Ellen Hardebeck
Control Officer

Comment Letter No. 7

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

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January 9, 2003

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

Re: Comments on Lower Owens River Project Draft EIR/EIS

Dear Mr. Martin:

Staff of the Great Basin Unified Air Pollution Control District (District) have reviewed the Environmental Impact Report & Environmental Impact Statement for the Lower Owens River Project, dated November 1, 2002 (EIR/EIS), and have the following comments.

Air Quality

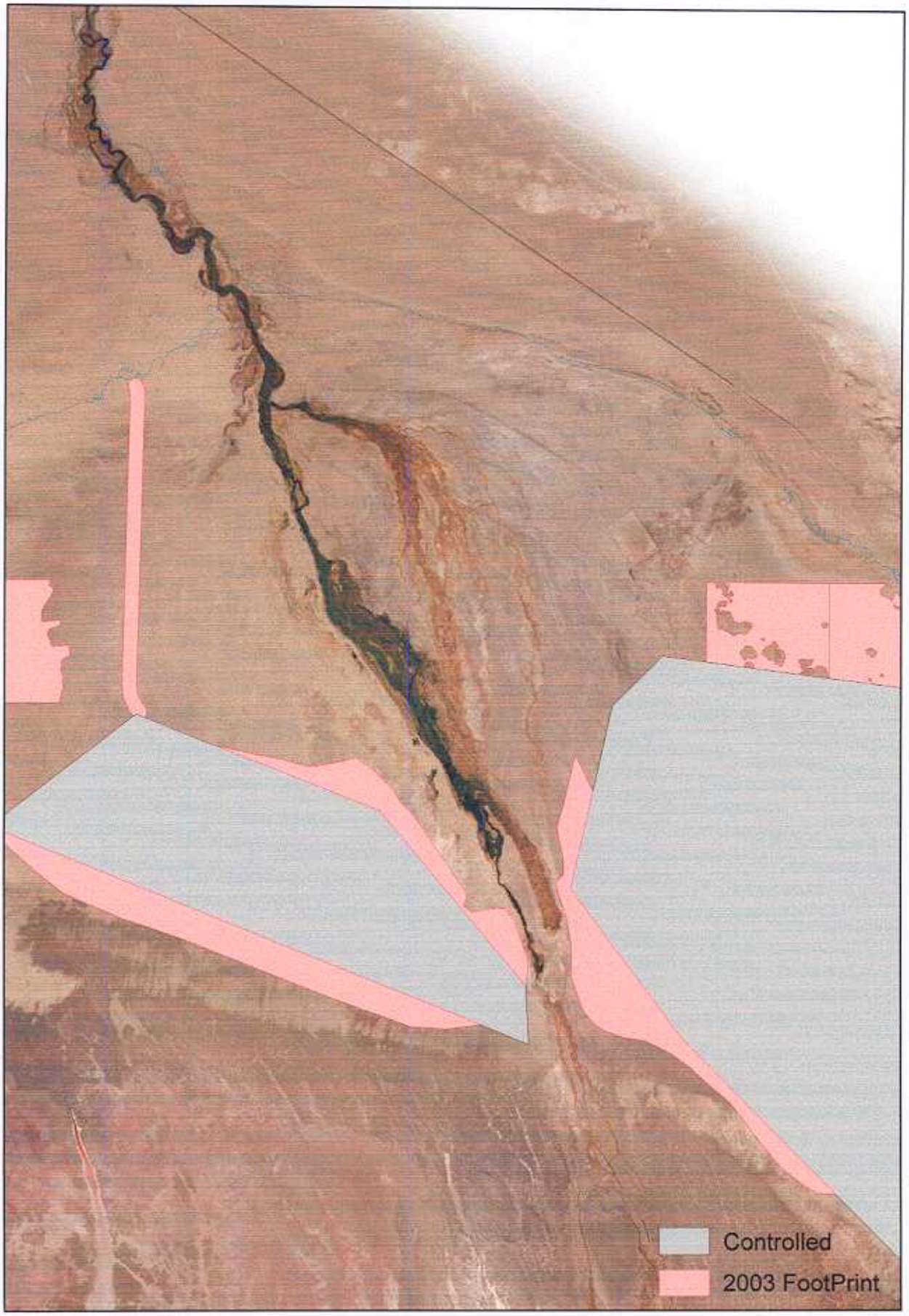
7-1 In Table S-1, Page S-24 relating to the controlled burns at Blackrock, DWP would need to have a burn plan approved by the District and a burn permit from the California Department of Forestry (CDF). If you plan to pile and burn vegetation, you may be limited on the size and duration of the burns, in order to avoid a significant air quality impact. The EIR/EIS should include an estimate of the amount of material to be burned.

7-2 Also on page S-24, AQ-1, seventh bullet, add "or other dust control measures" after "increased watering". Make the same change on page 7-25.

