp. 41-43 |
| Harry Williams | HW-1 to HW-4 | pp. 44-49 |
| Mark Bagley, Representing Sierra Club | MB-1 to MB-7 | pp. 50-62 |
| Karen Ferrell-Ingram | KF-1 | pp. 63-64 |



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

In Reply, refer to: 2003.957

January 15, 2003

Clarence Martin
Los Angeles Department of Water and Power
300 Mandich Street
Bishop, California 93514

Subject: Draft Environmental Impact Report for the Lower Owens River Project, Inyo County, California

Dear Mr. Martin:

The U.S. Fish and Wildlife Service (Service) has completed review of the draft environmental impact report/draft environmental impact statement (DEIR/DEIS) for the Lower Owens River Project (LORP). The habitat restoration project would focus on four main areas in the Owens Valley. The purpose of this project is to mitigate for impacts related to ground water pumping by Los Angeles Department of Water and Power (LADWP) from the Owens Valley during 1970 through 1990. Elements of the LORP consist of:

1. Lower Owens River Riverine-Riparian Ecosystem - approximately 62 river miles will be enhanced as a result of pumping water from the river intake to the river delta, improving the health and diversity of aquatic and riparian habitat.
2. Owens River Delta Habitat Area - 325 acres of aquatic and riparian habitat currently existing with a goal to furthermore increase, enhance and maintain new habitat which would benefit shorebirds, waterfowl, and other wildlife through water flow and land management.
3. Blackrock Waterfowl Habitat Area - 500 acres are required to be flooded except in years when runoff is forecast to be less than average. In addition, 1,241 acres of adjacent flood zones are expected to benefit from flooding in the Blackrock area. Pasture and wetlands will be enhanced and managed for the benefit of waterfowl and wildlife providing nesting, resting, and feeding habitat through water flow and land management.
4. Off-River Lakes and Ponds (Billy Lake, Goose Lake, Thibaut Ponds, and Upper and Lower Twin Lakes) - a continual water source will be maintained for the benefit of waterfowl, fisheries, shorebirds and other wildlife through water flow and land management.

Clarence Martin

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We offer the following comments to aid LADWP in planning for the conservation of fish and wildlife resources that could be affected by the LORP, and as a means to assist you in complying with pertinent Federal statutes. The following comments are prepared in accordance with the Endangered Species Act, Fish and Wildlife Coordination Act, and other authorities mandating Department of the Interior concern for environmental values.

The Service's mission is to conserve and protect the Nation's fish and wildlife resources and their habitats. In an effort to achieve this mandate, the Service has published its Mitigation Policy (Policy) in the Federal Register on January 23, 1981, as corrected in the Federal Register on February 4, 1981. This Policy seeks to mitigate losses of fish, wildlife, and their habitats and uses thereof, from land and water developments. Four resource categories are identified and mitigation goals are defined with respect to habitat value. We consider the Lower Owens River riparian and wetland habitat to be affected by the proposed project to be Resource Category 2, "habitat to be impacted is of high quality for evaluation species and is relatively scarce or becoming scarce on a national basis or in the ecoregion section." The mitigation goal for habitat in Resource Category 2 is "no net loss of in-kind habitat value."

1-1 Riparian habitats have one of the highest levels of productivity and biodiversity in the western United States. Deciduous riparian forests, comprised mostly of willow and cottonwood and dense undergrowth bordering rivers, streams and lakes, have largely been lost to development, logging, stream channelization, grazing and water diversion throughout the west. Only five to 10 percent of California's original riparian habitat exists today and much of the remaining habitat is in a degraded condition. Riparian habitats can range from dense shrubs to a closed tree canopy. Riparian systems are one of our most important and most neglected, renewable natural resources. While small in total area when compared to California's size, they are of special value to wildlife such as mammals, reptiles, amphibians, and invertebrates providing food, water, breeding habitat, shelter from predators and inclement weather, and act as migration corridors. More than 135 species of California birds such as the Hammond's flycatcher, yellow warbler, and red-shouldered hawk either depend completely upon riparian habitat or use them at some stage in their life history. Riparian habitat also provides riverbank protection, erosion control and improved water quality, as well as numerous recreational and aesthetic values.

Wetlands are among the most valuable natural features in California providing irreplaceable habitat for fish, waterfowl, and other aquatic-dependent species. More than 80 of California's rare and endangered species depend on wetland habitat. California wetland and aquatic habitat are essential for feeding and shelter of wintering and migratory waterfowl along the Pacific Flyway. Stopping places have diminished along the Great Basin stretch of the Pacific Flyway, an aerial freeway used by millions of birds moving between North America, and Central and South America. Freshwater fish and amphibians depend on wetland and aquatic habitat to provide food, shelter, and reproduction and nursery grounds for their survival, which in turn promotes survival for those who prey upon them. In addition to their biological value, wetlands provide benefits by improving water quality, flood control, recharging of groundwater that is utilized for urban and agricultural use, and erosion control. Unfortunately wetlands are among the most

Clarence Martin

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threatened habitat in California with a loss of approximately 90 percent of historical wetlands acreage, the highest loss of any state in the nation.

1-1

In addition, the Service's responsibilities include administering the Endangered Species Act of 1973, as amended (Act), including sections 7, 9, and 10. Section 9 of the Act prohibits the taking of any federally listed endangered or threatened species. Section 3(18) of the Act defines "take" to mean "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Service regulations (50 CFR 17.3) define "harm" to include significant habitat modification or degradation which actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Harassment is defined by the Service as an intentional or negligent action that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. The Act provides for civil and criminal penalties for the unlawful taking of listed species. Exemptions to the prohibitions against take may be obtained through coordination with the Service in two ways: through interagency consultation for projects with Federal involvement pursuant to section 7 or through the issuance of an incidental take permit under section 10(a)(1)(B) of the Act.

1-2

To comply with the Migratory Bird Treat Act, a project proponent has the responsibility to attempt all reasonable measures in advance to avoid take of birds or active nests with eggs or young. Such reasonable measures may include working outside the nesting season or surveying the project area prior to activity to ensure that active nests or birds will not be taken. We suggest working with the local Law Enforcement Office of the Service so they are aware that an activity that could adversely affect migratory birds is being conducted.

We offer the following specific comments for your consideration:

1-3

1. We support the efforts to enhance riparian, wetland, and aquatic habitats within the Lower Owens River System with a potential to enhance conservation of trust resources. Such habitat was historically abundant along the river and provides rare and valuable reproductive, feeding, and sheltering habitat for waterfowl and other wildlife species, including listed, candidate, and special status species.

1-4

2. As stated in the Management Guidelines for the southwestern willow flycatcher (*Empidonax traillii extimus*) and least Bell's vireo (*Vireo bellii pusillus*) (U.S. Fish and Wildlife Service 1998), consideration should be given to implementing a cow bird control program in selected areas to monitor response of riparian bird populations and determine effects of brown-headed cowbirds on the nesting success of riparian birds.

1-5

Generally, the Service supports the management efforts described in the (DEIR/DEIS) regarding several items: The enhancement of habitat that is vital to the survival of many species throughout the LORP by providing valuable reproductive, feeding, and sheltering habitat for waterfowl and other wildlife species, including, listed, candidate, and special status species. For

1-5

example, by enhancing and maintaining existing habitat through water flow and land management, riparian areas will be created and enhanced, thereby promoting nesting habitat for the endangered southwestern willow flycatcher and possibly the endangered least Bell's vireo. Implementation of the LORP is likely to also increase habitat value of wetlands and off-river ponds and lakes for the endangered Owens pupfish (*Cyprinodon radiosus*) and the endangered Owens tui chub (*Gila bicolor snyderi*). Riparian and wetland habitat enhancement along with range improvements and modified grazing practices on leases in the LORP area will increase the likelihood that endemic flora and fauna will become reestablished at historic locations. We encourage the efforts to promote and restore the historic habitat of the lower Owens River through water flow and land management.

If you have any questions, please contact Robert McMoran of my staff at (805) 644-1766.

Sincerely,



Judy Hohman
Division Chief
Mojave/Great Basin Deserts

Literature Cited

U.S. Fish and Wildlife Service. 1998. Owens Basin Wetland and Aquatic Species Recovery Plan, Inyo and Mono Counties, California. Region 1. 143pp + Appendices



United States Department of the Interior

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Comment Letter No. 2

JAN 13 2003

1610 (CA-170.2) P

Clarence Martin
Los Angeles Dept. of Water & Power
300 Mandich Street
Bishop, CA 93514

Re: Comments on the Draft EIR/EIS for the Lower Owens River Project (LORP)

Dear Clarence,

We are pleased to see that the restoration of the river and the subsequent development of a fisheries and increased wetlands habitat for various species of birds and other animals is identified as the primary goal for the project.

