

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

PUBLIC COMMENTS

BISHOP, CALIFORNIA

DECEMBER 5, 2002

---

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

1 BISHOP, CALIFORNIA; DECEMBER 5, 2002

2 -oOo-

3 (John Gray is present as proctor.)

4 JOHN GRAY: Dorothy Alther.

5 DORTHY ALTHER: My name is Dorothy Alther, and I'm  
6 here tonight representing the Owens Valley Indian Water  
7 Commission. I would like to begin by saying that the  
8 commission appreciates this opportunity to address both  
9 the Department of Water and Power, Inyo County, and EPA.

10 This is a very lengthy document, and I just  
11 would like to stress that we are still looking at it and  
12 going through it and that more formal, detailed comments  
13 will be forthcoming by the January 14th deadline.

14 But just some preliminary observations that  
15 the commission and staff have had and that I'll be  
16 speaking to tonight are the first and most important thing  
17 that we've considered is the pumpback station. The  
18 commission strongly supports Option 2 as analyzed by the  
19 EPA for a 50 cfs pumpback station. We believe that the  
20 analysis done by the EPA clearly shows that the 50 cfs  
21 facility is both feasible and will probably result in the  
22 most amount of water flowed to the delta. We also  
23 strongly support and recommend adoption of the base flow  
24 of nine cfs for the delta area.

25 Even with the 50 cfs facility flow onto the

1 delta and the maximum nine cfs, we still understand that  
2 the flow to the delta will be less than we're currently  
3 seeing today. The commission is very concerned with that.  
4 They have a strong interest in keeping the delta strong  
5 and viable and hopefully enhanced. But it is the  
6 commission's position that Option 2 will be giving greater  
7 protection to the delta than Option 1, which is DWP's  
8 option for 150 cfs.

9           The commission would also like to have  
10 further information and explanation from the Department of  
11 Water and Power why we're going to have a six-month delay  
12 for the construction design of the 50 cfs facility.

13           In the document it basically states that  
14 there has been no construction design for a 50 cfs  
15 facility and that to do so would delay the project by six  
16 months. We find that somewhat troublesome and in some  
17 cases maybe a deliberate attempt by DWP to delay the  
18 project.

19           We also find it interesting that it would  
20 take such a delay given the similarities that we're told  
21 that there are between a 50 cfs station as well as a 150  
22 pumpback station. Basically we're told that the yard  
23 facility would remain the same, the electrical  
24 transformer, diversion structure, roads, temporary  
25 construction zone, 400-foot pipeline, sediment basin would



1 be the same, there would be the same phasing between the  
2 two facilities, the same new power lines would be ran that  
3 would be needed for both facilities, operation of the  
4 station would be the same as the 150 cfs station, and also  
5 the archeological work and the environmental work has  
6 already been done for both types of facilities. So we  
7 really don't understand why it would take an additional  
8 six months to have to design a cfs station at 50.

9           The other area that the commission has spent  
10 some time on, and as I'm sure everyone knows, is the issue  
11 of cultural resources. This is an issue not only  
12 important to the water commission but all of the Indian  
13 community, any time we're dealing with cultural resources.

14           The commission was pleased to see that in  
15 the mitigation that there is going to be coordination with  
16 Native American -- appropriate Native American monitors  
17 during some of the construction phases. The only point  
18 that we would like to make is that we would like to have  
19 Native American monitors on site any time there's going to  
20 be any kind of ground disturbance, regardless if it's in a  
21 construction phase or a Phase 1 survey. We appreciate the  
22 inclusion of Native American coordination on this but  
23 would like to be there for every phase of it.

24           An additional cultural resource issue that  
25 the commission has some concern about is that the document

1 references that within the Owens Valley -- or Owens River  
2 corridor there was over 157 prehistoric sites, six  
3 multi-component sites, and 15 islets. There were 71  
4 prehistoric sites within 1,000 feet of the Owens River.

5           Now, we realize that the Owens River  
6 corridor is not necessarily included in the APE, but  
7 nonetheless we're told that there's going to be a fairly  
8 substantial increase in recreational use at the river. We  
9 have some concern about having an influx of new people  
10 coming in to fish, watching birds, hiking. They are going  
11 to be accessing that Owens River corridor, and with 71  
12 prehistoric sites there, the water commission would really  
13 like to see that issue addressed a little bit more in  
14 terms of maybe a recreational plan, which brings us to our  
15 third point of comment, which is there is no recreational  
16 plan.

17           We were under the understanding that there  
18 would be as part of this project a recreational plan to  
19 ensure that all of the hard work that we're doing to  
20 restore habitat and to enhance wetlands is not going to be  
21 trampled by tens of thousands of people to go out and go  
22 fishing and having RVs and hiking where they are not  
23 supposed to be hiking.