7-3 The proposed Owens River Delta Habitat Area (Page 2-30 and Figure 2-5) encompasses some of the area that will be required to be controlled for fugitive dust (PM-10) emissions in the District's 2003 Owens Valley Planning Area State Implementation Plan (2003 SIP). I have attached a map showing the areas that must be controlled to meet the National Ambient Air Quality Standards (NAAQS) by 2006. Please modify the boundaries of the proposed Owens River Delta Habitat Area to eliminate the areas scheduled for dust control. If you wish GIS boundaries for these areas, please contact Mike Slates at 760-872-8211.

7-4 It is difficult to assess the potential damage to wetland vegetation in the Delta due to reduced flows because of the conflicting conclusions presented in Chapter 6, Sections 6.3 and 6.4. However, if there is a significant impact that reduces the size of the Delta

Owens Lake



7-4 wetlands (See below under Seasonal Habitat Flows to the Delta Habitat Area), there could be increased PM-10 emissions from the exposed playa. If those emissions cause or contribute to violations of the NAAQS at the shoreline, the District will require the City to install and operate approved dust control measures on those areas.

Section 6.1 – Existing Conditions

7-5 Figures in Section 6 need to show the units of measurement on the scales. The dates of the aerial photos shown need to be provided on the Figure. The text states that the historical photos were rectified. The EIR/EIS should describe how was this done and what control points were used.

7-6 The mapping of the land areas in the Delta Habitat is divided into three units. The designated "Aeolian" lands include areas that are 1) buried Delta wetlands, 2) beach terraces (in the NW), and 3) areas that are considered by the District to be Delta deposits that are rippled not from aeolian activity but from fluvial activity during deposition. All lands on Owens Lake outside of the vegetated wetlands on the Delta are not considered by the District to be "Aeolian". The EIR/EIS should describe the studies used or conducted to assist in the designated units discussed in the text.

7-7 There should be a reference cited for the methods used to delineate the vegetated wetland and units in the Delta Habitat area from historical photos. Since the photos were taken at different times of year and at different scales and resolution, the methods used to interpret the historical photos need to be provided. Some of the distinctions made on the photos are not apparent from review of the figures provided in Section 6.

7-8 The estimated precipitation value for the Delta is given in the EIR/EIS as 5" per year. Based on data collected from Owens Lake sites, this estimate appears to be high and more representative of that found in Lone Pine. The District's Owens Lake data indicates that the average on the Delta is about 3" per year. Please contact Grace Holder at 760-872-8211 for this precipitation data.

Delta Wetland Delineation

7-9a There is a large disparity in the acreage of jurisdictional wetlands (pursuant to Section 404 of the Clean Water Act) that were identified in 1996 by Jones and Stokes Associates (JSA, 1996) and the acreage identified by White Horse Associates 3-4 years later (WHA, 2000). If both groups are correct in their application of Corps wetland delineation methodology, then the area of jurisdictional wetland shrank by 515-582 acres, from 1289 acres in 1996, to 774 acres (pg. 6-4) or 707 acres (Table 6-2) in 1999. More likely, wetland area changed relatively little between 1996 and 1999, and different areas of wetland were delineated because there was a difference in the application of delineation methods. The document does not discuss important details and decisions made in interpreting the Corps' method manual, rather it explains the much smaller acreage it recognizes by hypothesizing that an error was made in the Jones and Stokes delineation.

7-9b Areas that are pointed out by the document as misidentified by the Jones and Stokes delineation are described as "Aeolian Lands". "Aeolian Lands" are defined on pg. 6-1, as

7-9b

former lakebed areas currently having hydric soils at a depth of 1-several ft under a deposit of wind-blown sands. The presence of hydrophytic vegetation is noted, but with the qualifier that it occurs "with low aerial cover".

7-9c

The deposits that characterize "Aeolian Lands" at the margins of the Delta Habitat Area (as defined on pg. 6-1) have occurred following disturbance (dewatering) of the surrounding former Owens Lakebed. Dune formation at jurisdictional Owens lakebed wetlands has been observed to occur where vegetation increases surface roughness and the vegetation thus "captures" windborne sediments. District excavations at naturally occurring dunes found 1 km east of the Delta determined that wetland hydric soil, hydrology, occupied rooting zones, and stolons of hydrophytic vegetation were buried underneath varying depths of recently deposited sands. Vegetation capable of producing elongated stems, especially saltgrass, was found to be "emergent" from these dunes where habit and hydrology permitted growth to exceed ongoing sand accumulation. Understanding the relationship between *initial* colonization by wetland vegetation and the *subsequent* capture of sand blown from surrounding disturbed lakebed is key to proper interpretation of wetland status at Owens Lake. Rapid burial was studied directly by excavations (District, 1994) prior to the Jones and Stokes delineation. Burial by disturbance-regime windblown sand is frequently observed by District monitors at native saltgrass meadows and wetlands at Owens Lake.