Having reviewed the plan, we have several comments. Some of these are general in nature, others are more specific and will reference page and section within the EIR/EIS.

Recreation

The recreation analysis seems entirely too brief. Again, while we are pleased that the primary objective of the restoration is habitat improvement, this restoration will by its nature invite the public to visit the area. We anticipate a major increase in use in the area year-round due to the open water, increased riparian vegetation such as cottonwood and willow, and advertisements and promotions by local communities. This use will likely include a variety of activities including fishing, hunting, canoeing, tubing, birding, picnicking, sightseeing, OHV use, mountain bike use, equestrian use, hiking and walking.

We anticipate impacts to vegetation along the river from increased vehicle and foot traffic. Existing routes on DWP and public lands will have heavy use resulting in rutting, wash board, widening and dust problems. New routes will be created to access the river, similar to the Chalk Bluff area. New routes will also be created for general sightseeing and through increased OHV activity.

We believe that the impacts from this use may significantly impact the proposed restoration and that the LADWP will have to pro-actively manage their land and work with the local communities to manage recreation use if this project is to succeed.

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2-1

Range Management

Page S-4 Summary of Environmental Impacts

2-2

The summary defines the impacts and describes the mitigation measures. BLM is concerned with the designation of Class III impacts which are defined as: Other Environmental Impacts that are Considered Adverse but not Significant. Mitigation for Class III impacts are defined as: “Mitigation measures are recommended to minimize these adverse impacts, but that the lead agencies are not required to adopt them.”

It is difficult to assess the impacts if the agency is not making a commitment to adopt them. We have had a good working relationship with LADWP and look forward to continuing that relationship, including implementing the mitigation measures recommended in the EIR/EIS.

Page S-25 Table S-1 Summary of Impacts and Mitigation

Description of Impacts by Issue Area

Rangelands:

Impact: “There is a possibility that cattle drift onto BLM lands may occur more frequently than under current grazing management due to combined effects of reducing the utilization of riparian pastures, installing fencing, and relocating water sources nearer to BLM lands. This impact would primarily occur at the Thibaut, Blackrock, and Delta leases. Increased cattle drift would adversely affect the range conditions on public lands. The magnitude of unauthorized drift is not expected to be substantial. (Sec. 9.2.3)

2-3

BLM contends that this identified impact would also occur at the Twin Lakes and Lone Pine leases.

The proposed riparian pasture fencing is intended to confine cattle east of the Owens River, likely affording more of an opportunity for cattle drift onto BLM lands than currently exists without said fencing.

BLM agrees with the analysis of this impact (as stated above) but contends that this impact should be considered as a Class II impact rather than a Class III. The adjacent BLM lands currently are in poor rangeland condition, due in part to past grazing use resulting from cattle drift. Rangeland condition of BLM lands would not have an opportunity improve if even more drift occurs due to the fencing.

Mitigation Measures:

LM-1. “The grazing management plan for individual leases shall be modified to incorporate herd and grazing practices to reduce potential cattle drift onto public lands. These lease-specific measures shall be developed in consultation with BLM and to their satisfaction, and shall include specific measures to discourage unauthorized drift, such as strategic placement of watering troughs and coordination of grazing rotation patterns between the LADWP and BLM pastures. The effectiveness of these measures shall be evaluated in the LORP monitoring and adaptive management program.”

The BLM is encouraged by this statement and welcomes the opportunity to continue consultation with LADWP to implement this mitigation measure.

However, BLM calls attention to the particular statement “grazing rotation patterns between the LADWP and BLM pastures.” The majority of BLM lands, within the affected area of the LORP project, are not within established grazing allotments (“BLM pastures”). The only two BLM allotments within the LORP project area are: Black Mine, adjacent to the Twin Lakes Lease (Blackrock Riparian Pasture) (Fig. 2-18) and West Santa Rita, adjacent to the Blackrock Lease (White Meadow Riparian Pasture) (Fig. 2-19). The remaining BLM lands adjacent to the various other riparian pastures are unallocated (i.e. not within an established BLM allotment).

These BLM unallocated lands have been so designated, in BLM’s land use plan, for over 20 years and are to remain unallocated. This is due to their poor forage condition, lack of demand for use and general unsuitability for cattle grazing. None the less, BLM remains responsible for managing those unallocated lands for other multiple use resource values (i.e. wildlife habitat, cultural, botanical, mineral, recreation, visual etc.) although livestock grazing is not permitted.

BLM is concerned that continued and potential increased future cattle drift, resulting from implementation of the LORP does not adversely affect these unallocated BLM lands.

Therefore, in the spirit of implementing these particular mitigation measures for Rangelands, BLM anticipates actively participating with LADWP in determining lease-specific measures, specific measures to control unauthorized drift, placement of water troughs and coordination of grazing.

BLM suggests that LADWP and BLM embark upon more closely determining lease-specific measures at the earliest opportunity. BLM believes that a number of things may be identified ahead of time. These may be viewed as “planned actions,” to the extent possible, and should not necessarily be left to reacting to “adaptive management.” This would aid not only LADWP and BLM, but the LADWP ranch lessees as well and potentially avoid conflicts in the future. BLM seeks to take a proactive approach vs. a reactive approach relative to the Rangelands component of the LORP.

2-5 BLM certainly acknowledges that a number of actions and mitigation measures cannot be more precisely addressed at this time, for other resource or land use concerns, given the magnitude and complexity of the entire Draft LORP project. To that extent, BLM recognizes LADWP's selection of an adaptive management approach.

Botanical Resources

Section 4.5, page 4-28: Wetlands and Riparian Habitat

2-6 Conversion of 2,343 acres of alkali scrub/meadow and 531 acres of alkali meadow habitat will increase these areas' risk to weed invasion during the successional lapses between hydrologic inundations. In addition, the loss of these habitats should be analyzed in the context of the cumulative loss of these habitats throughout the Owens Valley. Very little acreage of ecologically intact alkali meadows exist in the Owens Valley due to groundwater pumping, cattle grazing and weed invasion. Provisions should exist within the LORP to mitigate the loss of these habitats through the implementation of an active restoration program targeting existing alkali meadow systems where recovery from these impacts coupled with revegetation efforts would occur, e.g. Fish Slough.

Section 5.1.4 , page 5-12: Mitigation Measures

2-7 This section should specify topsoil salvage and methods of protection prior to resurfacing. There should also be provisions that all equipment used during the construction of these projects be "weed free" prior to and after work, so that weed material, e.g. perennial pepperweed is not transported between project sites. It is also not clear if there will be funding to implement the monitoring associated with these mitigation measures.

Section 9.2.2, page 9-3: Biological Resources

2-8 The EIR/EIS should include a discussion of impacts to rare plant populations due to noxious weed invasion and what will be done to mitigate those impacts.

Section 10.1, page 10-1: Recreation

2-9 The EIR/EIS should include a discussion of the additional risk of noxious weed invasion, primarily perennial pepperweed, due to increased foot and vehicular traffic.

Section 10.4 Pepperweed, Saltcedar, and Other Noxious Weeds

2-10 Noxious weed management is a serious issue within the western US and the Owens Valley. This section has some serious shortfalls. These include:

- There is no discussion of the increased risk of noxious weed invasions onto BLM lands due to the anticipated significant increases in tamarisk populations. The tamarisk

2-10

populations that exist on BLM along the fans of the Inyo Mountains are a result of source populations within the Owens River. Any additional increases of Tamarisk along the river will put public lands at risk of further infestations in ecologically sensitive spring systems which contain rare spring snail populations.

- There should be a Noxious Weed Control/Eradication Plan.
- Too much dependence is placed on Inyo County Agriculture to develop LORP noxious weed control language in the Eastern Sierra Weed Management Plan Strategic Plan.
- Control/Eradication as well a funding commitment (from LADWP and Inyo County) language should be in a separate section in the LORP.
- Within such a plan, a breakdown of the costs of treatment should be provided to reiterate how expensive weed control/eradication is when infestations are allowed to get out of control. A good example is the costs associated with tamarisk and perennial pepperweed control.
- Noxious weed control does not fit into the guise of “adaptive management”. A well thought-out plan and funding commitment needs to happen upfront in anticipation of infestations.
- It is not enough to state that infestations by exotic plants will be immediately reported to the Agricultural Commissioner. The Commissioner’s office and the Weed Management Group are already backlogged by such sightings.
- Although the Agricultural Commissioner has stated that increased funding will be necessary to “enhance its noxious weed program” that language is entirely too vague especially considering that they are already swamped with noxious weed populations to treat and have stated on numerous occasions how short-staffed they are.

2-11

2-12

Given the lack of commitment to funding and to the development of a noxious weed eradication/control plan BLM considers the potential increase in exotic species along the river as significant, especially for salt cedar.

