

1 any statements regarding these intentions, I think the
2 DEIS must assume that there will be increased attempts to
3 pump more groundwater with associated potential for
4 impacts.

5 This brings me to my next comment. The DEIS
6 repeatedly cites on about five different pages in section
7 10 the fact that groundwater pumping is and will be
8 managed according to provisions of the long-term water
9 agreement, and the intent apparently is to give assurance
10 there that groundwater pumping impacts will be avoided,
11 and I think this is very unrealistic.

12 On page 10-23 it is actually admitted that
13 increased pumping to supply the LORP may cause impacts,
14 quote, "if the goals of the agreement are not achieved."
15 But in the following paragraph we are reassured that this
16 is, quote, "speculative and unlikely."

17 Now, I think this statement must have been
18 written by someone who is not familiar with conditions on
19 the ground in the Owens Valley or with the workings of the
20 technical group.

21 The vegetation protection goals of the
22 long-term water agreement are not being consistently
23 achieved right now. This is not unlikely, and it is not
24 speculative. It is documented every year by the Inyo
25 County Water Department.

1 Every year data from the water department's
2 vegetation monitoring program identifies parcels
3 throughout the valley where vegetation and water tables
4 have yet to recover to baseline conditions measured back
5 in 1984 through 1987. That's almost 20 years ago.

6 Every year these data are submitted to the
7 technical group, which every year approves pumping
8 programs which do not allow these parcels to recover.

9 In 2000 the water department actually gave a
10 detailed presentation to the technical group about
11 fundamental flaws in the criteria that used to turn wells
12 on and off. What did the technical group do? Nothing.
13 It did not even discuss it. In fact, many of the DWP
14 members left the room during the presentation. I was
15 there. I saw this.

16 The dysfunctionality of the technical group
17 is so evident that it appears to be embarrassed to even
18 meet in public. The last public meeting was seven months
19 ago and lasted about ten minutes.

20 Now, I can cite problems with the technical
21 group all evening, but the point I'm getting at here is
22 this dysfunctional management environment has to be
23 acknowledged in the DEIS. Simply stating over and over
24 again, as it does in section 10 that pumping will be
25 managed in accordance with the long-term water agreement,

1 is not adequate to ensure that we will not have pumping
2 impacts.

3 I suggest one way to address this would be
4 to include in the DEIS a discussion of how any groundwater
5 pumping which is directly or indirectly related to the
6 LORP will be managed, and such a discussion should include
7 at the very least a quantitative definition of what a
8 significant pumping impact is, something that the
9 technical group has never defined, at least in public; a
10 monitoring protocol of sufficient sensitivity to detect
11 significant impacts and downward trends; a trigger
12 mechanism to turn wells off before significant impacts
13 have occurred; and, finally, I think there should be a
14 requirement that all meetings of the technical group be
15 open to the public so that we can verify that it in fact
16 has started to carry out its responsibilities.

17 To conclude, the LORP is a wonderful and
18 beautiful idea, but there is a very real danger, which I
19 think is tremendously understated in the DEIS. There's a
20 real danger that our attempts to get water into the
21 project will result in creation of new groundwater
22 impacts, and this would of course defeat the entire
23 purpose of the project, because it is designed to mitigate
24 groundwater pumping impacts in the first place.

25 Thank you very much for considering my

1 comments. Actually, one more, page 10-14, table 10-5, the
2 central column where they are talking about steady state
3 conditions, the actual totals don't add up there. If you
4 look at the total, which is supposed to be something about
5 the water used by the property, it doesn't add up.

6 Thank you.

7 JOHN GRAY: Thank you, Daniel.

8 Ceal Klingler. I'm not sure I have the
9 first name pronounced correct.

10 CEAL KLINGLER: Sorry. I'm short.

11 Hi. My name is Ceal Klingler, and I live in
12 Bishop. And I'd like to first of all thank you for the
13 opportunity to comment tonight. I really appreciate your
14 sitting through our comments and listening and taking
15 notes.

16 I've read the DEIR and commented on the
17 whole thing, but I'm not planning on reading all of those
18 tonight because I don't think everybody would want to sit
19 through my droning. So, instead, tonight I'm just going
20 to focus on one portion of the DEIR, and that's the Owens
21 River delta portion of the LORP and the 150 cubic feet per
22 second pumpback station option.

23 First of all, I'd like to make a general
24 observation. It's my impression that the DEIR is meant to
25 describe how LADWP intends to achieve the goals of the

1 1997 memorandum of understanding. If the goals of the MOU
2 are not achieved by the plan described in the DEIR, then
3 those alternatives need to be described more fully in the
4 DEIR.