7-9d

The Jones and Stokes delineation included a pre-survey literature search. Data collected from the District's shallow groundwater monitoring network, established in 1991, was used to formulate an assumption that a controlling factor for the presence of hydrophytic vegetation on former lakebed sediments is the reliable annual recharge of shallow groundwater by fresh water (riverine recharge for Delta Habitat wetlands). Consistent recharge with fresh water is a necessary factor for vegetation maintenance, due to a strong upward hydraulic gradient of saline, highly anoxic shallow groundwater that dominates in the surrounding unvegetated areas. An annual influx of saline groundwater has been observed in the monitoring wells on the entire lakebed, and the Delta in particular, since monitoring network establishment. This upward gradient is directly causal for the often thick, constantly replenished salt crust that covers unvegetated areas of the former lakebed. No plants can become established unless this toxic soil is initially leached to within physiological tolerance levels. Even if this occurs, District research with saltgrass and other playa hydrophytes has shown that all plants are quickly killed where resalinization occurs during the growing season (District, 1996a, 1996b). The requirement for initial leaching of toxic soils, and for ongoing and reliable dilution or displacement of the intrusive toxic groundwater for root zone maintenance, is another rather unique character of Owens Lake wetlands. This requirement is met within the Owens Delta Habitat Area only where the annual cycle of Owens River hydrology reliably spreads fresh water into the shallow groundwater. Dilution or displacement of the saline water table functions to create a reliable source of near-surface water that supports phreatophytic vegetation (District data suggests that fresh water inputs actually "float" atop the relatively denser native groundwater, forming a barrier lens. Freshened lenses have been observed to persist in monitoring wells for several post-irrigation months at two District research sites that are located just east of the Delta.) The alternative to

ongoing wetland hydrology, which would be the absence of hydrologic input to the rooting zone during the growing season, would result in perennial vegetation only if the plants can avoid the zone influenced by the saline shallow groundwater (i.e., where they occur in non-hydric soils and/or are by definition non-hydrophytic).

7-9d

With these two important assumptions in hand, buried hydric soils and the requirement of persistent wetland hydrology for any level of vegetative persistence after burial, it is possible to offer an alternative explanation for the disparity in delineated acres within the Delta Habitat Area. The presence of hydrophytic vegetation on former lakebed areas, whether or not it occurs "with low aerial cover", is interpreted in the Jones and Stokes delineation as being dependent upon naturally occurring riverine inputs that have, within the last several decades since lake drawdown, provided the initial leaching of barren, salt-laden hydric soils, and have continued to provide the reliable maintenance of leached rooting zones by diluting or preventing resalinization from the surrounding (barren) environment during the growing season. Plants inhabiting isolated habitats amid the otherwise flat lakebed playa have captured abundant windblown sediments. In some areas, notably in this discussion the western edge of the Delta wetlands delineated by Jones and Stokes, leached hydric root zones are now buried at a depth of 1-several ft under accumulations of wind-blown sands, with this process occurring subsequent to lake drydown, and to the establishment of riverine freshwater wetland hydrology, and to colonization by salt-tolerant hydrophytes. Some of the standing willows in this area are now buried to depths of up to 8 ft, attesting to the rapid and recent influx of aeolian sediments. Nearly all the area included in 1996, but rejected as not meeting Corps criteria in 1999, is characterized by persistent phreatophytic (not upland) vegetation enduring heavy recent impacts by blowing lakebed sands.

7-9e

The characterization that Jones and Stokes delineated "saltgrass vegetation as wetland, regardless of soils and hydrology" (pg. 6-4) is a misleading simplification of the methods used. The non-technical nature of this mis-characterization shows how the delineation preferred in the document fails to take into consideration important, unusual factors: 1) the atypical historical regime of disturbance in which all wetlands occur on the former Owens lakebed, and 2) the unusual hydrologic environment, which features persistent pressure from phytotoxic groundwater intrusion, when interpreting the data that White Horse Associates collected through remote analysis (photographic surveys) and limited on-the-ground surveys.

It would be helpful to the reader if the data collected during the White Horse Associates delineation were reinterpreted to reflect these very important elements of the environmental context of Owens Lake wetlands.

7-9f

The distinction drawn in the draft EIR between "Fluvial Lands" and "Aeolian Lands" (pg. 6-1) is intended to account for most of the acreage disparity with the 1996 delineation, yet it is weakly drawn from a jurisdictional standpoint, seeming to overly rely on the single factor of degree of sand deposition. At the least, the justification for smaller wetland acreage should include an explanation of why the purported loss of wetland hydrology due to dune accumulation, as is hypothesized without supporting evidence in the document, has failed to result in the expected vegetation type conversion from hydrophytic to upland predominance. All plant

7-9f species present in the area delineated as wetlands in 1996 but rejected in 1999 (see "Alkali Scrub" and "Dune" community descriptions, pg. 6-6) are considered by authorities such as Reed (1988a, 1988b) and USDA-NRCS (2002) to be hydrophytic. None of these species are typical upland scrub or dune dominants in the Owens Valley. A reason why more than 700 acres should be removed from wetland status because recent

7-9g burial by disturbance-related, wind-blown sand has artificially increased the mean depth to hydric lakebed strata must also be stated. In areas where disturbance-related deposits have occurred, the situation for current wetlands is atypical and thus (per the Corps delineation manual) only one or two of the three criteria for jurisdictional status must be met for wetland inclusion.

