Comments and Responses to Comments

on the

Initial Study and Mitigated Negative Declaration

for the

Owens Lake Solar Demonstration Project

Los Angeles Department of Water and Power

Environmental Affairs
111 North Hope Street, Room 1044
Los Angeles, CA 90012

May 2013

Owens Lake Solar Demonstration Program

Response to Comments

1.1 INTRODUCTION

In March 2013 an Initial Study (IS) was prepared by LADWP based on California Environmental Quality Act (CEQA) Guidelines Appendix G, to determine whether construction and operation of the proposed Owens Lake Solar Demonstration Project would result in significant effects on the environment. Potentially significant effects were identified for biological resources and cultural resources. With incorporation of mitigation measures, impacts were reduced to less than significant levels, and a Mitigated Negative Declaration (MND) was identified as the appropriate CEQA document.

The public review period for the IS/MND began on March 28, 2013 and ended on April 29, 2013. Copies of the IS/MND were submitted to the State Clearinghouse for distribution to State agencies. The IS/MND was also directly distributed to potential responsible and trustee agencies and interested organizations and individuals, including two Native American tribal representatives. A Notice of Availability (NOA) of the IS/MND was distributed to additional parties thought to have an interest in the project. Copies of the IS/MND were available at LADWP offices in Los Angeles and Bishop, at two libraries in Inyo County, and electronically on the LADWP website.

According to CEQA Guidelines Section 15074(b), "Prior to approving a project, the decisionmaking body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration together with any comments received during the public review process." Comments on the Initial Study were received from one federal agency, five state agencies, the Big Pine Paiute Tribe of the Owens Valley, and an adjacent resident and business owner. Copies of each comment letter received, and staff responses to those comments, are included in this document, which will go to the Board of Water and Power Commissioners for consideration during the project approval process.

1.2 WRITTEN COMMENTS AND RESPONSES

The written comment letters received in response to the IS/MND are listed in Table 1 below. The comments and associated responses are arranged by agencies first, followed by the Native American Tribe, then the adjacent business owner. Each letter has been assigned a number code, and individual comments in each letter have also been coded to facilitate responses.

Table 1. Written Comments Received in Response to the MND

Letter	*Commenter*	*Date*
1	State of California Governor's Office of Planning and Research State Clearinghouse *Signed: Scott Morgan, Director*	April 26, 2013
2	State of California Governor's Office of Planning and Research State Clearinghouse *Signed: Scott Morgan, Director*	April 29, 2013
3	U.S. Fish and Wildlife Service *Signed: Diane K. Noda, Acting Field Supervisor*	April 29, 2013
4	State of California Department of Transportation (Caltrans), District 9 *Signed: Gayle J. Rosander, IGR/CEQA Coordinator*	April 18, 2013
5	Lahontan Regional Water Quality Control Board *Signed: Jan Zimmerman, PG, Engineering Geologist*	April 24, 2013
6	California State Lands Commission *Signed: Cy R. Oggins, Chief, Division of Environmental Planning and Management*	April 25, 2013
7	California Department of Fish and Wildlife *Signed: Bruce Kinney, Staff Environmental Scientist*	April 25, 2013
8	Big Pine Paiute Tribe of the Owens Valley *Signed: Virgil Moose, Tribal Chairperson*	May 1, 2013
9	Boulder Creek RV Resort, LLC *Signed: Jaque and Art Hickman, Owners*	April 26, 2013

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

EDMUND G. BROWN JR.
GOVERNOR

KEN ALEX
DIRECTOR

April 26, 2013

Letter #1

Julie Van Wagner
Los Angeles Department of Water and Power
111 North Hope Street
Los Angeles, CA 90012

Subject: Owens Lake Solar Demonstration Project
SCH#: 2013031075

Dear Julie Van Wagner:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on April 25, 2013, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

EDMUND G. BROWN JR.
GOVERNOR

KEN ALEX
DIRECTOR

April 29, 2013

Letter #2

Julie Van Wagner
Los Angeles Department of Water and Power
111 North Hope Street
Los Angeles, CA 90012