5 And as a second aside, I'd also like to
6 observe that the 1991 long-term water agreement specified
7 a pumpback station size of 50 cubic feet per second. The
8 1997 memorandum of understanding did not modify that
9 pumpback station size. So I was a bit surprised when I
10 read in the DEIR that there would be a six-month delay if
11 the 50 cubic feet per second pumpback station size was
12 selected.

13 And I would recommend as a remedy for that
14 that DWP can avoid that impact entirely by just beginning
15 to develop those plans now before the final DEIR comes
16 out. And I'd also recommend that we see more on why a 150
17 cubic feet per second pumpback station was selected
18 because it's not mentioned anywhere in the MOU or in the
19 1991 long-term water agreement.

20 With that in mind, I'd like to focus on the
21 Owens River delta portion of the LORP, finally. Sorry
22 about that.

23 One goal of the MOU is to enhance and
24 maintain the delta and to establish and maintain new
25 habitat. If you look at page 14 or 15 approximately of

1 the MOU, it reads, "The goal is to enhance and maintain
2 approximately 325 acres of existing habitat." And then it
3 goes on to say that a second goal is, quote, "to establish
4 and maintain new habitat consisting of riparian areas and
5 ponds suitable for shorebirds, waterfowl, and other
6 animals within the Owens River delta habitat area.

7 A second goal of the MOU mentioned in the
8 MOU is seasonal habitat flows to the delta, and that again
9 is mentioned on pages 12 to 13 of the MOU. It says, "The
10 purpose of that habitat flow is creation of a national
11 disturbance regime." And then it goes on to say that the
12 plan will redistribute muck and river bottom material,
13 quote, "on banks, flood plain, and terraces within the
14 riparian system and the Owens River delta for the benefit
15 of the vegetation."

16 The MOU specifically says that the pumpback
17 station is not meant to recapture the seasonal habitat
18 flows. If you look at page 15, again, it says "Subject to
19 applicable Court orders concerning the discharge of water
20 onto the bed of the Owens Lake, the quantity of water that
21 will be released below the pumpback station for these
22 purposes will be an annual average of approximately six to
23 nine cfs, not including water that is not captured by the
24 station during periods of seasonal habitat flows."

25 So there's no stipulation against releasing

1 habitat flows to the delta. In fact the habitat flows are
2 meant to reach the delta, and the only purpose of the
3 pumpback station is to recapture base flows and pulse
4 flows which don't exceed 50 cfs.

5 And I get a different impression when I read
6 the DEIR. The implication is that the pumpback station is
7 meant to recapture everything before it goes to the delta
8 except for that six to nine cfs base flow to the delta.

9 The DEIR states that with the 150 cfs option
10 none of the habitat flows are likely to reach the delta
11 and that water flowing to the delta would be reduced by
12 approximately 35 percent. That's contrary to the MOU goal
13 of establishing new habitat and also to the goal of
14 allowing habitat flows to deposit new material on the
15 delta.

16 So I would like to object to the 150 cfs
17 option on those grounds alone. It doesn't achieve the
18 goals of the MOU. That's also particularly disturbing
19 because the seasonal habitat flows are the only extra
20 water provided in the MOU outside of that base flow of six
21 to nine cfs average bypass flow. And if nine cubic feet
22 per second are not adequate to maintain and enhance
23 current delta conditions, there's no other decent
24 mechanism to achieve that goal that's offered in the 150
25 cfs option.

1 So if you combine that with the added damage
2 to the brine pool, which can be somewhat avoided with the
3 50 cfs option, I'd say that the 150 cfs option is
4 completely unacceptable as it's described right now in the
5 DEIR. And I'd like to see more development on how the
6 goals of the MOU could be achieved with a 150 cfs station
7 if DWP is going to express that as their preferred
8 alternative.

9 In conclusion, I'd like to thank you again
10 and to add that this DEIR is meant to describe ways to
11 achieve the goals of the MOU and to mitigate damage from
12 1970 to 1990. It's not meant to claim the LORP as
13 mitigation for new damage. All the alternatives,
14 therefore, should try to achieve the goals of the MOU,
15 rather than abandoning those goals.

16 Thanks very much.

17 JOHN GRAY: Thank you, Ceal.

18 James Wilson.

19 JAMES WILSON: I'm not quite as short.

20 Good evening. I think -- my names is James
21 Wilson from Bishop, and I'm representing Eastern Sierra
22 Audubon Society.