Tamarisk

7-10 The document minimizes the current status of tamarisk invasiveness at the Delta Habitat Area, characterizing the population as "scattered clumps" or "scattered individuals". Monthly site visits by the District biologist, Jim Paulus, during monitoring efforts (1996-2002) lead to an estimate of the population size in the several thousands. (See Photos 1a and 1b) The statement (pg. 6-13) that there are "no large trees" is contradicted by his observation of many large tamarisk trees (See Photo 2). Within the Delta, he has observed thousands of individuals that have attained an escape height, which is beyond the reach of the available herbivores (mainly, rabbits, cattle and elk), and individuals both above and below escape height have been observed to flower and produce seed.

7-11 The potential impacts of tamarisk - should they invade the large new habitat that will be created - could within a few years or decades reverse a significant portion of the overall gains toward the project's stated goals. This potential invasiveness deserves greater attention to analysis of its potential outcome and impacts, because 1) tamarisk is a known "water miner" a facultatively deep-rooted species that, where it dominates, will draw down water tables to below the reach of most Owens Valley phreatophytes, 2) tamarisk enforces monospecific stand development through allelopathic litter accumulation, a trait that reduces local plant and animal diversity while increasing the danger of wildfire, 3) tamarisk has no economic (e.g., grazing) or recreational value, yet it may under the current scenario be allowed to develop more new biomass that any other species within the project area.

Within the Delta Habitat Area specifically, the large existing population, potentially expansive under LORP conditions, could serve as a propagule source for weedy invasion of nearby shallow flood or vegetation-based projects for fugitive dust control. As mandated in the existing dust control project's environmental documents, the City will be required to spend whatever resources are necessary to completely eliminate any tamarisk that colonize dust control project areas (totaling tens of square miles).

It is doubtful that tamarisk can be excluded from all newly created LORP habitats. The flow management proposed in the EIR reflects a proven technique for willow stand maintenance in a watershed where tamarisk already has a self-sustaining population, as is the case in the Owens Valley. The potential impacts of tamarisk invasiveness where no such mitigation is proposed should be fully disclosed (i.e., expand the predicted impacts

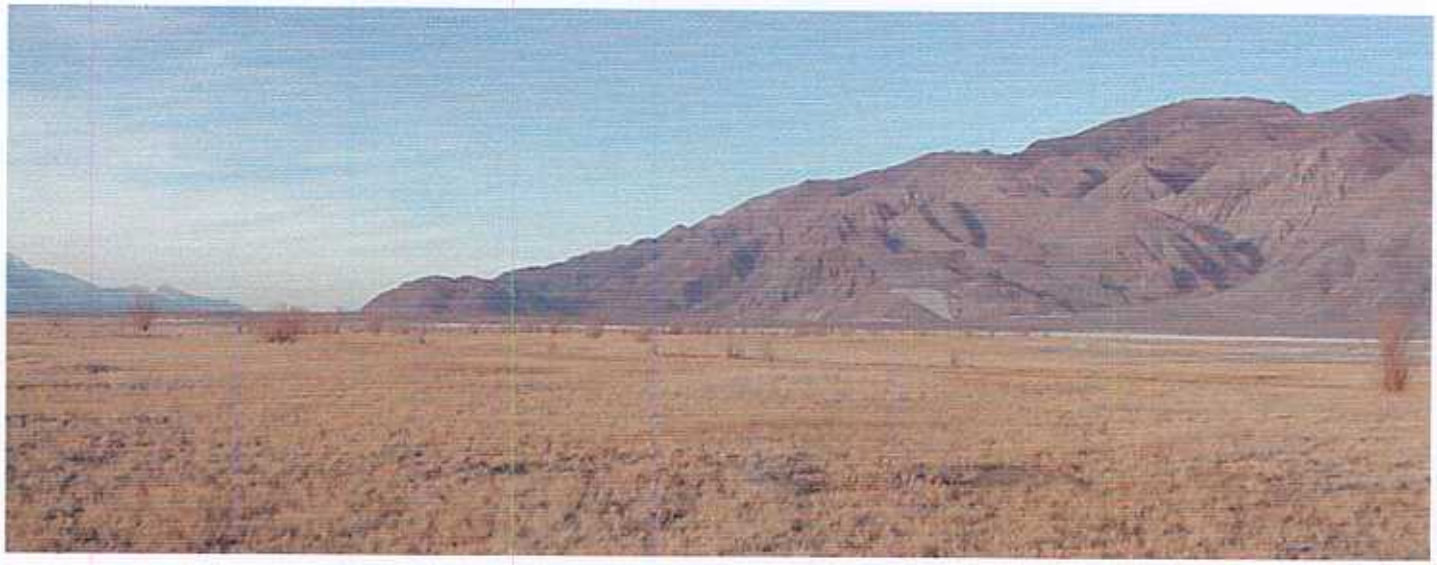


Photo 1a.
Photo of numerous salt cedar trees on the eastern portion of the Owens River Delta. Salt cedar trees are in the middle ground of the image. The view is looking northward up the Owens Valley across a salt grass meadow. Photo was taken on January 3, 2003.