Subject: Owens Lake Solar Demonstration Project
SCH#: 2013031075

Dear Julie Van Wagner:

The enclosed comment (s) on your Negative Declaration was (were) received by the State Clearinghouse after the end of the state review period, which closed on April 25, 2013. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2013031075) when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

Letters #1 and #2

Scott Morgan
Director, State Clearinghouse
Governor's Office of Planning and Research
P.O. Box 3044
Sacramento, California 95812-3044

These letters acknowledge that LADWP has complied with the State Clearinghouse review requirements for environmental documents prepared in compliance with CEQA. Comments on the Initial Study were received from four state agencies; one comment letter was received after the close of the state review period. These comments are included in this document as Letters 4 through 7 with responses following each letter. No further response to the State Clearinghouse letter is necessary because no issues related to the adequacy of the analysis in the Initial Study were raised.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

Letter #3

IN REPLY REFER TO:
08EVEN00-2013-CPA-0098

April 29, 2013

Julie Van Wagner
City of Los Angeles Department of Water and Power
111 North Hope Street, Room 1044
Los Angeles, California 90012

Subject: Notice of Intent to Adopt a Mitigated Negative Declaration for the Owens Lake Solar Demonstration Project

Dear Ms. Van Wagner:

This letter is in response to the referenced notice of intent, which describes a demonstration photovoltaic electric generating facility proposed on the bed of Owens Lake. We offer our comments on the notice of intent under the authorities of the Migratory Bird Treaty Act and other authorities of the Department of the Interior.

3-1 The solar demonstration site consists of approximately 5.3 acres located within the 2.03-square-mile phase 8 dust mitigation area located in the northwest section of the 110-square-mile lake bed. The proposed project would produce 500 kilowatts of electricity through the use of ground-mounted photovoltaic solar arrays. The project is considered a pilot to determine whether Owens Lake is a suitable location for the development of a larger-scale energy production facility. The project would assist the Department of Water and Power in meeting its renewable energy portfolio standards, as well as provide data on the feasibility of additional solar facilities on Owens Lake.

Migratory Birds

3-2 Migratory birds are protected by the Migratory Bird Treaty Act and are a trust resource of the U.S. Fish and Wildlife Service (Service). Migratory birds are important economically; they control insect and rodent pests and are important to numerous communities where bird-watching attracts tourists.

Owens Lake has long been known as an important bird nesting and migration site within the Pacific Flyway zone. Classified as an Audubon Important Bird Area, it hosts tens of thousands of shorebirds and waterfowl and is the largest nesting location for snowy plovers (*Charadrius alexandrinus*) in California. In April 2012, a total bird count for one day on the lake was over

75,000 birds, and 47,000 were shorebirds (Prather 2013). After reviewing the mitigated negative declaration, the Service is concerned that it does not adequately address the potentially significant biological impacts associated with the project.

Specifically, the Service considers proposed mitigation measures BIO-2 and 3 to be inadequate to address the impact that the project would have on the nesting success of the snowy plover. The notice of intent indicates that snowy plovers were not found nesting on the project site prior to the gravel surface being installed, which was done last year, although they have been seen on the site in previous seasons, albeit in low numbers. Multiple snowy plover nests were found along similar improved surfaces, such as the adjacent Corridor 1 Road and other gravel roads elsewhere on Owens Lake. Given the propensity for snowy plovers to nest in gravel substrates and the close proximity of suitable habitat west of the site, individuals of this species are highly likely to use the demonstration site for nesting in future years.

The Service disagrees with the assumption that, once the solar facilities are installed, snowy plovers will not use the site. The potential exists that snowy plovers may expand their nesting grounds to this gravel substrate before and after the Department of Water and Power constructs the solar project; although they may not nest within the solar array, we expect that they would use adjacent areas and roads that have been covered with gravel. The Department of Water and Power proposes to survey for snowy plovers once, within 7 days prior to the start of ground-disturbing activities. Snowy plovers may lay two or three clutches of eggs per season; additionally, not all birds in the area will lay eggs at the same time. Consequently, one survey before the project's activities commence is inadequate. 3-2

Reproductive success can be directly affected by the presence of human activity and indirectly due to dust, vibrations from installing pilings during construction and the attraction of predators. We concur that a 200-foot buffer between a nest and project activities will reduce noise, vibration from digging and disturbance that could occur during construction activities.