24           The commission was somewhat surprised that  
25 there was not more discussion about a recreational plan,

1 and we would really like to see that developed early on so  
2 that we don't encounter sort of the wait and see what  
3 happens and then something happens and we have to go back  
4 and try and mitigate it.

5           As just a final point, and it's a point that  
6 I believe was made as well last night, we've had an  
7 opportunity to review the provisions of the 1997 MOU and  
8 use that pretty much as our guidance when we're reviewing  
9 the EIS/EIR. A centerpiece, it appears to be, of the LORP  
10 project is this adaptive management concept. And based on  
11 even Ecosystem Sciences' own opinion, a critical factor of  
12 adaptive management is the importance of intensive  
13 monitoring.

14           The commission found it very disturbing in  
15 the discussion under section 2.2.2.4 of two options laid  
16 out for the funding of the post-implementation phases of  
17 the LORP project. Essentially under your first option it  
18 appears that the Department of Water and Power is not  
19 prepared to contribute its 50 percent share of the cost of  
20 the post-implementation phase of the project.

21           If Inyo County is unable to ante up its 50  
22 percent, we found that -- going back through the MOU, we  
23 found nothing that conditioned the post-implementation on  
24 the availability of funding, and we're deeply concerned  
25 that this project will fail if we don't have that proper



1 monitoring, and without the appropriate level of funding  
2 for the post-implementation there is a strong likelihood  
3 that the monitoring portion of that phase will be  
4 incomplete or not done at all.

5 We strongly support the Option 2 that's  
6 discussed under that section, which is the Department of  
7 Water and Power would be prepared to pick up any of the  
8 shortfall that the Inyo County may encounter during the  
9 post-implementation phase and that we're guaranteed that  
10 there will be the monitoring component for the  
11 post-implementation.

12 We -- I also found in the appendix -- I  
13 can't quite remember the -- what letter of the appendix,  
14 but it's the policy which discusses the Option 1 that will  
15 guide the county and the Department of Water and Power.

16 There were several references there  
17 regarding the unwillingness of DWP to provide adequate  
18 funding for post-implementation, and the commission finds  
19 that that's unacceptable and that without proper funding,  
20 the project will probably not be successful. So it  
21 strongly supports Option 2, which is DWP will pay for any  
22 shortfall encountered by Inyo County when they get to the  
23 post-implementation phase.

24 Those are just a few of the early  
25 preliminary comments that we've had. And, again, we would

1 like to thank the Department of Water and Power, Inyo  
2 County, and EPA for this opportunity. Thank you.

3 JOHN GRAY: Thank you, Dorothy.

4 Bruce Klein.

5 JANET PARRISH: Can we ask -- can you state what you  
6 are leaving with us?

7 BRUCE KLEIN: I will. My name is Bruce Klein. I'm  
8 from Friends of the Owens River, and let me lighten things  
9 up just a bit by saying that, like everything else in my  
10 life, Friends of the Owens River are not for profit. I  
11 was asked not to say so, but I'm also commodore of the  
12 Owens Lake Rowing and Sailing Society, and we do welcome  
13 paddlers, so keep that in mind as the LORP evolves.

14 It's also nice to see you all on the same  
15 side of the table.

16 In 1998, the Central Owens Valley Coalition,  
17 which was the -- which is the Lone Pine Chamber of  
18 Commerce, the Independence Civic Club, Big Pine Chamber of  
19 Commerce, funded by an Inyo National Forest economic  
20 recovery grant, supported by Inyo-Mono Advocates for  
21 Community Action, or IMACA, released the Central Owens  
22 Valley Plan, the 1998 community action plan or CAP. The  
23 CAP defines strategic goals for Central Owens Valley  
24 communities.

25 Based on the CAP, in August 2000 IMACA



1 undertook a planning project also funded by an Inyo  
2 National Forest economic recovery grant. At the time it  
3 was IMACA's plan who wrote the grant was its program  
4 coordinator. Incredibly, the original grant proposal  
5 included letters of support from both Greg and Jane.

6 The project was called a Community Vision  
7 for the Lower Owens River Project and was completed in  
8 February of this year, and its objective was to work with  
9 Central Owens Valley residents to provide opportunities  
10 that may be provided by the LORP.

11 These opportunities covered educational,  
12 cultural, recreational, and business creation  
13 considerations. The project outputs include a series of  
14 USGS seven-and-a-half-minute clause covering the entire  
15 LORP that identifies key areas for activities, such as  
16 biking, fishing, hunting, boating, birding, frogging,  
17 walking, wagon and horseback rides, historical tourism,  
18 photography, etcetera.