Photo 1b.
Photo of salt cedar trees on the eastern side of the Owens River Delta. This photo was taken near the image on the top of the page but includes an ATV for scale. View looks eastward across the Delta with the Inyo Mountains in the background. Photo was taken on January 3, 2003.

Photo 2.
Photograph of four large salt cedar trees on the Owens River Delta. Notice the white pickup truck for scale in the center of the photo. Photo was taken along the main delta channel with the view toward the east. The Inyo Mountains are in the background. Photo was taken on January 3, 2003.

on pg. 6-25). At a minimum, the impacts to specific rare plant populations and to phreatophytic community development should be analyzed wherever ground disturbance will occur, with the assumption that the potential for eventual tamarisk dominance of disturbed areas can be excluded only where the water table will not support phreatophytic species (in particular, tamarisk seedlings) or where planned fluvial flows will favor willows.

Seasonal Habitat Flows to the Delta Habitat Area

The EIR/EIS proposes reducing inflows to the point where no outflow to the brine pool occurs, and argues on pg. 6-26 that damage to wetland vegetation due to resalinization will be avoided using pulse flows that will "fully recharge the freshwater lens and drain to the brine pool". While this may be so in some years, it will not always be so if pulse flows are held at a constant magnitude year to year, because the pressure of the phytotoxic shallow groundwater table that resides in the Delta Habitat Area will not be constant from year to year. It will increase in wet years and decrease in dry years. .

Because the Owens Basin is surrounded by mountains that serve as granite block recharge surfaces, a high groundwater pressure exists in the former lakebed including the Delta Habitat Area. This pressure can be expected to be higher in wet years, and a variable response pattern correlated to variable regional precipitation has been measured in the Great Basin Unified Air Pollution Control District's Owens Lake shallow groundwater monitoring network (including those wells within the Delta Habitat Area) since monitoring began in 1991.

7-12

Riverine flows function to displace and dilute rising saline shallow groundwater that would otherwise intrude from the surrounding lakebed and kill Delta vegetation during wet years. Even during some of the highest flow years shown on Chart 6-2, the District has measured a trend of increased salinity of surface waters as riverine flows approach the southernmost extents of the vegetated Delta area, supporting the hypothesis that the seasonal salt load or mass flux into the Delta is actually increased in wet years. The equilibrium between fresh water inflow and saline groundwater intrusion, which would be maintained in wet years only if riverine flows increase in magnitude to match increased groundwater pressure, is considered by the District to be a major controlling factor for vegetative extent and type. A third hypothesis (pg. 6-24) to explain an apparent weakness in the relationship between flow magnitude and *increase* in vegetated surface area could be: Fresh water inflow magnitude is sufficient to maintain or increase Delta vegetation only when it offsets or exceeds saline groundwater intrusion.

If this hypothesis is valid, then flows to the Delta Habitat Area function not only to meet evapotranspirative demand, but also to dilute and ultimately carry away salts that would otherwise accumulate in the root zone. Theoretically, higher flushing flows would be needed in high water years, to offset intrusion by elevated, high-pressure saline shallow groundwater. Rather than a fixed annual duty based on vegetated acreage, it may be necessary to assign flexible duties designed to offset varying degrees of annual saline groundwater rise. As currently proposed in the EIR, annual duties will be fixed once "baseline flows" are established. At a minimum, baseline monitoring (Table 2-20) should

7-12 also carefully quantify the salinity of existing root zone soil and shallow groundwater, especially near the Delta's unreclaimed playa edges. The commitment could be made in MM D-1 (pg. 6-48) that, based on these data, an increased flows target will be set for the purpose of habitat restoration if significant vegetative dieback occurs due to saline groundwater intrusion. If Hypothesis 3 is correct, vegetative dieback will be observed following a high-water year when, as proposed in the EIR, increased saline groundwater intrusion is not countered with additional fresh water. If additional flows are needed during wet years, they will not violate the injunction against diversions into the brine pool (pg. 6-28), because they would in fact be needed to meet the goals of the LORP and MOU.

Sincerely,

Ellen Hardebeck

Ellen Hardebeck
Air Pollution Control Officer

cc: Inyo County Water Department

References:

Great Basin Unified Air Pollution Control District, 1994. Spring mound trench report. Unpubl. internal report, Bishop.

Great Basin Unified Air Pollution Control District, 1996a. Evidence of winter resalinization in partially leached clay-dominated Owens playa soil. Unpubl. interoffice memo, Bishop.