Public Safety

2-13

Executive Summary, Part 5. (page S-5 and S-6), Section 10.3 Public Health and Safety (pages 10.3 and 10.4) and Section 11.3.5 Increase in Mosquitoes (Class I Impact), (page 11-10 and 11-11)

The document recognizes two very important issues concerning an increase in the presence of mosquitoes in the Owens Valley: 1) a substantial number (hundreds) of new environments will be created for mosquitoes to breed along the river, at Blackrock and at the Delta due to actions implemented in the LORP, and 2) it is likely that additional mosquito populations resulting from

2-13

the LORP actions may not be controlled (apparently due to budget constraints). The document also recognizes the eventual occurrence of West Nile Virus (WNV) in the Owens Valley, possibly introduced from infected migrating birds. The scientific community involved in the tracking of West Nile Virus' spread across the United States has been quoted in a recent popular article stating, "*California seems to be an area that has all the factors you need for a major spread*" (of the virus). The same article goes on to say that WNV will spread into California in the spring of 2003, there are no barriers to that happening and the virus is able to infect all species of mosquitoes it has encountered to date. And, that WNV is taking a very high toll on all manner of other species where it occurs in the East and Midwest.

With the knowledge that WNV, in the United States, has killed at least 241 people and infected many thousands more, statements in the document indicating that "*hundreds of new open water habitats*" will be created with an uncertain ability to control the additional mosquito numbers does not appear defensible to this agency.

We recommend that LADWP either commit to a method of controlling the additional mosquito populations or redesign the manner in which water will be used to achieve some of the LORP goals while not creating hundreds of new areas in which mosquitoes will breed.

Wildlife / Threatened and Endangered Species

Section 2.3.11 Threatened and Endangered Species (page 2-30)

2-14

The first sentence in the paragraph states, "*Ecosystem Sciences believes that habitat suitable for Owens pupfish and Owens tui chub will be maintained and created in the river as a result of the LORP*". Experience has shown that both species of native Owens Valley fish are incapable of coexisting with the larger and more aggressive non-native species of fish within the Owens River system (e.g. Fish Slough wetland). The Fish Slough habitat occupied by native Owens Valley fish and non-native fish species has regularly led to the complete demise of native fish in a short period of time, even with a diversity of water depths and vegetation communities present in the sites. The prospect of native fish coexisting with non-native fish within the Owens River system is not defensible based on numerous experiences by this agency nor are we aware of any peer-reviewed and published studies indicating that this is a realistic assumption. If there is evidence available in peer-reviewed literature that supports this belief then reference should be made to that source(s). For example, does the reference source on page 18-4 of *D. McEwan, 1990, unpublished MS thesis*, or any other peer reviewed references support the notion quoted above?

This comment applies to all other sections of the document where an opinion (belief) is expressed concerning habitat conditions being created in the river (and related areas, like Section 2.6.3 Management Approach for Off-River Lakes and Ponds) that allow for the sympatric occurrence of native and non-native fish.

Section 2.7.2 Fish and Aquatic Species (page 2-61)

2-14

The second paragraph of this section seems to indicate there are differing opinions (and individual writers) involved in the question of whether it is possible, or not, for native and non-native fish species to co-occur. Refer to the comment we provide for Section 2.3.11. Does the LADWP believe that it may not be possible for the native and non-native fish species to co-occur? Since LADWP is the CEQA lead agency, LADWP should clearly state what they understand to be a likely workable scenario of native and non-native fish species co-occurring, or not, in the LORP. Including statements on the issue from a consulting firm, without supporting references, is confusing.

We appreciate the opportunity to review and comment upon the draft EIR/EIS. We are looking forward to continued consultation, coordination, and cooperation between LADWP, BLM, other agencies and the public, to promote a healthy and sustainable environment on all lands associated with the LORP.

Sincerely,



Bill Dunkelberger
Field Manager



United States Department of the Interior

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Comment Letter No. 3

JAN 13 2003

1610 (CA-170.2) P

Clarence Martin
Los Angeles Dept. of Water & Power
300 Mandich Street
Bishop, CA 93514

Re: Comments on the Draft EIR/EIS for the Lower Owens River Project (LORP)

Dear Clarence,

Please accept these additional comments on the draft LORP EIR/EIS. These pertain to cultural resources and were inadvertently omitted from our first letter.

3-1

In a review of the document it appears that cultural resource concerns have been generally well addressed for areas of known primary impacts (e.g., pump station, berms, ditches, spill gates, the transmission line corridor and associated access routes). In areas where impact levels are not well understood at this time (e.g., the Black Rock Waterfowl area, delta area, alkali scrub/meadow habitat conversion areas, and Owens River floodplain areas), but that may have significant cumulative effects, no cultural resource evaluation has been undertaken. The Far Western Anthropological Research Group (2001) report, cited in the EIR/EIS indicates that mitigation measures for these areas will be developed through the context of a Cultural Resource Management Plan (CRMP) or Programmatic Agreement. This agreement should be included in the EIR/EIS.

3-2

According to the EIR/EIS flooding will occur on the delta, in the 1,500 acre Black Rock Waterfowl Management area and 2,343 acres of alkali scrub/meadow and 531 acres of alkali meadow (S-5) will be converted to wetland/riparian habitat. These are areas where cultural resource values are not well understood. Recent studies on the Owens Lake bed (Jones & Stokes 2002) indicate that the delta may have been an important habitat for prehistoric peoples during certain climatic episodes. It is recommended that the CRMP address how cultural resource values will be mitigated in these areas, as well as along the Owens River floodplain. It is recommended that a sampling strategy for each potentially affected flood area be devised as a condition of the CRMP before any flooding occurs, to detail the nature and potential significance of cultural values within in each area.

Sincerely,


Bill Dunkelberger
Field Manager

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California Regional Water Quality Control Board Lahontan Region



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Comment Letter No. 4

January 14, 2003

General File: LADWP/LORP/EIR
SCH No. 2000011075

Mr. Clarence Martin
Los Angeles Department of Water and Power
300 Mandich Street
Bishop, CA 93514

DRAFT ENVIRONMENTAL IMPACT REPORT, LOWER OWENS RIVER PROJECT (LORP), INYO COUNTY

California Regional Water Quality Control Board (Regional Board) staff have reviewed the Draft Environmental Impact Report (EIR) / Environmental Impact Statement (EIS) prepared for the Lower Owens River Project (LORP), dated November 1, 2002, and offer the following comments on issues related to water quality along the Lower Owens River.

4-1 The 1991 Memorandum of Understanding (MOU) between the Los Angeles Department of Water and Power and Inyo County directs that the implementation of the LORP will be performed by the Los Angeles Department of Water and Power (LADWP) and Inyo County. The four major physical features of the LORP include: Riverine-Riparian Habitats; Owens River Delta Habitat Area; Blackrock Waterfowl Habitat Area; and Off-River Lakes and Ponds. Also important is the inclusion of a long-term monitoring program to be implemented by LADWP. The results of monitoring will be utilized to determine if the changes in environmental conditions are consistent with the LORP objective of rewatering the Owens River to restore aquatic and riparian habitats of the Owens River within an area from the River Intake to the proposed pump station, located at the upper end of the Owens River Delta. In the event that the objectives are not being met or unanticipated conditions arise that could hinder progress towards these objectives, then LADWP and the County will consider the implementation of adaptive management measures to better achieve the objectives. Adaptive management measures that may be implemented in response to monitoring data are described in the EIR/EIS. Final decisions to implement these adaptive management measures will be made by the Inyo/Los Angeles Technical Group and/or the Standing Committee in conjunction with the governing boards of the LADWP and the County.

Board staff concurs with the overall objective of LORP to implement a large-scale aquatic and riparian habitat restoration project that will extend 62 miles along the southern end of the Owens River including the delta area of dry Owens Lake. With successful implementation, diverse natural habitats will be created and maintained with river flow and appropriate land management. Land management decisions will be made consistent with the needs of the dependent species for the riverine-riparian system identified in the LORP Action Plan finalized in August 2002 as directed by the MOU issued in 1991.

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EIR Data Review**Section 4.4, WATER QUALITY**

The LORP is designed to establish increased permanent flows in the river channel that differ from existing conditions. Currently the Owens River flows at an annual average rate of 7 cfs (cubic feet per second) that has resulted in large areas of dry land with excessive vegetative growth compared to historic river conditions. Previous research in 1993 (39 day period) by LADWP's consultant, Ecosystem Sciences, conducted a field experiment along the Lower Owens River to gather data on flows and water quality for use in developing a proposed release regime as well as to calibrate hydrological, biological and water quality models for predicting flow requirements to manipulate flows in the river. The analyses indicated that establishing a 40 cfs base flow would provide suitable habitat for game fish, forage fish, and native fish in the Lower Owens River. However, the proposed base flow of 40 cfs and seasonal habitat flows up to 200 cfs could cause significant water quality degradation, at least initially, due to scouring of old organic sediments on the riverbed downstream from Mazourka Canyon Road to the pump station site, a channel distance of 37 miles. Data analysis from the 1993 study also suggested that degraded water quality impacts could continue due to the inability of habitats to normalize during the initial years of project implementation of increased flows.