19 Secondly, it provided a marketing strategy  
20 that lays the foundation for a Central Owens Valley/LORP  
21 marketing plan.

22 And, thirdly, the project created a  
23 successor entity, Friends the Owens River, FOR, and its  
24 vision statement. FOR's outlook is community rather than  
25 ecosystem-based, in the belief that a community that

1 achieves common stewardship objectives protects its  
2 environment.

3 Obviously, DWP may be less than delighted  
4 with all this, but everything I've mentioned has be  
5 considered in such a way that there ought not to be  
6 conflicts with aqueduct management, LORP implementation,  
7 or grazing lessees.

8 At the most recent Inyo County Collaborative  
9 Planning Team meeting the National Park Service  
10 represented and spoke at length about the Service's river,  
11 trails, and conservation assistance program. This program  
12 can assist Central Owens Valley residents in focusing more  
13 widespread attention on the near miracle that the LORP  
14 represents.

15 But to do so, I believe it's necessary, as  
16 Ms. Alther stated, to develop a detailed recreational  
17 element as well as a socioeconomic element for the final  
18 EIR elements not present in the draft. Let's be proactive  
19 rather than react too late to the inevitable changes.

20 Personally, I'm most excited about potential  
21 canoeing and kayaking on the rewatered river. I'm  
22 skeptical at present whether 40 cfs with be sufficient to  
23 much of the channel to float watercraft above tamarisk  
24 stumps. We'll have to wait and see.

25 But perhaps I'm most concerned about the

1 huge amount of residual slash produced by the salt cedar  
2 eradication program. This program has done terrific work,  
3 but I'm not alone of being appalled at the impacts these  
4 thousands of tons of debris will have on the rewatered  
5 channel and urge interagency cooperation utilizing  
6 California Department of Forestry inmate crews to burn and  
7 chip the slash at the earliest opportunity. Please  
8 address this concern in your final.

9 Now, to paraphrase Perry Mason, I  
10 respectfully offer maps, the Community Vision's final  
11 report, the marketing strategy, and Friends of the Owens  
12 River's vision statement into evidence as exhibits in the  
13 final EIR.

14 JANET PARRISH: Can you tell us, do you just want us  
15 to look at these or is --

16 BRUCE KLEIN: They are input submitted for the  
17 process, I guess, so keep them.

18 JOHN GRAY: Thanks, Bruce.

19 Scott Kemp, please.

20 SCOTT KEMP: Good evening. I'm Scott Kemp.

21 We have leases on the -- the island leases  
22 on the Lower Owens River Project and the delta lease with  
23 the Department of Water and Power, my father and I do.  
24 And then I'm representing the Inyo-Mono Cattleman's  
25 Association, and we will have written comments, probably



1 extensive comments to be turned in later.

2 But tonight I'm going to make a few  
3 comments. I feel it's important that the public know how  
4 we feel about how this is going to be managed out there.

5 First, on page 2-2 of the EIR/EIS, item 21,  
6 it says, "Grazing management plans for Blackrock, Thibaut,  
7 Island and Delta, Twin Lakes, and Lone Pine leases." This  
8 should read, "Land management plans for the Blackrock,  
9 Thibaut, Island, Delta, Twin Lakes, and Lone Pine leases."

10 Grazing management plans are included in the  
11 land management plans, and this is a ecosystem management  
12 plan, and it should be referenced on this item 21, and  
13 this ecosystem management plan in chapter 4 has land  
14 management plans which address grazing.

15 There are not going to be any individual  
16 grazing management plans that will come for public review.  
17 All the grazing management plans are in the land  
18 management plans, and they are contained -- actually they  
19 are all contained in the EIR/EIS. So just about  
20 everything you want to know about what we're going to do  
21 out there, as far as utilization and numbers and  
22 everything, is in the EIR/EIS.

23 Okay. The Cattleman's Association favor the  
24 preferred alternative 150 cfs pumpback station, and the  
25 reason for this -- we have the delta lease out there, and

1 I can imagine 150 cfs water being flooded over that delta  
2 lease, and this EIR/EIS calls for sustained agricultural  
3 uses. Well, you're not going to sustain any agriculture  
4 uses by dumping that amount of water out there.

5 So we feel that that alternative is the best  
6 one. It gives the city the flexibility to control these  
7 seasonal habitat flows and reducing the possibility of  
8 changing the dynamics of the delta.