Great Basin Unified Air Pollution Control District, 1996b. North test plots for vegetation on the Owens Lake playa. Unpubl. internal report, Bishop.

Jones & Stokes Associates, Inc., 1996. Delineation of Waters of the United States for the Owens Lake Playa. Report prepared for the U.S. Army Corps of Engineers, Los Angeles District, in conjunction with Great Basin Unified Air Pollution Control District, Bishop.

Reed-Jr, PB, 1988a. National List of Plant Species that Occur in Wetlands: California (Region 10). National Ecology Research Center Biological Report 88 (26.10), US Department of the Interior, USFWS, Ft. Collins, Colorado.

Reed-Jr, PB, 1988b. National List of Plant Species that Occur in Wetlands: Intermountain (Region 8). National Ecology Research Center Biological Report 88 (26.8), US Department of the Interior, USFWS, Ft. Collins, Colorado.

U.S. Department of Agriculture, Natural Resource Conservation Service, 2002. The PLANTS Database. National Plant Data Center, Baton Rouge, LA.

White Horse Associates, 2000. Owens Valley vegetation type inventory, Inyo County, California. Unpublished report prepared for CH2MHILL, Smithfield, Utah.

Comment Letter No. 8

ROBERT L. HURD, REHS
Director of Environmental Health Services

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COUNTY OF INYO

ENVIRONMENTAL HEALTH SERVICES
P. O. Box 427
INDEPENDENCE, CALIFORNIA 93526

December 31, 2002

Mr. Rene L. Mendez
Inyo County Administrator
PO Drawer N,
Independence, CA 93526

RE: Review of the Draft EIR/EIS, Lower Owens River Project

Dear Mr. Mendez:

Please be advised that the Inyo County Department of Environmental Health Services has reviewed the above-described document. The following comments are offered in reference to section 10.3 Public Health and Safety, and specifically regarding concerns for the potential increase in mosquito breeding as a result of this project as discussed in section 10.3.1.

8-1 We concur with the statements at the end of the first paragraph that there is an "added public health threat posed by the potential occurrence of West Nile Virus in the Owens Valley including the LORP area," and that this does "necessitate a heightened response to existing and new mosquito sources." However, the necessary response within the project area may be exacerbated or amplified since 1) West Nile Virus (WNV) can also be deleterious to wild bird populations (documented in corvids; impacts on other bird species uncertain) in addition to humans, and 2) the conventional mosquito treatment methods (larvaciding and particularly adulticiding) used by the OVMAP may result in indirect environmental adversities (damage to plants and nesting areas by vehicles, loss of beneficial insects from exposure to larvacides and adulticides, etc.). In recognizing the goals and objectives of the LORP relative to the enhancement of the environmental setting, there is contradiction with the promotion of the treatment capabilities needed by the OVMAP.

8-2

8-3 Furthermore, in the second paragraph, the statement is made that "the baseflows in the river are not likely to create substantial new breeding habitat as the water in the channel would be constantly moving and generally too deep for mosquito breeding. We take exception to this in that it appears to assume that the river channel is uniformly deep and steep along its entire length and at baseflow, much less than for seasonal habitat flow, that no water would infiltrate into adjacent oxbows, old river channels, and floodplains.

8-3 If infiltration into these areas does in fact occur, optimal conditions for the seasonal production of large mosquito populations to include the competent vectors for WNV, as well as St. Louis Encephalitis (SLE) and Western Equine Encephalitis (WEE) will likely be created.

8-4 With these uncertainties, and other inherent constraints relating to inadequate accessibility and limitations on treatment methods, it is unlikely that the OVMAP would consider any significant control applications on-site. Rather the control strategy would be one of letting adult mosquitoes emerge and fly off of the project site. The adults would hopefully be controlled with adulticiding agents in locations between the LORP and nearby towns in migration pathways. This is the least effective and most cost consumptive method of treating mosquitoes. Unless the environmental conditions are exactly right (access roads, wind speed and direction, temperature inversion, etc.), the fogging is completely ineffective in protecting the public. The treatments have to be frequently repeated or OVMAP staff has to wait until conditions are right. Adulticiding (fogging) using existing OVMAP resources is estimated to cost in the neighborhood of $900/hour.

8-5 An alternative to fogging might be to contract for the aerial application of larvaciding agents to standing water sources in the project area. However, it is uncertain how effectively the larvacide would reach the water. It may be intercepted by riparian vegetation canopies and never reach the areas to be treated. Also, the cost of such a treatment method is likely much higher than the cost estimate stated above.

8-6 We concur with the statement that the "OVMAP has insufficient staffing to manage additional mosquito sources that will result for the implementation of the LORP. Specifically, there are currently inadequate resources in both staff and equipment to manage LORP potential sources using conventional or non-conventional treatment methods. Contrary to statements in the EIR, the OVMAP does not have the authority to levy assessments on impacted properties resulting from the LORP. Rather this is a political process whereby compliance with Proposition 218 is demonstrated. A proposed amendment of the "benefit assessment" supporting expanded OVMAP costs resulting from the LORP first requires the analysis by a qualified, State registered engineer. Then there must be a majority vote by the affected property owners in favor of the amendment, and this followed by approval of the Inyo County Board of Supervisors. Obviously, this is a time-consumptive process that may not be approved by the voters.