Within 60 days after the construction of the pump station is complete, establishment of the new base flow is scheduled to occur within a period of 30 days. Incremental releases of 1 cfs daily will be made until the flow of 40 cfs is established.

4-2 As a result of initial increased flows that would contain ammonia, hydrogen sulfide, etc along with decomposed vegetation and excessive sediments, poor water quality conditions could adversely affect the following Beneficial Uses listed in the Lahontan Basin Plan for the Owens River: Cold Freshwater Habitat, Warm Freshwater Habitat, Commercial and Sportfishing, Non-Contact Water Recreation, and Wildlife Habitat according to the EIR. Degraded water quality conditions will probably result in fish kills and create a nuisance due to odors from off-gassing sediments. Such conditions could reduce the availability of aquatic life over an extended period of time.

Under the State Nondegradation Objective, the State has a goal of maintaining high quality water. If it is determined that some degradation is in the best interest of the people of California, some increase in pollutant level may be appropriate. However, in no case may such increases cause adverse impacts to existing or probable future beneficial uses of waters of the State. LORP implementation will have adverse impacts to present beneficial uses and fish species found in the water at least on a temporary basis. This impact is considered significant and unavoidable according to the EIR evaluation.

The EIR states that the following water quality objectives may not be met during this period of degraded water quality: Biostimulatory Substances, Chemical Constituents, Dissolved Oxygen, Floating Materials, Non-Degradation of Aquatic Communities and Populations, Sediment, Settleable Materials, Suspended Materials, Taste and Odor, Temperature, and Turbidity. There is also the potential for toxic substances to be released to the water in deleterious amounts, in particular, naturally occurring hydrogen sulfide and ammonia. Dissolved methane gas may also be released to the water body.

California Environmental Protection Agency

- 4-3 While we recognize that the proposed LORP cannot achieve the planned benefits without the establishment of the new base flow of 40 cfs. The EIR should evaluate all changes to water quality from the proposed project and discuss potential mitigation measures for any impacts. Data and models from previous study and information gathered during the Owens Gorge Rewatering Project may be used to estimate conditions during the initial phases of rewatering, plus predict long-term changes in river hydraulics and environment. Various scenarios should be evaluated and potential impacts reduced to the extent possible. Any statement that impacts are unmitigable needs to be supported with appropriate evaluation of possible mitigation measures. Project alternatives need to be evaluated to comply with the non-degradation objectives applicable to the Owens River. Alternative contingency measures to minimize these impacts should be evaluated. Appropriate mitigation measures should also be discussed in the Final EIR.
- 4-4 It is anticipated that water quality conditions during establishing the newly proposed base flows would eventually improve, however, there are no estimates provided of the potential duration of adverse water quality conditions. Based on developed model data, some discussion of expected water quality conditions over time should be included in the EIR.
- 4-5 The EIR/EIS states that there are no alternative feasible mitigation measures available to reduce or avoid the significant, short-term water quality impacts associated with the initial release regime for the 40 cfs base flows and the seasonal habitat flows. In contrast, Section 4.6.3-Mitigation Measures, states that if water quality remains degraded during the base flows or seasonal habitat flows after the period of supplemental releases, and conditions for fish remain degraded, LADWP shall consider releasing higher quality water from spillgates beyond those time periods already identified, if it appears that the supplemental water will adequately improve water quality conditions for fisheries habitat. Board staff requests that supplemental water releases be incorporated into the project description that, if such conditions occur any time during project implementation and/or the monitoring period, that LADWP will take such action to improve water quality for fish survival, irregardless if the base flow is above 40 cfs or not.
- 4-6 The Final EIR should describe how the proposed project will result in environmental changes from the existing condition. The EIR should clearly describe (including map and other figures) the existing wetted area and the proposed future condition. Increased water availability should improve overall conditions for realizing an increase in beneficial use of the water, mainly in the form of increased habitat. The Final EIR should propose alternatives that minimize adverse impacts to the largest extent while allowing the successful implementation of the goals of the LORP.

Section 4.4.3.2 WATER QUALITY IMPACTS FROM CHANNEL CLEARING AND TULE REMOVAL

- 4-7 LADWP will remove channel sediments and any obstruction, i.e. beaver dams and tules, that will impede flow in the river channel, particularly in the area immediately downstream of the River Intake prior to the initial release of the water. Work will be done in such a way as to minimize soil disturbance to these sediments to the extent possible. When the initial flow releases are implemented there will be loose sediments and vegetative debris. Initial releases will be done slowly (5 to 17 cfs) to minimize this impact. This impact on water quality is expected to be short-term (unspecified) and localized. Much of the channel bottom is not expected to be de-silted, since the soil profile of river bottom sediments developed by LADWP indicate that this portion of the river does not exhibit the same amount and chemical characteristics of the channel sediments below Mazourka Canyon Road. The water quality

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4-7

impacts from this activity in the river channel are expected to decrease within hours as the suspended sediments settle to the channel bottom. This water quality impact is considered less than significant in the EIR evaluation. Best Management Practices and careful visual monitoring should be included in this activity to reduce impacts to the extent possible.

Section 4.5 WETLANDS AND RIPARIAN HABITAT

4-8

In order to meet the requirements of the MOU regarding the LORP and the fruition of healthy and diverse riparian and aquatic habitats, the LORP design also includes the creation of wetlands that will be as self-sustaining as possible as a result of increased base flows to the Delta area. Eventually the LORP's re-watering operations will convert about 2,343 acres of alkali scrub/meadow (an upland vegetation) and 531 acres of alkali meadow (upland phase) to various wetland and riparian vegetation types due to inundation effects and altered hydrologic conditions along the river in the LORP area. This increase in the amount of wetlands is considered a beneficial impact and desirable outcome of the LORP. Board staff encourages any increase in the amount of wetlands, since such a large percentage of wetlands in the Owens River watershed have historically been lost.

Section 2.4 DELTA HABITAT AREA

4-9

Proposed base flows and pulse flows to the Delta area would convert un-vegetated playa to vegetated wetland, and convert drier wetland types to wetter vegetated wetland types and open water. The proposed management approach relies on flow management, natural hydraulic and biological processes, and land management practices to create and enhance new wetlands. The goals for the Delta Habitat Area is to maintain and enlarge approximately 325 acres of existing wetland areas. Additional wetland or riparian areas may be created as a result of the project. Delta conditions are planned to be maintained with the flow management of three types of flow releases: (1) seasonal base flows, (2) four seasonal pulse flows, and (3) annual seasonal habitat flows. Adaptive management adjustments of flows as described in Table 2-21 to the Delta Habitat Area will be made in an attempt to meet the MOU goals and to maintain Delta conditions. The EIR concludes any adverse impacts to water quality in the Delta area are expected to be seasonally minimal or non-existent.

Section 2.5 BLACKROCK WATERFOWL HABITAT AREA

4-10

LORP proposes flooding portions of the 2,583 total acres that makeup the Blackrock Waterfowl Habitat Area to increase wetland productivity and diversity. Approximately 500 acres would be flooded on an average annual basis. Specific project objectives include: 1) to provide a reliable and dependable source of water and wetland habitat that will attract resident and migratory waterfowl and shorebirds; 2) to maintain the ratio of open water wetlands to emergent wetlands so that emergent wetlands do not exceed about 50 percent of the flooded area of any management unit; and 3) to create and maintain diverse habitats while minimizing the use, extent and frequency of intervention and manipulation.

This overall management strategy is similar to current existing conditions with no expected adverse impacts to water quality.

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Section 2.6 OFF-RIVER LAKES AND PONDS

4-11

A series of five lakes that are hydraulically connected are now supplied water on a permanent basis by water from the Aqueduct. The LORP includes the lakes known as Twin Lakes (Upper and Lower), Goose Lake, Billy Lake and Thibaut Ponds. The LORP objectives for these water bodies include the maintenance of the off-river lakes and ponds to sustain diverse habitat for fisheries, waterfowl, shorebirds and other animals through flow and land management, to the extent feasible, consistent with the needs of the "habitat indicator species" (includes native and non-native fish, and a variety of native, resident and migratory riparian and water birds). In order to create a continuous flow between these off-river lakes and the Owens River, 5 cfs or more will be directed through the Lower Twin Lakes diversion. This continuous flow will be maintained in the channel downstream of the lakes and ponds to allow unimpeded passage for fish between the lakes and the river.