23 I think we might have saved enough money on
24 heat tonight to make a contribution to the
25 post-implementation funding to the project.

1 Eastern Sierra Audubon is a local membership
2 group with over 200 members dedicated to the preservation
3 of wildlife and wildlands. And we'd like to thank you for
4 this opportunity to comment on the LORP.

5 I have three things to comment. First was
6 the two pumpback stations. And Jo Heindel did a great
7 job, and I think I can just incorporate her comments by
8 reference because we support the 50 cfs pumpback station.

9 We support full implementation of the
10 project notwithstanding funding problems. The county has
11 funds, it seems, for at least ten years, the rest will be
12 found. This project is too important to the long-term
13 health of the environment and the economy of the Eastern
14 Sierra to do anything but implement the whole project. If
15 we choose to build it, the funds will be found. This, I
16 think, has national importance.

17 The third thing I wanted to reference was
18 the brine pool. On table S-1 on page S-11, the second
19 paragraph, it states, "The amount of water flowing from
20 the delta habitat area to the brine pool transition will
21 be sufficiently less than the existing flow that it will
22 result in a decrease in shorebird habitat in the brine
23 pool transition area."

24 It further goes on to say, "No feasible
25 mitigation is available due to an existing Court

1 injunction which prohibits water inputs to the brine pool
2 that may affect Trona mining operations on the lake bed."

3 DWP says this impact is significant, and
4 Eastern Sierra Audubon agrees. This is an area used by
5 thousands of ducks and geese and tens of thousands of
6 shorebirds. It's an area recognized that has been
7 recognized as a nationally significant important bird area
8 by National Audubon Society, and it's part of the US
9 Shorebird Conservation Plan.

10 It's a very important area. It's part of a
11 long stream of inland waterfowl and shorebird migration
12 areas through the Great Basin, and it's an important stop
13 that's been damaged for a long time, and it's critical to
14 maintain and improve it wherever possible.

15 DWP says there's no feasible mitigation for
16 this impact due to an existing Court injunction which
17 prohibits them from releasing water to the Owens Lake
18 except to meet goals of the LORP; however, DWP does not
19 admit they are in violation of that Court order by
20 releasing the current flows, the flows that have supported
21 thousands of birds in the fall and winter for many years.

22 If the current flows are allowable, it is
23 inappropriate to argue that maintaining those flows under
24 the project is not feasible. DWP could completely avoid
25 this impact by maintaining current flows.

1 Additionally, if DWP insists this impact is
2 unavoidable, they have an obligation under CEQA to explore
3 mitigation alternatives that are feasible. They have not
4 done so.

5 We would also support a meeting in Los
6 Angeles. And I thank you.

7 JOHN GRAY: Thank you, James.

8 Harry Williams.

9 And I have one more speaker after that. Is
10 there anyone else that wants to comment? Please fill out
11 a speaker form and bring it up.

12 Harry.

13 HARRY WILLIAMS: Hello. My name is Harry Williams.
14 I'm a local native. I can go back five generations the
15 written language and thousands of years before that with
16 my family being in this valley.

17 For over 10,000 years there's been human
18 habitation in this valley, but in the last hundred years
19 the most damage has been done and mostly by LADWP with
20 their groundwater extractions, their pumping, and it takes
21 Court orders to stop them from doing this. They don't do
22 anything else unless the Court or some big -- someone else
23 stops them or tells them not to do this. Then you come
24 here -- their whole history is in destroying whatever they
25 get ahold of.

1 Water is the life blood of all, of
2 everything in the world. This valley gives LA 70 percent
3 of their water. Without this water there would be no LA,
4 and still they ask for more, still they want more, still
5 they pump more. They go out and do everything they can to
6 get more water, to lie to us, to steal the water, to take
7 the life out of this valley.

8 The mitigation projects that were agreed to
9 in the '90s, that's very interesting to me. There's the
10 legal laws that everybody is supposed to follow. LA
11 doesn't. It takes them to go back to court.

12 None of their mitigation projects, I
13 believe, are even implemented. Maybe they talk about it.
14 That's about all they do. They politicize. They go to
15 our supervisors. They do everything they can to get more
16 and more water and kill this valley.

17 I always talk about -- they have a policy of
18 delay, and I believe that is their goal, to just delay, to
19 kill this area, do whatever they have to do. And now it's
20 the size of a pumpback station. Like everybody else
21 mentioned or several speakers mentioned, the size of the
22 pumpback station isn't mentioned in the long-term
23 agreement or the MOU. But they throw it in because it
24 will take us to Court, and it will give them a couple more
25 years, and even in this EIR it's written into it there's a

1 six-month delay, another one of their tactics.