9 Also, talking about the delta, there are  
10 four pulse flows designated for the delta at different  
11 times of the year. The fourth pulse flow is designated  
12 for this time of the year, which right now the delta is  
13 not using any water. If there's no -- there's very little  
14 evaporation and very little evapotranspiration from the  
15 vegetation that's out there. So, consequently, there's a  
16 lot of water out there right now.

17 And a seasonable -- season habitat flow, the  
18 number four flow, which would be about 30 cfs for five  
19 days or about a hundred and -- 248 acre feet, would just  
20 put a heck of a lot of water over the existing forage that  
21 the cattle are there right now and ice and everything else  
22 and just cover up the feed, so I don't feel that that flow  
23 is necessary.

24 So what we would recommend are the three  
25 pulse flows and the six to nine base flow. The base flow

1 continues all the time, so the six to nine cfs is running  
2 out there right now or probably more than that. So  
3 there's a tremendous amount of water on the delta. These  
4 habitat flows, I think, the fourth one is not a good idea.

5 Also, we're in favor of the Alternative  
6 Initial Release Regime 1, which is the gradual base flows  
7 and deferred seasonable -- seasonal habitat flows.

8 Under the current they want to pour all this  
9 water into the river all at once. Well, I think it would  
10 be a real good idea to give the lessees and the city and  
11 the county more time to make management decisions and  
12 release this water in a gradual, up to the 40 cfs over  
13 about a three-year period and then put the seasonal flows  
14 so we got an idea of what's going to happen out there.

15 Nowhere in this EIR does it address impacts  
16 to cattle grazing. It just says that they're going to  
17 sustain cattle grazing. Well, if we have an  
18 opportunity -- I mean we've waited this long for this  
19 project. Another two or three years to get the thing  
20 implemented isn't going to hurt anything, and we'll have  
21 an opportunity to manage, and we'll probably kill a hell  
22 of a lot less fish.

23 Okay. And one other thing I want to talk  
24 about tonight, on page 7-13 it states, "In general, the  
25 Lower Owens River Project will be managed to avoid the use



1 of controlled burns." Well, this is a terrible mistake  
2 because the river is going to burn. I've seen in the last  
3 five years five different fires out there, either caused  
4 by lighting or somebody's campfire getting escaped or  
5 whatever, and one control burn out there is all. It  
6 didn't burn very many acres.

7 But if we don't do some kind of control  
8 burning program, and I would suggest two to 400 acres a  
9 year, we're going to have a buildup of a lot of vegetation  
10 caused by excess water, and we're going to have a wildfire  
11 situation, and it's all going to burn. It will burn  
12 eventually. But we want it to burn so that it does some  
13 good. And it's not going to help anybody if we have a  
14 huge wild fire and we lose a lot of wildlife and a lot of  
15 cover.

16 Thank you.

17 JOHN GRAY: Thanks, Scott.

18 Derrik Vocolka.

19 DERRIK VOCELKA: Hi. I'm Derrik Vocolka. I'm  
20 representing myself, but I'm also a board member of the  
21 Owens Valley Committee, just so you know, but I'm  
22 representing basically my opinions.

23 I've had a short look at the massive  
24 document, and I appreciate all of your effort in doing it.  
25 I realize that it takes an awful lot of resources to pull

1 something like this off, and inviting the public to  
2 respond to it is an important ingredient and well done,  
3 while it is a very exciting project that hopefully in the  
4 future will really look well upon the Owens Valley and  
5 DWP.

6 I have a couple scattered comments just  
7 because they are things I picked up as I went through it,  
8 so it may not be that comprehensive.

9 The implication of deciding between a 50 cfs  
10 and 150 cfs pump, it seems difficult to read the  
11 implications of what I might call overcapacity. People  
12 would perceive that as overcapacity, and I know that  
13 there's been attempts to respond to this in the past that  
14 the implication might be that this is really a precursor  
15 of additional groundwater pumping in other ways or that in  
16 utilizing water it can be a component of perhaps pumping  
17 from the east side of the valley to satisfy the Owens  
18 Lake, rather than the LORP project really just standing  
19 alone and water returning to the aqueduct.

20 So the implications of overcapacity being  
21 built in, I think really should be addressed and  
22 clarified. I've seen an article in the paper that tries  
23 to address that too, and that's a misimpression, but I  
24 think it leaves that impression.

25 I also believe that in instances through

1 here monitoring is key. I don't see that in -- it's  
2 already been covered about recreation plans, but in the  
3 recreation area that the baseline uses are shown, that  
4 there are so many hikers or so many fisherman, so many  
5 equestrians, and I think to have a plan in the future that  
6 where we are today is an important ingredient in these  
7 uses.