According to the EIR, LORP implementation will not change the present management practices with no expected adverse impacts to water quality. Board staff requests additional information be added to support this evaluation and conclusion. Since the new base flow and seasonal flows could result in the flushing of the lakes and ponds of debris and sediments, we request that potential impacts be identified and evaluated in the EIR. There is no discussion of where these materials will end up, their expected volume, and the present condition of the water bodies involved.

Section 6.5 POTENTIAL IMPACTS TO BRINE POOL

The brine pool encompasses about 25 square miles in the west central portion of Owens Lake. It consists of a body of crystalline salt deposits (trona ore) and lake bed sediments covered by a thin layer of concentrated brine. The thickness of the trona ore zone ranges from 1 to 9 feet and is saturated with concentrated brine.

There is an existing US Borax trona mining operation at the southwest corner of the lake adjacent to the brine pool. Mining is sensitive to fluctuations in the brine pool elevation. If the pool level rises, the mining operation must include the construction of temporary berms composed of mined trona to prevent intrusion by the brine pool. A flow reduction to the brine pool would reduce brine concentrations in the mined material, making excavation and hauling easier.

4-12

The proposed water management plan with a 150 cfs pump station (Option 1) of the LORP will result in a smaller consistent outflow of about 0.5 cfs from the Delta to the brine pool. The proposed water management is likely to decrease the extent of freshwater flooding on the brine pool in winter months (relative to existing conditions) and to increase the extent of freshwater flooding in summer months.

Under Option 2 with a 50 cfs pump station there would be a potential reduction of 2,000 acre-feet of water passing through the Delta to the brine pool with an average annual flow of 7.1 cfs in the future. This option would result in a reduction of the surface area of the brine pool over a long period of time. This impact may be offset in part, or wholly, by ground water infiltration due to re-watering of the river under the LORP plus the water applied to Owens Lake associated with the dust control project. The final EIR should include a more specific discussion related to the potential impacts and mitigation of any adverse impacts of both Option 1 and Option 2 upon the brine pool and its associated wetland/freshwater interface areas.

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Section 1.4 REGULATORY PERMITS REQUIRED

Lahontan Regional Water Quality Control Board will coordinate with the U. S. Army Corps of Engineers regarding the potential for Clean Water Act and Section 404 permitting of the project. The project may require a Section 401 Water Quality Certification for activities involved with the pump station, river intake structure modifications, culvert installations and modifications, new stream gauging stations, spillgate modification and maintenance activities in wetland areas.

- 4-13 For construction projects involving over 1 acre of land disturbance, the lead agency for LORP will need to apply to the State Water Resource Control Board (1001 I Street, Sacramento, CA 95812-0100, or www.swrcb.ca.gov) with a Notification of Intent (NOI) to utilize the Statewide General Construction Stormwater NPDES Permit. This will include the submittal of a Stormwater Pollution Prevention Plan (SWPPP) for construction activity related to the proposed pump station. The SWPPP must be finalized at least 30 days prior to construction.

2.10 PROJECT MONITORING AND ADAPTIVE MANAGEMENT

The Action Plan in the MOU between LADWP and Inyo County requires that the LORP Plan specifically describe the four physical features of the LORP: (1) Lower Owens River Riverine-Riparian Ecosystem; (2) Owens River Delta Habitat Area; (3) Off-River Lakes and Ponds; and (4) Blackrock Waterfowl Habitat Area. The overall LORP includes plans for river management, wildlife and wetlands management, habitat conservation, land management, and monitoring.

Since the LORP is designed to effect a large and sudden change on the ecosystem of the Lower Owens River, it is expected to take several years to establish consistent conditions and ecosystem with suitable habitat for species recruitment, production and growth. Accordingly, LADWP's consultant believes that at least fifteen (15) years will be required to successfully implement the project. Monitoring will be conducted for the first fifteen years of the project.

- 4-14 Specific monitoring activities and schedules are listed and described in Tables 2-18, 2-20, 2-22 and 2-24. The tables describe: (1) the MOU goals for each component, (2) the nature of the proposed monitoring in relation to the goal, (3) the objective of the LORP to be attained to achieve the goals, (4) the purpose of the proposed monitoring in relation to the LORP objectives, (5) a description of the proposed monitoring analysis and reporting to be conducted, and (6) the frequency of the proposed monitoring.

Descriptions of the proposed monitoring program and the currently identified adaptive management measures associated with each of the four physical features of the LORP listed above are provided in Tables 2-19, 2-21, 2-23, and 2-25. Each table: (1) identifies the adaptive management measure, (2) describes the measure, (3) describes the purpose of the measure, (4) describes the general conditions revealed through the monitoring program that will trigger consideration of implementation of the measure, and (5) notes whether funding from entities other than Inyo County and LADWP is necessary before the measure will be implemented.

Under the LORP, a decision to implement adaptive management measures will be predicated upon established objectives and decision criteria described in Tables 2-19, 2-21, 2-23 and 2-25. The currently-identified adaptive management measures listed in the above mentioned tables may be

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modified to meet project objectives, and new measures may be developed, over the course of the restoration process as necessary.

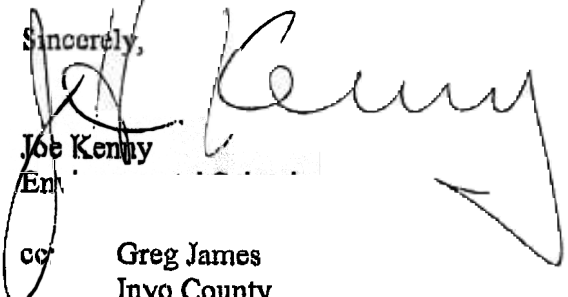
- 4-14 Any new adaptive management measures would be analyzed in separate CEQA and NEPA reviews as required by law.

Summary

- 4-15 The largest potential for adverse water quality impacts is present during initial introduction of flows and during implementation of seasonal flows. The EIR should describe in more detail the predicted temporal conditions based on previous studies of the Lower Owens River system and from the Owens Gorge Re-Watering Project. Because it may be necessary to implement some adaptive or mitigation measures during the first few days of initiation of the project, Regional Board staff requests that the proposed field monitoring for parameters such as dissolved oxygen, pH, electric conductivity, temperature, turbidity, ammonia, and hydrogen sulfide, be performed daily during the Phase 1 buildup of the 40 cfs base flow. After the establishment of the 40 cfs, daily monitoring should be continued for a period of time (such as 1 to 2 weeks) to allow confirmation of the base flow for the entire waterbody prior to the implementation of the seasonal habitat flows. This will allow some stabilization of water quality parameters, and could result in a valuable data for use during implementing seasonal habitat flows.

- 4-16 Regional Board should be included in the distribution of the Annual Report planned to include monitoring data, analysis and recommendations on the need for adaptive management actions.

Sincerely,



Joe Kenny
Enr.

cc Greg James
Inyo County
163 May Street
Bishop, CA 93514

Darrell Wong
Department of Fish and Game
407 West Line Street
Bishop, CA 93514

State Clearinghouse
1400 10th Street, Room 222
Sacramento, CA 95814

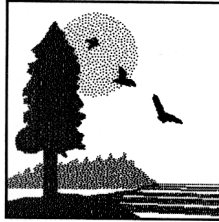
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California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
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January 13, 2003

PAUL D. THAYER, Executive Officer

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California Relay Service From TDD Phone 1-800-735-2922
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File: Lower Owens River Project
SCH# 2000011075

Mr. Clarence Martin
Los Angeles Department of Water and Power
300 Mandich Street
Bishop, CA 93514
FAX: 760-873-0266



Ms. Gail Louis
U.S. Environmental Protection Agency
75 Hawthorne Street, WTR-3
San Francisco, CA 94105

Subject: **Draft Environmental Impact Report/Statement (DEIR/S), Lower Owens River Project (LORP), November 1, 2002**

Dear Mr. Martin and Ms. Louis:

The California State Lands Commission (CSLC) staff thanks you for the opportunity to comment on the subject DEIR/S. The LORP is compensatory mitigation required for impacts to wetland and riparian habitats resulting from groundwater pumping in the Owens Valley; impacts that a 1991 Final EIR considered difficult to quantify or mitigate directly. Preparation of this DEIR/S must be founded on a "project description" that mirrors that contained in an April 1997 Memorandum of Understanding (MOU) between the Los Angeles Department of Water and Power (LADWP), County of Inyo, CSLC, and other parties. The goal of the LORP, as stated in the MOU, is "the establishment of a healthy, functioning Lower Owens River riverine-riparian ecosystem, and the establishment of healthy, functioning ecosystems in the other physical features of the LORP, for the benefit of biodiversity and Threatened and Endangered species, while providing for the continuation of sustainable uses including recreation, livestock grazing, agriculture and other activities." (MOU, p. 8.)