2 Even the cost of the pumpback station, the
3 50 cfs cost ten million. The 150 cfs will cost 13 million
4 dollars. Where do they get this? And then they cry
5 around about the funding. It's written into there.

6 And then they are going to argue the point
7 about the LORP. The LORP is a compensatory mitigation
8 project for damages done to this valley. It doesn't say
9 we're going to negotiate or we don't have the funds. They
10 make over 18 million dollars off the electricity that's
11 generated from the gravity flow from this area. You think
12 they can't afford to do the mitigation projects and do
13 every project they wanted to if they want to, but they
14 don't want to. They want to kill this valley.

15 They have done the same thing to the Indian
16 people, put us on reservations with the complicity of the
17 government. They deny us our water rights. They deny us
18 our rights as human beings, and that's what they do.

19 I look at them as an evil empire. They talk
20 about evil in this world. LA is evil to me. The people
21 in Iraq, they talk about Saddam Hussein. To me, Jim Hahn
22 and all those guys are evil just like those people. They
23 come up here and attack the Indian people. They attack
24 this valley. And what do they do? They sit back, We'll
25 go to Court. We'll talk to the supervisors. We'll talk

1 to whoever. It's okay. In time. They've got time. They
2 always have time. They'll have more time in the next
3 hundred years.

4 What's this valley going to do without the
5 people here tonight talking and fighting and trying to
6 preserve this valley? LA won't care. It takes Court
7 orders. It takes people like the EPA to come in and save
8 us, just the like the US government is going in Iraq to
9 save those people. I hope EPA will do this for this
10 valley. I don't think so.

11 It's an evil empire. They will use the word
12 LORP. It's a compensatory mitigation project. That
13 doesn't mean nothing to them. They got it already
14 written. They don't have enough funds to implement none
15 of the mitigation projects or the impacts that are going
16 to be put upon the Lower Owens River Project. They don't
17 have no money, but they make millions, and the energy
18 crisis they made more and more. They don't have a
19 problem. They sell energy. Well, they sell a lot of
20 energy from this area. They sell it from us.

21 You know, the water agreement is a legal
22 document. And who cares? LA don't. And I look at our
23 supervisors. They are rolling over like big puppy dogs
24 because LA scratches their belly because they are going to
25 give them something at the airport. That's what they do.

1 I'm kind of pretty sad. You know, I watch
2 our local third district race go down. Everybody talked
3 about them running. Everybody did this and that. They
4 are on one side or the other. Where is the other
5 supervisors running that, you know, get put in this
6 position? They throw it all in Bishop or whatever.

7 They fight around about the Hillside Decree.
8 They don't care less if they dried us up, and which they
9 did and why members of the community in the past fought
10 and got that Hillside Decree. LA didn't care. They try
11 to break whatever they can. They increase the size of
12 their capacity in the pumps on the Bishop cone without
13 even telling anybody, and then that happened, Oh, it says
14 it someplace that it's okay with us.

15 Well, you know, there's people, friends of
16 mine and stuff, we're all kind of fed up with it. And
17 back in the '70s they -- somebody -- they put a bumper
18 sticker that says "LA sucks." Well, today we still got a
19 -- we come back again, LA still sucks in my opinion. If
20 anybody wants a bumper sticker, come see me, I'll give you
21 one.

22 I'm getting tired of LA, and they are
23 probably getting tired of me too. But that's the way it
24 goes. And they will be here when I'm gone, and that's the
25 way it will be.

1 I hope this valley smartens up and the
2 people of the valley who really care about this valley,
3 not all these immigrants from LA who come up and say, "Oh,
4 LA needs this and LA needs that." I care less. I'm going
5 to live here, and I'm going to die here, and that's it.

6 But I hope all you guys and more people who
7 really do care about this valley speak out. You know,
8 there's a lot of people in this valley, not just the
9 people here, but a lot of them are quiet, but I wish they
10 would speak up and talk to the supervisors, even go after
11 Jim Hahn and those people and tell them, Hey, you guys are
12 an evil empire, and the way you treat this valley is
13 sickening.

14 And that's my feeling about this whole
15 thing, the LORP. The size of the pumpback station, that's
16 a big joke. And two agreements, MOU and the long-term
17 agreement that says the size, they don't care. They are
18 going to push and pull and yank anybody they could. They
19 will get all their employees to do anything. They do it
20 because they work for them. And they get their receipts.
21 They get their paychecks. They get everything that's
22 good. You know, that's good to a point. But when it
23 comes down to it, you are just throwing this whole valley
24 for an evil empire down south, that really bothers me.