8-7 With it stated that "the magnitude of the potential increase in mosquitoes due to the LORP cannot be reliably predicted, similarly the OVMAP can only speculate on the predicted costs. We could take the "wait and see" approach, assess the potential for mosquito breeding based upon field observations and surveillance, and determine the funding needed based upon those observations. However, if WNV comes quickly and is enhanced by LORP, we will be unprepared and will have drastically underestimated the

8-7 public health risk. As this is truly a public health issue, and with the uncertainties regarding mosquito breeding potential, the OVMAP must take the stance that is proactive and that is based upon the worst case scenario: WNV will be here soon and that a significant population of disease-carrying mosquitoes will be established as a result of the LORP. Following this line of thought, the OVMAP would need upfront approximately $50,000 in additional treatment supplies, equipment, and one vehicle; staffing of 2-3 additional certified mosquito control technicians (1 or 2 seasonal, 1 full-time) at an annual cost estimated at $75,000. Amortising the equipment over 5 years, this represents an annual increase in the existing OVMAP budget of 43.1%. It is not likely that the impacted property owners would vote to approve a 43% increase in their benefit assessments.

8-8 Based upon the above, we can only conclude that Mitigation Measure PS-1 is inadequate; Mitigation Measure PS-2 may be adequate if Inyo County and LADWP have sufficient funds to support the estimated annual costs as stated above. From the public health standpoint, this funding issue must be adequately resolved solely from the perspective of preventing disease and possibly preventing loss of life.

Thank you for the opportunity to comment on the draft LORP EIR/EIS. If you have any questions or require further clarification, please contact me at your convenience.

Sincerely,

Robert L. Hurd, REHS
Director of Environmental Health Services

Cc: Steve Frederickson, ICDEHS
Ernest Poncet, OVMAP

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December 31, 2002

Comment Letter No. 9

MEMORANDUM

TO: **René Mendez, County Administrator**

FROM: **L. Andrea Clark, Senior Planner / Resource Management Coordinator for Chuck Thistlethwaite, Planning Director**

SUBJECT: **Inyo County Planning Department Comments on the Draft Environmental Impact Report/Environmental Impact Statement (DEIR/EIS) for the Lower Owens River Project**

The Planning Department has reviewed the DEIR/EIS for the Lower Owens River Project (LORP) and provides the following comments which primarily focus on the project's consistency with the 2001 Inyo County General Plan and the requirements of the California Environmental Quality Act (CEQA):

1. **13.0 Consistency with Inyo County General Plan**

9-1 The Planning Department generally concurs with the statements of consistency of the LORP with applicable elements of the Inyo County General Plan. However, in making the final determination of consistency, it is not appropriate for the Inyo County Board of Supervisors to determine the LORP to be "potentially consistent" with the General Plan. The two statements indicating that the LORP is potentially consistent with General Plan Policy BT-1.2, BT-1.4 and RR-1.1 on page 13-3 are not necessary. The LORP is neither consistent nor inconsistent with these three policies as the LORP DEI/EIS does not specifically address the creation and/or maintenance of a bikeway and/or trail system, a regional bicycle system, or the preservation of railroad rights-of-way. Therefore, General Plan Policy BT-1.2, BT-1.4 and RR-1.1 are not applicable elements of the Inyo County General Plan that require determination of consistency with the LORP and should be omitted in the FEIR/EIS.

9-2 Our review of the Inyo County General Plan Land Use Element diagrams for the project site (Diagrams 1, 30 and 31) show nearly all lands to be designated *"Natural Resources"* (e.g. LADWP lands) or *"State and Federal Lands"* (e.g. State and BLM lands). The one exception is a property bisected by the Owens River on the east side of U.S. Highway 395 and north of the highway's intersection of Moffat Ranch Road that is designated as *"Irrigated Agriculture"*.

2. **Saltcedar Infestation**

9-3 Saltcedar infestation in the LORP project area is indicated as a Class I Impact that cannot be mitigated to a level of insignificance because funding limitations will prevent implementation of identified mitigation measures. However, the DEIR/EIS states that LADWP would spend

"approximately $3 million more to construct a 150 cfs pump station than it would to construct a 50 cfs pump station." (DERI/EIS, 10-18) It is arguable that if $3 million were spent on the saltcedar control program that this impact could be mitigated to less than significant. Statements of Overriding Consideration (Public Resources Code §21081, CEQA Guidelines §15093) can be prepared for impacts that cannot be mitigated because the cost of mitigation would prohibit project implementation and/or success. However, the DEIR/EIS indicates that the project can be implemented with a 50 cfs pump station, allowing additional funds that would be used otherwise used to construct the 150 cfs pump station for implementation of the mitigation measures identified for saltcedar infestation.