5-1

The proposed project includes the Owens River and has potential significant impacts to the Owens Lake, which are sovereign lands of the State of California.¹ The CSLC has a

Upon admission to the Union in 1850, California acquired nearly four million acres of sovereign land underlying the State's navigable waterways. Such lands include, but are not limited to, the beds of more than 120 navigable rivers and sloughs, nearly 40 navigable lakes, and the three-mile-wide band of tide and submerged land adjacent to the coast and offshore islands of the State. The CSLC holds its sovereign interest in these lands subject to the Public Trust for commerce, navigation, fisheries, open space, and preservation of natural environments, among others.

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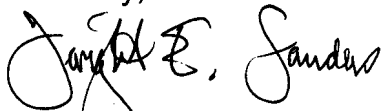
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5-2 legal responsibility for, and a strong interest in, protecting the ecological and Public Trust values associated with the State's sovereign lands, including the use of these lands for habitat preservation, open space and recreation. Proposed development located within these waterways is subject to the CSLC's leasing process, and the CSLC is a Responsible Agency under the California Environmental Quality Act (CEQA).

5-3 The CSLC staff has reviewed the subject document and believes that the project as proposed in the DEIR/S does not meet the LORP goal specified in the MOU. The project description is the foundation on which the analyses of an EIR/S should be conducted. An inaccurate project description will, by definition, result in inaccurate analyses. The project, as defined within the MOU, is not carried forward into the subject EIR/S. As such, the document's analyses, even if they were adequate, do not address the actual project. Additional key areas of concern include: (1) the failure of the DEIR/S to provide for adaptive management and effective monitoring as required by the MOU and/or the CEQA; (2) the failure of the DEIR/S properly to set forth habitat goals that are consistent with the needs of indicator species listed in the MOU; and (3) the DEIR/S's repeated conclusion that "funding limitations" prohibit the LADWP from mitigating certain significant impacts to less than significant, and may also limit the ability of the LADWP and Inyo County to conduct the monitoring associated with the LORP. Staff also recommends that the LADWP thoroughly and promptly revise the DEIR/S. The LADWP has not prepared a DEIR that meets the requirements of the CEQA. The remedies now required add further delay to the LADWP's failure to meet the MOU deadline for completion of the DEIR. The result is that ongoing environmental harm attributed to the LADWP's groundwater pumping remains unmitigated.

The comments provided here and in Attachment 1, which are not exhaustive due to the extensive shortcomings of the DEIR/S, are submitted for your consideration and response. Please call Cy Oggins at (916) 574-1884 or Barbara Dugal at (916) 574-1833, if you have any questions concerning these comments.

Sincerely,



Dwight E. Sanders, Chief
Division of Environmental Planning and Management

Attachment

cc: State Clearinghouse
Paul Thayer, Executive Officer
Jack Rump, Chief Legal Counsel
Cy Oggins
Barbara Dugal
Maurya Falkner
Jim Frey
Eric Gillies

ATTACHMENT 1, ADDITIONAL COMMENTS

Key Concerns

- 1) **The DEIR/S does not adequately ensure that the LORP will be adaptively managed to achieve the goal specified in the MOU, and does not ensure that an effective mitigation monitoring program will be implemented as required by the MOU and the CEQA.** Adaptive management is a critical element in the MOU. Section II.E of the MOU (p. 18) states:

“Monitoring sites and water flow gaging stations will be identified and a program for data collection, analysis, and reporting (which will identify pathways to allow feedback to indicate where adaptive modifications to management are necessary) will be described as part of this plan. Should the reported information reveal that adaptive modifications to the LORP management are necessary to ensure the successful implementation of the project, or the attainment of the LORP goals, **such adaptive modifications will be made**” (emphasis added).

5-4

Similarly, the LORP Ecosystem Management Plan (August 2002, pp. 68, 72, & 73) states:

“Successful adaptive management is dependent upon a monitoring program that provides a reliable measure of change in ecosystem components.... Under adaptive management, monitoring is not the last chapter of a plan; rather, monitoring and management plans are developed concurrently to form a single adaptive-management approach.... Adaptive management is the singular comprehensive approach for managing the river ecosystem in order to reach the desired goals of a healthy and functional ecosystem.”

Although the DEIR/S acknowledges the importance of adaptive management and monitoring, it fails to provide for the implementation of a monitoring and adaptive management program that contains measurable performance criteria to ensure that the LORP goal will be met. An example of these deficiencies is the apparent failure of the DEIR/S to include monitoring requirements that would allow for scientific assessments of the progress of the LORP to achieve MOU goals such as: (1) the benefit to biodiversity and Threatened and Endangered Species and their habitats, (2) the continuation of sustainable uses, including recreation, grazing, agriculture, etc.; or (3) the creation of diverse natural habitats consistent with the needs of specified habitat indicator species.

5-5

Furthermore, there does not appear to be the necessary commitment by the LADWP to implement the proposed monitoring and adaptive management approach identified in the MOU, Ecosystem Management Plan, or DEIR/S. For example, the DEIR/S on page 2-4 states “**To the extent funding is available**, the County and LADWP will conduct the monitoring associated with the LORP...” (emphasis added).

5-6

- 2) **Funding limitations are cited throughout the DEIR/S as the primary reason why significant impacts cannot be mitigated to a level of insignificance.** The LORP is compensatory mitigation for existing significant impacts resulting from historic groundwater pumping and diversion activities, and the LADWP should ensure that the LORP is properly funded, implemented, mitigated and maintained. The claim in the DEIR/S that limited funds prevent the mitigation of significant impacts to a level of insignificance should be placed in the context of the economic benefits the LADWP receives from the water it takes from the Owens River. The DEIR/S should estimate the costs to fund implementation of each of the mitigation measures needed to meet the goal of the LORP, and should compare these costs to the historic (1970 to 1990, according to the timeframe stated on DEIR/S p. 2-1), subsequent, and continuing economic benefits of these water withdrawals.

DEIR/S Executive Summary (*Comments on the Executive Summary also apply to the related sections of the main document, which may or may not be noted below.*)

5-7

- 3) **Page S-1, last paragraph & Page 1-5, paragraph 3.** The DEIR/S states: "As provided in the MOU, the LORP will be adaptively managed. This means that, subject to funding limitations and consistency with the MOU...." This meaning is not consistent with the MOU, which defines Adaptive Management as "...a method for managing the [LORP] that provides for modifying project management to ensure the project's successful implementation, and/or the attainment of the project goals should ongoing data collection and analysis reveal that such modifications are necessary." (Section I.D, pp. 2-3.) This definition does not include any reference to "funding limitations" and the DEIR/S should be revised to reflect this.

5-8

- 4) **Page S-2, last paragraph & Page 2-33 (Section 2.4.2).** The DEIR/S states:
"The management action for creating and enhancing habitats in the Delta is to establish baseflows to the Delta with an average annual flow of 6 to 9 cfs as specified in the MOU. ... While no minimum baseflow has been established for the Delta the daily baseflow would be the amount necessary to maintain Delta conditions and to conserve water for use in the Delta during other times of the year (within the 6-9 annual average)...."

The statement "within the 6-9 annual average" incorrectly implies that the MOU establishes a maximum baseflow. In contrast, the MOU identifies an annual average of **approximately** 6 to 9 cfs (Section II.C.2, p. 15, emphasis added) and requires that baseflows be adaptively managed to ensure successful implementation of the LORP, or the attainment of the LORP goals. Consequently, flows into the Delta of greater than 9 cfs may be required pursuant to the MOU to meet the goals of the LORP. The DEIR/S should first set forth the goals for the delta, e.g., create and maintain habitat consistent with the needs of the indicator species specified in the MOU, then determine what flows and other actions are needed to meet those goals.