25 And I hope more people speak out on this

1 point. And I'm sure, Mr. Gray, you know, you having to
2 write this thing and it was a tough job dealing with LA,
3 all the delay tactics they used on you, not giving you
4 enough information, not doing this and that.

5 And even in this agreement or this EIR they
6 use the words like "considering." Well, we are
7 considering to do this. They just use -- this thing will
8 end up in court again. They will win, lose, or draw.
9 Supervisor will probably cave in and give them whatever
10 they need, saying, Okay, I'm sorry, I'm sorry, can we get
11 something else going, you know.

12 I look at LA like a battered woman's
13 complex. Inyo County has been so battered by LA that they
14 just kind of like roll over again any chance they get, you
15 know, Oh, don't hit me again. We got to go to court. We
16 ain't got enough money. That's how I look at LA, you
17 know. They are an evil empire created by evil people to
18 me.

19 I thank you for your comments. But if
20 anybody wants any of those bumper stickers, I'll be here
21 for a while.

22 JOHN GRAY: Thank you, Harry.

23 Mark Bagley, please.

24 MARK BAGLEY: Hi. My name is Mark Bagley, and I'm
25 representing the Sierra Club.

1 We recognize that the LORP has a potential
2 to be of tremendous benefit, both environmentally and for
3 recreation value and economically in this valley, and
4 we're happy to see that we finally have the Draft EIR out,
5 and it appeared to be quite a struggle getting it to us,
6 and thank you for making that effort.

7 One of the problems that I want to address
8 here tonight has to do with things in the EIR that, as
9 other people have expressed, make us concerned that the
10 project may not live up to its potential.

11 The City of Los Angeles has made a
12 commitment to implement this project as a mitigation
13 measure in their 1991 EIR. This is mitigation for many
14 impacts identified and unidentified that were caused by
15 groundwater pumping in the valley from 1970 to 1990. So
16 they, in addition to their commitment to do this project
17 in the water agreement, they further made it a mitigation
18 measure in that EIR. So they have an obligation under
19 CEQA to implement this project fully.

20 Regardless of what the MOU says about
21 funding, I believe that -- excuse me, what the water
22 agreement says about funding, the post-implementation
23 costs, I believe that the city has an obligation under
24 their 1991 EIR to fully implement successfully this
25 project in order to mitigate impacts that the city caused.

1 And then in the 1997 memorandum of understanding, of which
2 Sierra Club is a party, the city also has an obligation to
3 implement the project and try to meet the goals that are
4 defined in that MOU for the project.

5 There's nothing in the MOU that talks about
6 who is going to fund the project, who is going to fund the
7 post-implementation costs. The city clearly has an
8 obligation under both the EIR and the MOU to try to
9 successfully implement this project; therefore, when the
10 city discusses the financial considerations, I'm afraid it
11 shows a real lack of commitment throughout the document by
12 referring to potential lack of funding or, We'll do this
13 if funding is available.

14 The monitoring program, we're told, and the
15 adaptive mitigation that would come about because of
16 monitoring and only because of monitoring, adaptive
17 mitigation -- or adaptive management cannot be done
18 without reasonable and proper kind of monitoring so you
19 know what's been happening and how you need to -- what
20 goals are not being met, and then you can figure out how
21 to try to change your management a bit to try to reach
22 those goals. Without that proper monitoring, you can't do
23 reasonable, adaptive management.

24 And when you read this document, when you
25 read Ecosystem Sciences' habitat plan for this project,

1 when you read the MOU, it's very clear that adaptive
2 management is going to be a key to the success of this
3 project, yet it says in the document that we might not be
4 able to implement the monitoring or not very much.

5 In the funding discussion, which I believe
6 is found on page 2-8 in the project description, under
7 "Funding Option One," the city, for no good or
8 well-explained reason, says that under that option they
9 would cap their funding to the post-implementation cost
10 based on what Inyo County has up to this date obtained
11 through grants, which appears to be well short of what's
12 needed just to do the monitoring program that is described
13 in the EIR.

14 Now, the estimated cost for this project and
15 for the post-implementation of that does not contain an
16 estimate for any cost of adaptive management measures that
17 might need to be done, nor does that cost include the
18 costs for implementing mitigation measures, such as
19 apparent weeds, the implementation measures on controls of
20 tules and salt cedar and other noxious weeds.