8 We talked about day use, perhaps we realize  
9 that hunting is a use. But I think it leaves the tone  
10 that it's going to go to be managed the way we do it now,  
11 the land use or the recreation, rather than to have a  
12 specific plan for it, and for that I believe there should  
13 be a baseline of use. What's our use now?

14 Obviously it would involve a lot of  
15 management, including trash pickup. I volunteered for a  
16 few river cleanups, and sometimes it can be pretty bad in  
17 certain places. So what is the management plan for the  
18 recreation plan? We should really address the long-term  
19 uses there.

20 Hopefully it will be a very attractive area,  
21 and we know Southern California sees this as their  
22 backyard, and an important new recreation would be  
23 established, so I think we should be attentive to it.

24 I also question the financing. It's  
25 difficult to read about how the money is going to work.



1 Is it Inyo County's half? Is it a 50/50 thing? Coming  
2 from the business world a little bit, I always wanted to  
3 know how big the money picture was, period. Is it bigger  
4 than a 50/50 split on six million dollars? Is it a 15-  
5 million-dollar project to pull this all off? And to know  
6 we've only accomplished certain portions of it.

7           There appears to be language throughout the  
8 document that indicates that, "if possible," "if funding  
9 is possible." At its most difficult, I would -- being  
10 most difficult, I guess I would say, that this seems to me  
11 to be anticipating or telegraphing some breach of this  
12 plan that is predisposed to not succeed because the  
13 finances won't come through. And with a larger number  
14 unavailable or just assuming that it's only the  
15 approximately six million dollar figure, I think that's  
16 flawed and should be corrected.

17           I think I've addressed recreation, but this  
18 is only an impression, but I also agree that the  
19 monitoring needs to be clearer, the standards for  
20 monitoring and baselines for many issues. We shouldn't  
21 be -- there should be a schedule, some benchmarks set so  
22 it is not a situation where we see an area in decline and  
23 that's when we react, that there have been measures on a  
24 timely basis so we can react sooner. I think dollars  
25 spent would be better spent in that process, and it should

1 be more definitive within the plan.

2 I also will be sending in a little more  
3 extensive comments, but those are my first brush. I  
4 appreciate it.

5 JOHN GRAY: Thank you, Derrik.

6 Gregory Smith.

7 GEGORY SMITH: Burr. I don't know about all of you,  
8 but I'm cold. Anybody want to do some jumping jacks? I  
9 guess my first request if we have another meeting in the  
10 winter would be to bring some heaters.

11 My name is Greg Smith. I live in Lone Pine.  
12 I'm with the OVC; however, I'm probably not really  
13 representing the OVC. These are kind of some more  
14 personal comments.

15 There were several people that asked me to  
16 pass on the message that they are very happy to see the  
17 release of the Draft EIR/EIS and very happy to see things  
18 moving along and this whole project getting going.

19 I was down at Blackrock, and I happened to  
20 drive by a monument down there, and the monument was  
21 dedicated to one of our county supervisors who helped get  
22 the Lower Owens River Project going. I guess the only  
23 unfortunate thing about the monument was it was dated  
24 1986, so it's been a long haul.

25 I would like, and I think we stated this

1 last night, to urge that you have a similar meeting in Los  
2 Angeles to introduce what we're doing up here to the  
3 people of LA. This is a area -- they are a substantial  
4 land owner up here, they do come up here, and I think  
5 there would probably be some substantial interest from the  
6 community down there. That's one thing I would like to  
7 suggest.

8 Also, section 2.2.2 on the cost funding, I  
9 really think that -- cost and funding, I think that should  
10 really contain a recommendation or at least a methodology  
11 for obtaining the financial resources to implement an  
12 adequate post-implementation monitoring plan.

13 I know you present the alternatives in  
14 there, but I think it would be better if, you know, an  
15 alternative was favored and then probably some  
16 recommendations on maybe where some of this funding could  
17 be obtained in the future, particularly as it relates, as  
18 in Dorothy's comments, to a recreational plan and the  
19 amount of money that's going to be left over for  
20 monitoring and that sort of thing.

21 And those really are my only comments. I  
22 haven't had a chance to review the entire document, so  
23 I'll probably respond in writing.

24 Thank you.

25 JOHN GRAY: Thanks, Greg.



1                   Jo Heindel.

2                   JO HEINDEL: Hi. I'm Jo Heindel, a birdbrain from  
3 Big Pine.

4                   I want to compliment all of the people that  
5 worked with Inyo County and with the LADWP for working so  
6 hard to bring the LORP off of the drawing board and out  
7 into the valley. It's not quite into the valley, but we  
8 all have hopes that it's heading there.