Workers would be allowed to drive through the buffer at 15 miles per hour. Snowy plover eggs and chicks are very difficult to detect in general. Both eggs and chicks are well camouflaged; drivers and passengers would likely be unable to detect a potential nest or wandering chicks while driving at 15 miles per hour. Additionally, the natural response of younger chicks to danger (freezing in place) makes them susceptible to being crushed by vehicles. Therefore, we disagree that this measure would decrease the disruption of nesting or mortality of nesting snowy plovers within the project area.

Outside of buffer areas, the Department of Water and Power would require vehicles to not exceed 30 miles per hour on all maintained roads. As we noted previously, snowy plovers nest on the gravel roads in the vicinity of the project and even a speed limit of 15 miles per hour is unlikely to prevent the deaths of birds.

In summary, we conclude that the mitigation measures for the snowy plover that the Department of Water and Power has proposed to implement during construction and operation of the project are inadequate. We recommend that construction occur outside of the nesting season to

3-2 minimize impacts on the reproductive success of snowy plovers. If work (including driving) must take place during the nesting season, we recommend that the Department of Water and Power implement the proposed 200-foot buffer for all activities other than driving on roads. If roads are used during the nesting season, the qualified biologist should survey the roads prior to the beginning of work activity each day to determine if snowy plovers have established new nests or if chicks are using specific areas of the road; if the biologist determines that either of these circumstances are present, the Department of Water and Power should use site-specific measures to avoid killing birds. These measures should be applied to all migratory birds.

3-3 Seabirds, such as grebes that migrate over inland areas, have landed in parking lots and within areas of large solar arrays. These surfaces likely resemble bodies of water to the birds. Some species, such as grebes, are only able to take flight from water; consequently, these birds will die once they are on the ground. Because Owens Lake is an important area for migratory birds and is located relatively close to Mono Lake, which supports hundreds of thousands of grebes annually, the Department of Water and Power should analyze this potential effect and consider means to mitigate this potential impact.

Other Impacts to Biological Resources

The Department of Water and Power did not address several biological impacts associated with the development of a solar power facility in the proposed mitigated negative declaration. We will discuss these impacts in the following paragraphs.

3-4 Solar panels can act as ecological traps to organisms that use polarized light as a behavioral cue. Research has shown that the design of solar panels and collectors and their placement relative to aquatic habitats will likely affect populations of aquatic insects directly (Kriska et al. 2009, Horvath et al. 2010, Rogers 2010).

For example, insects continuously fly over solar panels until they get exhausted and die (Kriska et al. 2009, Rogers 2010, Lundy et al. 2013). The losses of insects are important, because they provide food for fish, birds and other species.

To minimize this effect on aquatic insects, the Service recommends that the Department of Water and Power use solar panels with white borders or grids of white strips that crisscross the panels (divide the panel into smaller segments). Horvath et al. (2010) showed that these modifications reduced the attractiveness of solar panels to aquatic insects by 10- to 26-fold.

3-5 Bats have been found to be attracted to solar panels; they will continue to approach the surfaces of the panels and try to drink - even after they accidentally landed on surface (Greif et al. 2010). Because of their high metabolic rates, bats are susceptible to shortages of food and water; this behavior may cause bats to expend valuable metabolic resources to the extent that they cannot subsequently find food and water. We are unaware of any method to minimize this effect.

3-6 Trash associated with construction and maintenance of a project could attract predators like common ravens (*Corvus corax*) or small mammals to the site. An increase in the number of common ravens and small mammals onsite may lead to an increase in predation of nesting birds.

3-6 The Service recommends placing all trash and organic debris in secure, self-closing receptacles to prevent the introduction of subsidized food resources to predators.