21 So the cost that's been estimated does not
22 even include those, yet the document under this Funding
23 Option One says that the city's cap will mean that over
24 the 15-year period of this post-implementation, there's
25 only going to be \$240,000 for monitoring and adaptive

1 management.

2 The impression in reading this document is
3 that that's all that's in the budget for monitoring from
4 day one. And I think an alternative way to view that
5 funding issue is that the city has the 2.2 million dollars
6 or whatever that's -- they have already gotten in grant
7 money to cover post-implementation costs, and one can look
8 at that as enough to cover the first nine or ten years of
9 the post-implementation costs based on the estimated costs
10 that are in the document; and that the logical way to
11 proceed with this document is for the needs for the
12 project to be identified in the document, the monitoring
13 program to have been identified and that to be
14 implemented.

15 And the county has plenty of money already
16 obtained to get started on that and plenty of money to try
17 to raise some more money to meet their obligations in the
18 future. So to set this cap now based on what the county
19 has now is ridiculous. The city and the county agreed in
20 the water agreement that they would share the costs on
21 this post-implementation.

22 So I believe that and the club believes that
23 funding option one would create a situation where the
24 necessary monitoring is likely not to get done, and,
25 therefore, it puts the project in jeopardy and that

1 Funding Option Two then must be selected.

2 DWP has an obligation under the -- under the
3 MOU and their 1991 EIR to implement this project. Funding
4 Option Two says that the city will pick up the costs
5 needed to implement all of the monitoring if the county is
6 unable to meet their share, and then it will be the city's
7 responsibility to recover from the county what the county
8 was obligated to do, and that seems to me the proper thing
9 that needs to happen. The city needs to assure that the
10 monitoring will happen in order to ensure that there's any
11 chance of success for this project, and we do want to see
12 a successful project.

13 The funding problems that are mentioned
14 numerous times in the document refer to issues like beaver
15 control and tule and weed control, which could seriously
16 impact the ability of the city to meet the goals for this
17 project that are identified in the memorandum of
18 understanding. So funding cap two is going to be
19 essential to make sure that we have the proper amount of
20 funding.

21 And I believe that the county has plenty of
22 time to develop the funding to cover their costs in the
23 future. We need to get this project started. We need to
24 start with the proper kind of monitoring that needs to be
25 done.

1 I want to address the issue of the pumpback
2 station. I agree with several of the other comments, and
3 Jo Heindel particularly was eloquent, I think, on
4 describing how the water agreement was a promise to the
5 county and to the people here; that there would be this
6 project; and that it would have up to a 50 cfs pumpback
7 station.

8 During the public comment period for the EIR
9 in 1991 where the water agreement was a part of that
10 project description, there were fears expressed by people
11 in this valley that the Lower Owens River Project would be
12 used as another way to convey water out of the valley
13 because there's this pumpback station down there that can
14 send water back to the aqueduct, and we were assured that
15 that was not the purpose for it and that we -- that's why
16 the county insisted on a 50 cfs pumpback.

17 We have a situation here where the analysis
18 by EPA that was presented in a letter last February went
19 through the economic arguments or economic costs and
20 benefits for the larger pumpback station and concluded
21 that it didn't make sense economically if the purpose was
22 to simply capture that seasonal high habitat flow.

23 The 50 cfs pumpback is plenty for at least
24 52 weeks out of the year to capture what's coming down the
25 river. There's a 40-cfs flow down the river for at least

1 50 weeks out of the year for this plan, and during those
2 50 weeks they have to send some water to the delta. Their
3 plan is to send 5.3 cfs to the delta. That means their
4 pumpback is pumping a little bit less than 35 cfs. So 50
5 cfs capacity is plenty for that purpose.

6 The only reason that the city would need,
7 the only reason they state they want the larger pumpback
8 is to capture these higher spring flows when in a normal
9 run-off year it will up to 200 cfs released up at the top
10 of the river. That doesn't mean 200 cfs is going to reach
11 the pumpback, but if it did their pumpback station of 150
12 cfs would be able to capture most of that extra flow.
13 There would only be a few days out of the year even if 200
14 cfs came all the way to the pumpback, in which the full
15 capacity of the 150 cfs station would be used.

16 The EPA concluded that the large capacity of
17 150 cfs, which would not be used but more than a day or a
18 few days out of the year, would be -- this unused capacity
19 would have the potential to be a growth-inducing impact
20 that DWP down the line, when the people who are telling us
21 now, No, we have no intention of using this pumpback for
22 extracting more water out of the valley, when they have
23 retired, new people are going to be in the department, and
24 they are going to say, Wow, look at all this unused
25 capacity. We can put that to use by using the LORP to

1 convey water down to the pump station and move it either
2 out to the lake, control the dust, or back to the
3 aqueduct. That's a real possibility. There's nothing --
4 there are no commitments made in this document that the
5 larger pumpback would not be used for that reason.