9                   If the LORP can be successfully implemented,  
10 it will set a standard against which all other habitat  
11 restoration projects throughout the nation, maybe beyond,  
12 will be judged.

13                  My husband and I commented on the EIRs that  
14 were produced back in the '70s and again in 1991 by the  
15 county and the city. The bird sections were pathetically  
16 inadequate, and I really wondered what this EIR was going  
17 to present. I was hopeful that with all the input that  
18 the tech memos allowed us that this EIR would be different  
19 with respect to birds, and it is.

20                  It is obvious that a great deal of time and  
21 effort and research was spent on the birds and the results  
22 reflect that. In the earlier EIRs the bird sections were  
23 pathetic, if they existed at all, and then we found out  
24 from the insect people that the insect sections were  
25 pathetic, and we talked to the reptile people, and they

1 said that they were pathetic, and we talked to the mammal  
2 people, and they said they were pathetic.

3 So we used the birds, like the canary and  
4 the mynah to find out if the air is okay, we used the  
5 birds to decide. We don't know much about insects and  
6 reptiles and flowers, those are other people's fields of  
7 interest, so we used the birds as an indicator.

8 This EIR is significantly better. As I read  
9 through the EIR, I kept marveling on how wonderful it  
10 would be to have all this added habitat, not just for the  
11 birds, which is my research focus, but for all the plants  
12 and animals that belong to all of us, increasing habitat  
13 for fish, an economic resource and asset for the county,  
14 produces an environment that supports a huge variety of  
15 plants and animals, which is an even greater resource for  
16 the county and in the future will become infinitely more  
17 valuable.

18 This in turn adds to the quality of life for  
19 those of us who cannot live without the great outdoors, to  
20 enjoy, to chase butterflies, to fish, to hike, to  
21 photograph, to study, to ride horses, to watch birds, not  
22 just for the locals but for our tourist friends.

23 But before I got all wrapped up in how  
24 fantastic this was, I had to remind myself that I believed  
25 what the water agreement and the MOU promised.

1           The Inyo-LA water agreement mentions the  
2 size of the pumpback station once, on page 23, and it  
3 says, "The pumpback station will be capable of pumping up  
4 to 50 cubic feet per second from the river to the  
5 aqueduct. Due to seasonal fluctuation in the flow of the  
6 river, the average annual pumping will not exceed  
7 approximately 35 cubic feet per second."

8           I then went and reread the MOU. It mentions  
9 pumpback facility, pumpback system, and pumpback station  
10 ten times, but it never states or hints or suggests they  
11 change in the size from a 50 cfs station agreed to in the  
12 water agreement.

13           The numbers 200 cfs and 150 cfs never appear  
14 in the MOU, nothing in the MOU modified the size of the  
15 pumpback station. Therefore, according to the MOU,  
16 section 1, general provisions, paragraph (c), the size  
17 must remain as it was consented to in the water agreement  
18 because no modification was made.

19           Now, I hate to do this to my neighbors, but  
20 LADWP is using smoke and mirrors in order to play a shell  
21 game with us. That's not honorable. LADWP looked us in  
22 the eye and shook our hand when they signed that water  
23 agreement that agreed to a 50 cfs pumpback station. Then  
24 they turned around and looked us in the eye and shook our  
25 hands again when they signed the MOU, and that MOU did not



1 have any stated modification to the size of the pumpback  
2 station.

3 All I ask LADWP to do is honor your word,  
4 live up to the commitments that you made to the county and  
5 to the residents of the county, bring the LORP to an  
6 example setting and successful finish, show the world that  
7 not all businesses have to act like a 900-pound gorilla.

8 And I thank the county, the EPA, and DWP for  
9 allowing me to express myself. Thank you.

10 JOHN GRAY: Thank you, Jo.

11 Tom Heindel.

12 TOM HEINDEL: Good evening, ladies and gentlemen. I  
13 would like to thank you for allowing us to express our  
14 opinions. My name is Tom Heindel, and I'm speaking for  
15 myself.

16 I've read everything in the MOU, and some of  
17 it I understand. There's much in there that is over my  
18 head that I will not address.

19 In the executive summary the MOU is singled  
20 out, which specifies the goals of the LORP. It specifies  
21 a time frame for implementation and for various  
22 specifications. Time frame, that's something that's very  
23 important to many of us who care about the environment.  
24 That river has been dry a long time, and it's time to get  
25 water back into it.

1                    Now, water was supposed to be flowing in the  
2 river by 13 June 2003. In the EIR it says that some of  
3 the permitting for the pump station will be completed by  
4 July 2003 if the LA preferred alternative is selected. If  
5 not, that will take another six months.