- 5-9 | 5) **Page S-3, paragraph 1.** The DEIR/S states: "The facility [pump station] is designed to capture flows in the river and divert the water to the Owens Lake dust control project...." How will the water be diverted to the Owens Lake dust control project? Please discuss or add a reference to the DEIR/S section that discusses this.
- 5-10 | 6) **Page S-3, paragraph 5, last sentence.** Please add the word "areas" after the word "lease" (change to "... throughout the lease areas ...").
- 5-11 | 7) **Page S-5, bullet 2, 1st & 3rd sentences.** The first sentence would be clarified by adding the word "created" after the word "conditions" ("The temporary adverse water quality conditions created during the initial releases..."). The 3rd sentence states that the fishery is expected to recover once water quality conditions improve. Please add a range of time anticipated for the fishery to recover.
- 5-12 | 8) **Page S-5, bullet 4.** The DEIR/S states: "The rewatering of the river would create new wetted channel areas, including areas that are barren and could cause saltcedar infestation in these and other areas.... There is no feasible mitigation measure to avoid this impact in the future due to funding limitations." Please explain how the goal of the LORP can be met if deleterious species such as saltcedar are not controlled? This statement in the DEIR/S is in direct conflict with the letter and spirit of the MOU, which states that the goal of the LORP includes:
"Establishment and maintenance of diverse riverine, riparian and wetland habitats in a healthy ecological condition...." (Section II.B.1, p. 8.)
"Control of deleterious species whose presence within the Planning Area interferes with the achievement of the goals of the LORP. These control measures will be implemented jointly with other responsible agency programs."
(Section II.B.4, p. 9.)
- 5-13 | 9) **Page S-5, bullets 5-6.** Bullet 5 states: "The amount of water flowing from the Delta Habitat Area to the brine pool transition will be less than existing flows...." Bullet 6 states: "This reduction [in the amount of water released to the Delta from that released over the past 15 years] could possibly reduce the extent of existing aquatic and wetland habitats (including the brine pool transition)...." This significant impact contradicts the MOU's goal to maintain and, in some instances, create habitat consistent with the needs of the indicator species. Table S-1 (p. S-11) states that no feasible mitigation is available due to an existing court injunction that prohibits water inputs to the brine pool that may affect trona-mining operations on the lakebed. The DEIR/S should identify and assess potential project alternatives that meet the dual goals of enhancing/creating habitat consistent with the needs of the indicator species and diverting water from mining operations.
- 5-14 | 10) **Page S-7, Table S-2.** Please explain the statement that "a higher baseflow of 9 cfs is not feasible unless the MOU goals are not being met." Why isn't it feasible (see comments for Page S-2, last paragraph)? Does the statement that the 50 cfs alternative is feasible and no institutional or technical obstacles exist contradict the

5-14 | argument that mitigation is infeasible due to a court injunction? Moreover, as noted above, the DEIR/S does not properly set forth the MOU goals or a monitoring program that can determine whether they are satisfactorily met. Please clarify.

5-15 | 11) **Page S-9, Section 7 (Comparison of Impacts Between a 150 cfs and 50 cfs Pump Station).** Please list and compare the energy requirements and air pollution emissions associated with the operation of each station. Can the smaller pump station be operated without construction of power poles (a potential significant adverse impact to raptors and aesthetics) and/or by using alternative power sources? In light of the numerous delays that have occurred since the LORP was required to be implemented, the CSLC staff does not concur with the argument in paragraph 5 that 50 cfs stand-alone station is not feasible because design drawings will take up to six months to complete (resulting in a delay in project implementation). The staff strongly recommends that the LADWP start and complete the design drawings prior to certification of this document so that this option may be considered feasible. (See also related comments for Page 2-40.)

5-16 | 12) **Page S-16, Table S-1 (Mitigation Measure P-1).** Three years may be an insufficient time to control colonization of non-native aggressive or noxious weeds resulting from construction of the pump station. Weed control should be an integral part of, and occur throughout, the proposed restoration monitoring and maintenance program, and the program should be concluded only upon achieving the success criteria approved by the California Department of Fish and Game (CDFG) and other Responsible Agencies.

5-17 | 13) **Page S-25, Table S-1 (Description of Impact by Issue Area, Rangelands).** Table S-1 discusses the possibility that cattle drift onto BLM lands may occur, but no mention is made of cattle drift onto State-owned lands within the Delta. Table S-1 should also identify State lands, and proposed mitigation measure LM-1 should include development of lease-specific measures in consultation with the CSLC.

DEIR/S Sections 1-18

5-18 | 14) **Page 1-5, paragraph 5.** The DEIR/S states: "Although the MOU specifies that a Habitat Conservation Plan (HCP) will be prepared as one part of the LORP Plan, LADWP has concluded, after conferring with MOU parties, to delay initiating the development of an HCP..." Please include in the DEIR/S a proposed timetable, prepared in consultation with the MOU parties, for completion of the HCP.

5-19 | 15) **Page 1-6, paragraph 1.** The DEIR/S states that the proposed LORP does not include any specific actions to manage recreation (other than the current land management practices by LADWP); however, the LORP will provide new recreational opportunities over time. If recreation is not managed, how will the LADWP ensure that the LORP goal to provide for the continuation of sustainable uses including recreation (see MOU, p. 8) is met? How will the LADWP ensure that existing and new recreational uses are "sustainable" and will not cause

environmental degradation (see definition of sustainable uses in MOU, p. 5)? How will achievement of these goals be monitored?

- 5-21 | 16) **Page 1-6, Section 1.3.1 (CEQA Lead Agency and Responsible Agencies).** The CSLC also has discretionary actions to take, since development located on CSLC lands is subject to the CSLC's leasing process. Please include the CSLC in the list of Responsible Agencies under the CEQA.
- 5-22 | 17) **Page 1-11, Table 1-1.** The CSLC has a discretionary action to take on elements of the project as proposed. For example, a lease will need to be issued for portions of the overhead power line and for the stream gages proposed at the lower east and west branch.
- 5-23 | 18) **Pages 2-2 to 2-3.** As stated in other sections of these comments, the CSLC staff does not agree with the conclusion stated in the DEIR/S that the project description incorporates the adaptive management concept and provides the specificity required for environmental analysis of impacts and subsequent project approval and implementation. In particular, staff believes that the proposed adaptive management and monitoring program cannot effectively monitor the progress of the project as proposed to achieve the goal stated in the MOU.
- 5-24 | 19) **Page 2-4, paragraph 3.** The DEIR/S states that "To the extent that funding is available, the County and LADWP will conduct the monitoring associated with the LORP...." The LADWP and/or Inyo County should ensure that the necessary funds are set aside to conduct effective monitoring associated with the LORP. See the related comment below.
- 5-25 | 20) **Page 2-5, paragraph 3 and Page 2-6, Table 2-1 & paragraph 2.** The DEIR/S states that installation of the 50 cfs pump station would cost approximately \$3 million to \$3.3 million less than would installation of a 150 cfs station. Page 2-6, paragraph 2 states that the costs of monitoring are approximately \$2.6 million. Please clarify how the DEIR/S can emphasize limited funds in certain instances, but not, in this instance, support installation of a 50 cfs pump station and the placement of the approximately \$3-3.3 million saved into a fund for monitoring and mitigation.
- 5-26 | 21) **Page 2-6, Table 2-1.** This table outlines the costs of the two pump station options, but does not include the differences, if any, of the maintenance costs associated with the two options. Please add this information to the DEIR/S.
- 5-27 | 22) **Page 2-23, Section 2.3.5.3 (Seasonal Habitat Flows).** Paragraph 3 of this section states that "No flows above the 40 cfs baseflow will be released...in years when the runoff is predicted to be 50 percent or less of the average (normal) runoff." The MOU states on p. 12 that "In years when runoff is forecasted to be less than average, the habitat flows will be reduced from 200 cfs to as low as 40 cfs **in general proportion** to the forecasted runoff in the watershed" (emphasis added). The "no flows above the 40 cfs baseflow" limit in the DEIR/S appears to contradict

5-28 the general proportionality requirement of the MOU, despite the statement in the last sentence of paragraph 3 that seasonal habitat flows will be established in accordance with the provisions of the MOU. Moreover, the amount and duration of the seasonal flows (together with the base flows and land management) must be calculated to meet the goals of the project, including the delta habitat goals. The DEIR/S does not explain how the proposed flow regime will meet these goals, particularly in light of the proposed *reduction* in base flows to the delta and the proposed 150 cfs pump station, which would capture most (or all) of the seasonal habitat flows. Nor is there a proper explanation of why flows will not be augmented by downstream spillgates or how this squares with the MOU and the goals for the lower reaches of the river and the delta. Please explain.

5-30 23) **Page 2-30, Section 2.4, Delta Habitat Area Including Pump Station.** The DEIR/S states: "The Delta contains two major channels (see Figure 2-5)." Figure 2-5 depicts the Owens River Delta Habitat Area and the location for two proposed stream gages to be located at the end of the Lower West Branch and the Lower East Branch. These lands are under the jurisdiction of the CSLC, and the LADWP must submit an application to the CSLC for all gages or other structures in the CSLC's jurisdiction. Please contact Barbara Dugal for specific requirements.

5-31 24) **Page 2-31, paragraph 2.** The DEIR/S states:
"Most of the Delta Habitat Area occurs on State-owned lands, managed by the State Lands Commission (Figure 2-6). These lands are grazed by a single private party, which is in the process of acquiring approvals to continue grazing operations on State property..."
This statement is incorrect. The CSLC previously advised the private party that until the DEIR/S was prepared and adopted, the CSLC would not consider leasing State-owned lands in the Delta, and that the CSLC staff would consider the private party to be in trespass.

5-32 25) **Pages 2-34 to 2-35.** The copy of the DEIR/S mailed to the CSLC does not include these pages (the flip side to page 2-33 is 2.36).