6 So I would like to request that the EPA's
7 financial analysis be included in this document. I do not
8 believe it is. And I would request that the EPA include a
9 more recent analysis. I believe there's some information
10 that DWP now has that could be used to update that
11 analysis, because I think the EPA has -- took a position
12 in that February letter that they would not be funding a
13 larger pumpback station. Their preferred alternative is
14 the 50, and part of it is that it would not be a good use
15 of the taxpayers' funds to pump the larger pumpback. So I
16 would like more discussion on the economic arguments for
17 that in the document.

18 Now, part of the Department of Water and
19 Power's justification for building the larger pump station
20 is that they can do so as long as they meet the habitat
21 goals for the delta. The Sierra Club believes that the
22 larger pump station would restrict flows to the delta that
23 are necessary to meet the habitat goals that were agreed
24 to in the MOU.

25 The base flows and the pulse flows provided

1 by the project, which are going to be six to nine cfs,
2 cubic feet per second annual average, as it turns out
3 those are significantly less than the amount that they say
4 is currently going to the delta. Over the last 15 years
5 they estimate that the flow to the delta has been ten to
6 15 -- or ten to 11 cfs.

7 So the smaller pumpback station would allow
8 more of the seasonal habitat flows to reach the delta to
9 help recharge the groundwater. The delta is there because
10 there's a fresh water lens. There's fresh water that
11 floats on top of the hypersaline water that's underneath
12 the lake, and it takes fresh water input to keep it there.

13 And I would say that the MOU has the six to
14 nine cfs figure in it because we understood that the water
15 agreement provided for 50 cfs pumpback, and we understood
16 that the MOU provided for a 200 cfs flow in a normal year,
17 and we understood that that would mean there would be a
18 large seasonal flow to the delta in the springtime that
19 would compensate for that lower flow the rest of the year.

20 Now, DWP also talked about building berms
21 and dikes and doing some manipulation in the delta at the
22 time we were negotiating the MOU. They were talking
23 particularly about berming and diking in order to meet the
24 needs for some of the habitat indicator species. We have
25 the Owens Valley pupfish and the tui chub listed as

1 habitat indicator species for the delta.

2 There was discussion by the consultants,
3 Ecosystem Sciences, and by the department and their
4 biologist that this was clearly something they were going
5 to look into and that when the Tech Memo 8, the first
6 version of it came out, Ecosystem Sciences' personnel
7 didn't write in there but told us at an MOU group meeting
8 that they had considered doing diking and berming, but
9 they didn't think that it was worth the cost and some
10 damage that might be done there.

11 There was never in the discussion in the MOU
12 negotiations or Ecosystem Sciences' presentation of Tech
13 Memo 8, there was never any indication that anybody
14 thought the MOU prohibited diking and berming in the delta
15 area.

16 In this EIR, DWP has taken the position in
17 several places that the MOU prohibits that kind of
18 activity. It does not. The MOU states in one place that
19 the management goals to the delta will be met through
20 water flow management. That's not an exact quote, I don't
21 believe. But an exact quote is "and land management."
22 And that, to me, meant these possibilities for doing
23 diking and berming and other kinds of manipulations in the
24 delta as a possibility; that the statement in the MOU that
25 said the habitats in the delta need to be as

1 self-sustaining as possible. There was never any
2 intention that that prohibited doing any kind of
3 manipulation in the delta. So we believe that the city is
4 misinterpreting the MOU in that case.

5 One of the chief places where this comes
6 into play in the discussion for the delta management is in
7 the notion that the smaller pumpback station, when
8 allowing 200, perhaps up to 150 cfs, could pass by and go
9 to the delta, that most of that water would pass over a
10 low point, very high up in the delta, and go off to the
11 west, which does not get any regular flows, and,
12 therefore, that seasonal habitat flow would have very
13 little impact in terms of habitat enhancement in the
14 delta.

15 All it would take would be a little bit of
16 work, there's dikes and berms all over the lake now, to
17 take care of that problem. If that's a problem, you can
18 take care of it because we're talking about every other
19 year 150 cfs at the most going down except for those very
20 rare years when there's going to be an uncontrolled flow.