9-3

Additionally, the LORP was identified in the 1991 EIR as mitigation for impacts related to groundwater pumping by LADWP from 1970 to 1990. Section 10.4.2 of the DEIR/EIS describes the various impacts of saltcedar infestation. If the impacts occur as described, saltcedar infestation in the LORP project area could cause the success of the LORP as mitigation identified in the 1991 EIR to be challenged.

9-4

3. Impacts Offset by Project Benefits

It is insufficient to state that "mitigation is not considered necessary" for several impacts on wetlands, riparian habitats, upland habitats, wildlife and special status species because future benefits of the project offset the immediate impacts. It is unclear how this has been measured. Impacts to vegetation that are short-term may still be considered significant and/or cumulatively considerable. What is the timeline for recovering vegetative habitats and wetlands? If the benefits of the project that are to "offset" adverse impacts are expected to be realized in a relatively short timeframe, perhaps mitigation is not necessary. However, destruction or alternation of habitat requiring long-term recovery and growth necessary for species use and benefit may need mitigation measures.

9-5

Thank you for the opportunity to review the DEIR/EIS. If you have any questions, or if we may provide clarification to any of our comments, please contact our office.

Comment Letter No. 10

MWD
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Executive Office

January 9, 2003

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

Dear Mr. Martin:

Draft Environmental Impact Report and
Environmental Impact Statement for the Lower Owens River Project

10-1 The Metropolitan Water District of Southern California (Metropolitan) has reviewed the Draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS) for the Lower Owens River Project (LORP). The LORP is a large-scale habitat restoration project proposed in the Owens Valley. The LORP will be implemented through a joint effort by the Los Angeles Department of Water and Power (LADWP) and Inyo County, with the U.S. Environmental Protection Agency (EPA) contributing funding for a portion of the project. The California Environmental Quality Act (CEQA) lead agency is the LADWP and the National Environmental Policy Act lead agency is the U.S. EPA. The Inyo County Water Department is serving as a CEQA responsible agency. The LORP involves four primary restoration efforts: (1) releasing water to the Lower Owens River to enhance native and game fisheries and riparian habitats along 62 miles of the river; (2) providing water to the Owens River Delta to maintain and enhance various wetland and aquatic habitats; (3) enhancing a 1,500-acre of-river area with seasonal flooding and land management to benefit wetlands and waterfowl; and (4) maintaining several off-river lakes and ponds. The project also includes construction of a pump station to capture and recover some of the water released to the Lower Owens River. This letter contains Metropolitan's views, as a potentially affected public agency, on the scope and content of the Draft EIR/EIS.

Metropolitan, which supplies a portion of LADWP's water used for municipal and industrial uses, supports the implementation of the LORP. Section 10.5.2 of the Draft EIR/EIS indicates that the LADWP has incorporated the water requirements of the LORP over the next 20 years in its 2000 Urban Water Management Plan and has identified adequate water supplies. The Draft EIR/EIS indicates that in dry years, however, LADWP may need to supplement these water supplies. Section 10.5.2 of the document states that LADWP will supplement supplies through

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short-term water purchases through the water market and that LADWP plans to continue to secure other reliable sources of water such as long-term water marketing and desalination. Because the LADWP has planned for the water requirements of the LORP, there should be no additional water demand or water supply issues for Metropolitan.

Metropolitan further encourages the implementation of the LORP based on the proposed construction of a pump station to capture and recover some of the water that would normally be released to the Lower Owens River and Delta. Specifically, a pump station would be constructed between Keeler Bridge and the Lower Owens River Delta. The facility would be designed to capture flows in the river and divert the water to the Owens Lake dust control project, or to the Los Angeles Aqueduct for municipal and industrial use by the LADWP. The water that would be recovered would be that which is not necessary to achieve environmental goals in the LORP Delta habitat area. Water that is not captured would be by-passed to the Owens Lake Delta and would ultimately be discharged to the brine pool in the middle of Owens Lake, providing little benefit to the project or the public. Through the recovery of the water, implementation of the project could increase water supply to the LADWP, thus reducing additional water demand on Metropolitan, and result in an overall beneficial effect on water supply for Los Angeles. Conversely, any of the water that cannot be recovered from return pump flow into the Los Angeles Aqueduct before it reaches the Owens Lake dry lakebed could result in an increased water demand on Metropolitan. Metropolitan encourages implementation of the LORP with Option 1, construction of a larger pump station (150 cubic feet per second [cfs]), as the benefit to the project and the public would be greater than with Option 2 (construction of a pump station with a capacity of 50 cfs).

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We appreciate the opportunity to provide input to your planning process and we look forward to receiving future environmental documentation on this project. If we can be of further assistance, please contact me at (213) 217-6242.

Very truly yours,

Laura J. Simonek

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JAH/rdl
(Public Folders/EPU/Letters/09-JAN-03A.doc – Clarence Martin)