3-7 To minimize hazardous chemical spills, we also suggest conducting all maintenance and fueling of equipment/vehicles offsite when possible. To limit the introduction of invasive weeds to the area, we recommend that heavy equipment that was used at a previous site is thoroughly cleaned of dirt and debris to the extent that weeds will not be transferred. We recommend that the Department of Water and Power confine all construction activities, project vehicles, and

3-8 equipment within the delineated boundaries of construction areas that authorized biologists and that project personnel be prohibited from driving off road or performing ground-disturbing activities outside of designated areas during construction, operation, maintenance, or decommissioning.

Siting of a Utility-Scale Solar Plant

3-9 Because the purpose of the proposed project is to evaluate the suitability of Owens Lake for a larger utility-scale solar power facility, the Service strongly recommends that the Department of Water and Power develop specific monitoring plans to be implemented during the construction and operation of the test facility to determine the effects of such a solar facility on bats, birds, and insects. These plans should be rigorous and designed to accommodate statistical analyses.

3-10 Because a utility-scale solar facility would have the potential to kill and injure large numbers of migratory birds and bats, the Service would likely recommend that the Department of Water and Power prepare a bird and bat conservation strategy. For this reason, we recommend that the Department of Water and Power consider discussing this strategy with the Service in the event that it decides to proceed with a larger project.

If you have any questions, please contact Abigail Convery of my staff at (805) 644-1766, extension 369.

Sincerely,

Diane K. Noda
Acting Field Supervisor

Letter #3

Diane K. Noda
Acting Field Supervisor
United States Department of the Interior
Fish and Wildlife Service
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

3-1 This comment presents introductory remarks and summarizes the description of the proposed project. The comment does not address specific issues or concerns related to the adequacy of the environmental analysis in the Initial Study. However, USFWS's authority under the Migratory Bird Treaty Act is noted.

3-2 LADWP is thoroughly familiar with existing bird use of Owens Lake through the on-going biological resources monitoring for the Owens Lake Dust Mitigation Program (OLDMP). Monitoring activities include Snowy Plover monitoring, surveys for nesting birds and participation in the Audubon Big Day bird counts. In 2000 and 2001, the two years immediately prior to implementation of shallow flooding, lake-wide surveys estimated 112 and 167 Snowy Plovers, respectively, at Owens Lake (Ruhlen, Page, and Stenzel, 2006). Snowy Plovers responded rapidly to the increasing acreage of shallow flood habitat and the population has averaged 527 birds in the period 2002 to 2012 (LADWP, 2012).

As presented in the Initial Study Section 2.3.4, no Snowy Plover nests have been documented in the Phase 8 (or Solar Demo) project area to date nor has this area supported high plover use based on previous lake-wide plover counts. Therefore, nesting by Snowy Plover in the Solar Demo project area is unlikely. We agree that Snowy Plover may nest in gravel, however, it is well documented that nests are typically found in close proximity to water and foraging habitat. After implementation of shallow flooding (2002) the average distance of Snowy Plover nests to water was 8 meters (standard error (SE) =72, n=89) inside the OLDMP area and 425 meters (SE=72, n=28) in natural spring areas (Ruhlen et al., 2006). The Project is approximately 900 meters from the closest Snowy Plover foraging habitat (T35-1) which is of marginal habitat value (Owens Lake Master Plan Draft, Appendix F) and over 2 miles away from any foraging habitat west of the site.

Mitigation measures BIO-1, BIO-2 and BIO-3 are standard measures that have been implemented as part of the OLDMP. With implementation of these measures, construction, operations and maintenance activity for the OLDMP has not significantly impacted Snowy Plover or any other birds. In fact, with implementation of the dust

program, the Snowy Plover population has doubled since 2002. A total of 736 adults were counted on the most recent survey (LADWP, 2012). This survey included observations in substantial areas of foraging habitat including all shallow flood areas. During this survey, only one Snowy Plover adult was found in proximity to the Project site (over 1 mile away). This survey documents that, while there is potential for the Project to impact nesting Snowy Plover, the potential is minimal.

The Initial Study found it is possible that Snowy Plovers could be adversely impacted by noise, vehicular traffic and foot traffic during construction of the Solar Demo project. Therefore mitigation measures have been defined to reduce the potential impact to a less than significant level.