5-33 26) **Pages 2-35 & 6-19.** Twenty (20) percent or greater reduction of habitat suitability measured at 15-year interval following baseflow releases to the Delta is too long before considering adjusting the releases. The interval should be revised to ensure that significant amounts of habitat are not lost. A 20 percent or more reduction of habitat may potentially occur in considerably less time than a 15-year time interval. Moreover, if the delta habitat goals are impeded for a known cause that can be remedied, there is no need to wait until year 15. Adaptive management is more timely and flexible than that.

5-34 27) **Page 2-39, paragraph 2.** The DEIR/S states that a sheet pile cut-off wall with a minor berm will be constructed to elevation 3,590.5 feet. However, the document

does not provide information regarding the size of the berm, what the berm will be constructed of, etc. Please provide these details.

- 5-35 | 28) **Page 2-39, paragraph 4 (Pipeline).** The DEIR/S states: "A 400-foot long, 48-inch diameter pipeline will extend from the pump station to the existing 60-inch diameter dust control project pipeline as shown on Figure 2-7." Does the existing pipeline depicted in Figure 2-7 continue east and terminate? The entire existing pipeline should be depicted.
- 5-36 | 29) **Page 2-40 et seq. (New Power Line).** This section does not identify specific power requirements for a 50 cfs pump station. This is required to determine which project alternative (50 cfs or 150 cfs) is the Environmentally Preferred Project pursuant to the CEQA. The DEIR/S also states that a new seven-mile long single conductor power line will be constructed between LADWP's Cottonwood Power Plant west of Owens Lake to a tie-in point on an existing line; however, the document does not appear to describe the proposed line or to include mitigation measures to address potential impacts to raptors, snowy plovers, and other shorebirds. Please provide this information. The power line should include deterrents to minimize raptor deaths resulting from flying into the line, as well as anti-predator perches to minimize predation on snowy plovers and other shorebirds nesting at Owens Lake. Since a portion of the proposed power line will occur on lands under the jurisdiction of the CSLC, the LADWP will need to submit an application to the CSLC.
- 5-37 |
- 5-38 | 30) **Page 2-41, paragraph 6.** The DEIR/S states that "The pump station will recover river flows in excess of the flows to the Delta...flows above the amount needed by the dust control project will be diverted to the Aqueduct. No valve will be installed to direct the flows – they will follow a pressure gradient, first to the lake, then to the Aqueduct..." If the excess flows will go to the lake first and then to the Aqueduct, how will the excess flows from the dust control project be diverted to the Aqueduct?
- 5-39 | 31) **Page 2-65, Protect Continued Recreational Access to the River.** The DEIR/S states: "fences across the river will be designed to avoid interference with boats or other watercraft when feasible". The Owens River is subject to a public navigational easement. This easement provides that members of the public have the right to navigate and exercise the incidences of navigation in a lawful manner on State waters that are capable of being physically navigated by oar or motor-propelled small craft. Such uses may include, but not be limited to, boating, rafting, sailing, rowing, fishing, fowling, bathing, skiing, and other water-related recreational public uses. Therefore, fences should not be placed across the River.
- 5-40 | 32) **Page 2-69, paragraph 4.** The figure referred to should be 2-23, not 2-22.
- 5-41 | 33) **Page 2-70, paragraph 2.** This section of the DEIR/S discusses future management of the Delta Lease. The document states changes in fencing and the addition of new watering sites will result in better livestock distribution and forage use.

- 5-41 | However, the new watering sites are not identified. Please add details on these new watering sites (location, size, etc.) to the DEIR/S.
- 5-42 | 34) **Table 2-21, 2-23, 2-25, and Page 9-4 to 9-5.** The EIR/S identifies several rare plant populations within the LORP and the adaptive management plan provides monitoring triggers to better protect these species; however, there are no baseline survey data, e.g., existing population size, extent, trend, etc., and specific monitoring parameters to determine if the project measures are beneficial to these rare plant populations.
- 5-43 | 35) **Page 4-41, last paragraph, Section 4.6.3, Mitigation Measures.** The DEIR/S states: "If water quality remains degraded during the baseflows or seasonal habitat flows....and conditions for fish remain degraded, LADWP shall **consider** releasing higher quality water..." Since this is mitigation for impacts, the mitigation measure should state that the LADWP **shall** release higher quality water from spillgates.
- 5-44 | 36) **Page 6-3, paragraph 1, Section 6.1.2, Uses of the Delta.** The DEIR/S states: "Most of the Delta Habitat Area occurs on State-owned lands, managed by the State Lands Commission...The total area of LADWP land in the Delta Habitat Area is 420 acres..." As outlined in the MOU, the goal of the LORP for the Delta Habitat Area is to enhance and maintain approximately 325 acres of existing habitat consisting of riparian areas and ponds suitable for shorebirds, waterfowl and other animals and to establish and maintain new habitat consisting of riparian areas and ponds suitable for shorebirds, waterfowl and other animals within the Delta Habitat Area. Therefore, since the LADWP's property in the Delta Habitat Area is not fenced and cattle trespass onto State land and the LADWP's acreage is small compared to State land in the Delta Habitat Area, the LADWP should consider eliminating grazing on the 420 acres in the Delta Habitat Area.
- 5-45 | 37) **Page 6-47, Potential Impacts to Brine Pool (Both Options).** As has been acknowledged in the DEIR/S (Page 6-47), existing mining operations are located on the lakebed and can be affected by water levels in the brine pool. Such mining operations, located on State-owned lands, are currently under lease from the CSLC. The DEIR/S states that LORP will not affect existing mining operations. In this regard, the proposed LORP cannot conflict and/or impact those operations and/or the CSLC's Lessee. The LORP will require coordination with the CSLC and the State's Lessee to preclude negative impacts to a significant mineral resource. Please add this information to the DEIR/S.
- 5-46 | 38) **Page 9-2, Section 9.1.2 (re. potential impacts associated with grazing).** An additional feasible "Best Management Practice" to address potential impacts of grazing on water quality is the participation by grazing lessees in the Statewide Rangeland Water Quality Management Program. This project educates rangeland owners, ranch operators and other interested persons about protecting rangeland water quality through improved grazing practices.

- 5-47 39) **Page 9-8, Section 9.3.2 (State Lands Commission Lands in the Delta).** The DEIR/S states that the impact of cattle drift onto public lands would be similar to that described for BLM lands and the same mitigation measure would apply. Therefore, please revise proposed Mitigation Measure No. LM-1 by adding the underlined text as follows:
- “The grazing management plan for individual leases shall be modified to incorporate herd and grazing practices.... These lease-specific measures shall be developed in consultation with BLM and CSLC and shall include....”
- 5-48 40) **Page 10-5, first full paragraph, & Page 10-7, last paragraph.** Please refer to the CSLC's staff's comments above regarding the DEIR/S's emphasis on funding limitations. The LADWP should be required to set aside the necessary funds to implement programs to control saltcedar and other deleterious species that interfere with the goals of the LORP.
- 5-49 41) **Page 11-7, Reduction in Existing Flows to the Delta (Class I Impact).** The DEIR/S states: “releases to the Delta under the LORP would be about 35 percent less than under current release regimes unrelated to the LORP...” As stated in the MOU, the goal is to establish and maintain existing habitat and new habitat. Based on the alternatives presented, at this time, the CSLC supports the Alternative: 50 cfs Pump Station with Higher Baseflows and Modified Seasonal Habitat Flows. However, again, to comply with the MOU and the CEQA, the only proper alternative is one designed to meet the goals set forth in the MOU, e.g., the habitat consistent with the needs of the indicator species. The goals have not changed, and will not change. The City is obligated to meet these goals regardless of the physical features of the project that it selects. It must begin by setting forth the goals clearly, designing and analyzing a project to meet those goals, and including provisions for monitoring and adaptive management that ensure that the goals are met over time. (See key comments, above.)
- 5-50 42) **Page 12-2, Environmental Impacts of the LORP.** The DEIR/S lists potentially significant impacts associated with the proposed LORP and identifies the impacts as Class I Impacts (Significant and Unmitigable). However, Paragraph 5 states that...“the amount of water flowing from the Delta Habitat Area to the brine pool transition will at certain times of the year be less than existing flows...will result in a decrease in shorebird habitat in the brine pool transition area. As outlined in Paragraph 22 above, the LADWP could avoid this significant impact by implementing the 50 cfs Pump Station Alternative or taking other action. Moreover, in light of the fact that shorebirds are an indicator species for the delta, please explain how this complies with the goals of the MOU.
- 5-51 43) **Page 12-4, paragraph 12.** Please add the following to Paragraph No. 12: New land management on LADWP leases could cause cattle draft on BLM and State Land Commission lands.

Appendices

5-52

44) The MOU (April 1997) and the Lower Owens River Project Ecosystem Management Plan (August 2002) should be incorporated as Appendices of the DEIR/S.