21 So I think the option for providing some
22 kind of a barrier to that perceived low spot, that could
23 be a problem. I think that needs to be addressed in the
24 MOU in the alternative sections at least as a way to take
25 care of this perceived problem. It's our contention that

1 the city has misinterpreted the MOU, and there is no
2 prohibition in the MOU for creating a dike or a berm
3 there.

4 The other point I wanted to make about DWP's
5 position here, remember, their justification for the
6 larger pumpback is they are allowed to build whatever size
7 they want as long as they can meet the habitat goals of
8 the delta.

9 And there's another place that we believe
10 the city has misinterpreted the MOU. On -- I don't have
11 the page to quote now, but in the MOU it -- the MOU --
12 excuse me, the DEIR presents the paragraph from the MOU
13 that provides the goals for the delta for this project,
14 and they faithfully reproduce that entire paragraph;
15 however, in the discussion following that they completely
16 ignore one part of the goal.

17 One part of the goal, as somebody has
18 already mentioned, is to create -- create and maintain new
19 habitats that consists of riparian areas and ponds in the
20 delta. New habitats is in the MOU as one of the goals for
21 the delta to be produced by the Lower Owens River Project.

22 The city goes on to say in the document that
23 its goal for the delta will be simply to enhance and
24 maintain the existing conditions that are going to be in
25 the delta wetland area at the time the project gets

1 started. They completely ignore this part of the goal for
2 the delta that the Lower Owens River Project should create
3 new habitats.

4 Now, there is some language in there also
5 that will be if feasible. We recognize that there have
6 been some commitments on how much water should be going to
7 the delta; that we've agreed in the MOU that it be six to
8 nine cfs for the base flow. It turns out that that's
9 lower than what's going there already. And so not only
10 does the water agreement require the smaller pumpback, but
11 I think meeting the goals of the delta also require the
12 smaller pumpback station, given that we have a cap on the
13 base flows of six to nine cfs.

14 So if I haven't already made it clear, I
15 think the Draft EIR should explain why this key part of
16 the goal for the project has been omitted and the city's
17 goals for this. I think this is a critical omission. If
18 the city insists that that's not part of the goal, then I
19 think this goal of creating new habitat should at least be
20 included in an alternative, because I think it's very
21 clear that the MOU says "new habitats."

22 I believe that's about all I've got to say
23 right now. I want to thank you for the opportunity. And
24 we'll be submitting more comprehensive comments in
25 writing. This is quite a large document, and it's going

1 to take a while to get to it. Thank you very much.

2 JOHN GRAY: Thank you, Mark.

3 And our last commenter is Karen
4 Ferrell-Ingram.

5 KAREN FERRELL-INGRAM: Hi. I'm Karen
6 Ferrell-Ingram. I have a lot of concerns related to the
7 LORP but tonight will briefly talk about noxious weeds,
8 everybody's favorite subject.

9 A fully funded noxious weed program to
10 monitor and eradicate salt cedar and other weeds in the
11 LORP area I believe is essential to achieving the goals of
12 the LORP. Studies have shown that after habitat loss,
13 noxious weeds are the greatest threat to biodiversity, and
14 as biodiversity and healthy functioning ecosystems are
15 cited as part of the overall goal of the LORP, control of
16 noxious weeds becomes critical.

17 Salt cedar is already a problem in this
18 valley, as everybody knows, and the LORP, through flooding
19 and rewatering, will create even more prime habitat for
20 the spread of this noxious weed. Salt cedar is extremely
21 aggressive and provides no benefit to wildlife, birds, or
22 insects. It out-competes native plants that do benefit
23 wildlife and sucks up huge amounts of water.

24 And I find it incredible that there's no
25 noxious weed control program included in the LORP,

1 supposedly because of funding limitations. And as DWP
2 runs a very profitable agency, this excuse, to me, seems
3 far-fetched.

4 I believe that in partial return for all the
5 years of exporting cheap water and for all the years of
6 creating a dust bowl out of the Owens Valley, DWP should
7 fully fund a noxious weed control program, and that this
8 is a critical part of achieving the goals of the LORP.

9 Thanks.

10 MR. GRAY: Thank you, Karen.

11 (Public comments concluded.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF INYO)

I, NICCOLE M. ROSSY, a Certified Shorthand Reporter in and for the State of California, for the County of Inyo, do hereby certify that the foregoing pages, 1 through 64, comprise a full, true, and correct transcription of my stenotype notes taken in the matter of the above-entitled cause on December 5, 2002.

Dated this 19th day of December, 2002.

Niccole M. Rossy
Niccole M. Rossy, CSR #10698