6                    If one didn't know better, one would think  
7 that LA was stalling. I would ask: How much do they save  
8 each day that goes by that water is not put into the  
9 river? And obviously water is an extremely valuable and  
10 expensive commodity.

11                   My main area of research, I'm a retired  
12 school teacher, is in ornithology, and my wife and I have  
13 been working on the birds of Inyo County full time for the  
14 last 12 or 13 years. Our studies actually started in the  
15 '70s before we moved overseas for 12 years.

16                   I concentrated a great deal on the bird  
17 sections in the EIR, and I have a number of issues. The  
18 bird list, Appendix D, to be kind I would state that it is  
19 inaccurate, it is incomplete, and it is not in any kind of  
20 recognizable order.

21                   Ornithologists have arranged birds in a  
22 taxonomic system whereby we can -- if we want to find out  
23 if a bird is there or not, we know right where to look  
24 because the American Ornithologists Union has said, "This  
25 is the way they are. This is an accepted convention used

1 throughout the science of ornithology."

2           Whoever made this appendix up apparently  
3 doesn't understand that. They have generous splits, so,  
4 for example, they have one genius, and then there are six  
5 or seven others, and then that genius magically reappears.  
6 You might wonder, Who cares? Is that important? It's  
7 important if you're trying to locate something or  
8 understand a document.

9           Surveys were conducted for birds along the  
10 LORP by using what is called the point-count method. In  
11 the point-count method an individual surveyor goes to a  
12 point. They use GPS and various other things to  
13 accurately be able to repeat this, and then go a set  
14 distance and then spend a certain amount of time counting  
15 the birds at that point. They can repeat this at a later  
16 date so it has scientific value.

17           Certain species that do not lend themselves  
18 to the point-count method were excluded from analyses.  
19 This is wrong. Then another system has to be used. It's  
20 like they are not even taken into consideration. And some  
21 of these species are species of special concern, such as  
22 Swainson's hawk and such as Cooper's hawk, and we know  
23 they breed along the river.

24           There are inconsistencies in the document.  
25 The willow flycatcher, for example, in 14.4 is listed as a



1 rare spring and fall migrant. But in the appendix it says  
2 it's an uncommon summer visitor. Let's get it together.  
3 That's a minor thing, and that will be straightened out.  
4 They worked hard to get this done in a brief period of  
5 time from the time the Court ordered they have it done, so  
6 we understand that those things will happen.

7 I'm really concerned about tules. That's  
8 one of my major concerns in this whole document. You  
9 know, Buckley Ponds, out of the LORP area, are such a  
10 mess. You go over there and it's just one giant field of  
11 tules.

12 And so they talk about the way they are  
13 going to control these is that by having riparian  
14 vegetation there will be shade created, which will keep  
15 the tules from growing. And they acknowledge that the  
16 scouring flows that is the habitat releases will not be  
17 sufficient to get rid of the tules.

18 What I'm concerned about with tules is that  
19 they are very limiting in providing habitat for many  
20 species. Now, in the tule section in Along the River  
21 Riparian in 4.46 it says, "Tule habitat will increase from  
22 roughly 300 to roughly 1,200 acres." Then it says, "But  
23 many species prefer this habitat, and many of the habitat  
24 indicator species prefer this habitat."

25 I'm sorry, but three out of 18 does not

1 constitute "many" as I define it. Of the 18 habitat  
2 indicator species listed for the riparian, only three.  
3 The others would not be found dead in tules. So that's  
4 kind of a miscarriage of reality.

5           They need to -- I'm really concerned about  
6 beaver in the river. They are an introduced species.  
7 They don't belong there. If any of you have been to north  
8 Haiwee over the last year, again out of the area but it  
9 illustrates a point, north Haiwee reservoir at the north  
10 most fishing area, the beaver are just eliminating the  
11 cottonwoods and willows there, girdling them, actually  
12 felling them, and I'm thinking all that's going to do is  
13 make more sunshine and promote more tule growth, and we  
14 want riparian habitat to develop to promote species  
15 diversity. So I think a real serious look at beaver  
16 control needs to be undertaken.

17           Power line to pump station. It's discussed  
18 how they are going to put the power line poles in. One of  
19 the major problems that we have as far as snowy plover  
20 predation is concerned is ravens. The placement of poles,  
21 we have found in many studies, are a great place for  
22 ravens to perch and study where juvenile snowy plovers are  
23 and destroy them.

24           Now, out on the water spreading areas on the  
25 lake bed various steps have been taken to control raven

1 perches, and that is not mentioned in the EIR, and it  
2 really needs to be looked at. There are things that can  
3 be done to keep ravens from perching and from building  
4 nests on these poles.

5 I'm real concerned about the transition to  
6 the brine pool drying up. Shorebird habitat will be  
7 eliminated during the summer I'm thinking of primarily  
8 here, and this is mentioned as a class one impact. That  
9 means significant but, Sorry, guys, there's nothing we can  
10 do about it. Well, you know, when LA wanted to put water  
11 on the lake bed to mitigate dust, that was, Couldn't do  
12 it, guys, and the reason we can't do it is because there's  
13 a Court order that says we can't do it.

14 But guess what, they went to Court, and in  
15 the People versus LA, 29 September 2000, they were able to  
16 get an exemption, and water was put on the lake bed for  
17 the purpose of dust control. There's no reason why that  
18 could not be done again.

19 What I'm concerned about is this is a  
20 breeding location for a threatened species. We got a  
21 funny situation here. The snowy plover on the coast is  
22 endangered. The one that's over here is threatened.  
23 Banding has illustrated they are the same birds. Some of  
24 them that have been banded over there we've recovered over  
25 here. So somebody in Fish and Wildlife needs to take a



1 good and hard look at that. In other words, we need to  
2 get ahold of that situation.

3 I'm real concerned about cowbirds and the  
4 laissez-faire approach that every time I look at a public  
5 agency, be they National Park Service, BLM, Inyo National  
6 Forest, LADWP, everyone always wants to take the easy way  
7 out. You know what, they say, When we bring the habitat  
8 back, that's what's really important.

9 What I would like to do is see us get these  
10 things under control, and then we can take birds and other  
11 critters off of the endangered species list or off of the  
12 threatened list. Give you an example, in Southern  
13 California, due to cowbirds primarily in the Prodo basin  
14 of eastern Orange County and western Riverside County,  
15 they had about two dozen pairs of Bell's vireo, an  
16 endangered species. Last year, after five years of  
17 cowbird trapping, 430 nests were found. That is a bird  
18 well on the way to being taken off the list, and that's  
19 what we want.

20 Now, what LA is saying in this EIR -- I say  
21 "LA." That's not fair. What this EIR says is, Hey, you  
22 know what, if we improve the habitat, everything will be  
23 okay. That's not okay. That's great. They talk about  
24 fragmentation of forests. And they say, You know, when we  
25 get more riparian, it won't be fragmented. Not true. In

1 a desert riparian situation where you have this narrow  
2 band, it will always be fragmented.

3 And cowbirds will travel up to seven miles,  
4 testing has shown, from feeding areas to areas where they  
5 are parasitizing birds. Enough about that.

6 I'm real concerned about monitoring. If we  
7 don't monitor how do we know what's going on out there?  
8 Monitoring can't be if we have the funds. It can't be a  
9 second-class citizen. It's got to be something that we're  
10 on top of all the time.

11 Finally I'm concerned about ambiguities in  
12 the EIR. Things such as "if warranted" or "if money  
13 permits" or "if feasible." That has no place in a  
14 document like this. We need to take definite hard steps.  
15 When I think of what this could be, it could be something  
16 that every one of us should look forward to and could  
17 profit from.

18 Thank you very much.

19 JOHN GRAY: Thank you, Tom.

20 Daniel Pritchett.

21 DANIEL PRITCHETT: I want to make it clear first  
22 that I'm speaking for myself. I'm not representing any  
23 group at this point.

24 My first comments echoes that made very  
25 eloquently by Jo Heindel. The 150 cfs pumpback station

1 option obviously violates section 12 of the water  
2 agreement, which states unequivocally that the capacity of  
3 the pumpback station shall not exceed 50 cfs. As she  
4 stated, there's no language in the MOU or any other  
5 document that supersedes this 50 cfs ceiling; therefore,  
6 all references to the 150 cfs option should be stricken  
7 from the document.

8 My other comments pertain to chapter 10,  
9 which is entitled "Impacts Associated with the LORP as a  
10 Whole." On page 10-14 it stated, quote, "Water for the  
11 LORP will be derived from river diversions." And then one  
12 sentence later it says, quote, "At this time LADWP has no  
13 future plans to use groundwater to supply water to the  
14 LORP project elements."

15 Now, this gives a very distinct impression  
16 that the LORP then will not result in increased  
17 groundwater pumping. It sounds very good. The problem  
18 here is what is not stated. There is no statement  
19 regarding any of DWP's intentions with regard to replacing  
20 the 16,000 acre feet that they state will be put into the  
21 LORP.

22 In other words, it's one thing to say it  
23 will come from the river, that's fine. But they are not  
24 saying they are not then going to try and turn around to  
25 make up the difference in pumping elsewhere. And without