It is noted that Snowy Plover nests and chicks are cryptic (relying on the coloration of their eggs to protect them from predation). However, construction workers on Owens Lake are trained on an annual basis as part of the Lakebed Worker Education Program to recognize Snowy Plover, their life history, and the requirements for nest buffer and speed limits (Mitigation Measure BIO-1). Crews are also taught to recognize the alarm behaviors of adults and to leave the immediate area and contact a biological monitor if they observe these behaviors. This is current practice for the OLDMP and mortality has not been documented by ongoing monitoring even in much higher wildlife use areas (Owens Lake Habitat Management Plan, LADWP 2010). Buffers around nesting birds are more densely marked where they intersect roads. This may include placement of signs in high traffic areas. Maps with nest location information and construction restrictions are distributed whenever a new nest is found.

The speed limits specified by BIO-2 and BIO-3 have been implemented for the construction, operation and maintenance of the OLDMP for over 10 years. Past construction areas have included areas with higher suitability for Snowy Plover nesting than the Solar Demo project site. As is the current practice for the OLDMP, the Project area would be surveyed prior to ground disturbing activities and at least every 7 days during the breeding season when construction is occurring. When nests are found on a roadway, biological monitors have the authority to close roads until the nest is no longer active.

These measures have been proven to be effective for the protection of nesting Snowy Plover. In addition to the preconstruction survey by a biologist no more than 7 days prior to the start of ground-disturbing activities, the construction crew would be trained in nest identification and appropriate reporting to biological monitors. Therefore, BIO-2 and BIO-3 (combined with BIO-1, BIO-4 and BIO-5) are adequate mitigation for the Solar Demo project.

The existing roadway network on Owens Lake is used continually by LADWP, its contractors, GBUAPCD, and (except for areas restricted for public safety) the entire lake is open to the public. Therefore, roads are currently used during nesting season unrelated to the Solar Demo project. As discussed above, agency staff and contractors are trained to report observed Snowy Plover nests, buffers are established when there is active nesting, maps of nests are distributed, and speed limits are enforced. Active waterbird nests are noted and mapped as well.

Currently, construction of the Solar Demo project is scheduled to begin in January 2014 (outside the Snowy Plover breeding season). However, the start date could change, and the total construction period would be expected to extend into the breeding season. As recommended in your comment and identified in mitigation measure BIO-2, a 200-foot buffer would be placed around all active Snowy Plover nests that are discovered on the Solar Demo project site or on adjacent roadways.

3-3 Eared Grebes, and rarely other grebe species, are known for Owens Lake. It has been found that Eared Grebes, and other diving waterbirds that may only be able to take flight from water, rarely use ponds less than 40 acres in size at Owens Lake (Owens Lake Master Plan Draft, Appendix F). There are many large ponds distributed throughout the lakebed. The Project site is only 5 acres in size. The Solar Demo project consists of the installation of solar panels made up of individual cells, which have lighter stripes on them and are surrounded by lighter colored material. The panels have aluminum borders, which are also substantially lighter than the cells themselves. In addition, the rows of panels would be separated from each other by four to six feet, allowing the underlying gravel to show between the panels. Therefore, the site would not appear as one continuous body of water.

3-4 Over 30 square miles of shallow flooding, which provide aquatic invertebrate habitat, have been installed on Owens Lake by LADWP. Insects as forage are not a limiting resource to wildlife on Owens Lake given the large amount of productive aquatic habitat created by the dust control project. In addition, as explained in Response 3-3, the solar panels would not appear as one continuous body of water. Construction of the Solar Demo project on 0.008 square miles would have a less than significant impact on aquatic invertebrates.

3-5 Over 30 square miles of shallow flooding, which provide a source of drinking water and potential foraging habitat for bats, have been installed on Owens Lake by LADWP. Construction of the Solar Demo project on 0.008 square miles would have a less than significant impact on bats. Monitoring for mortality associated with the operations and maintenance of the Project would occur once monthly during migration and breeding periods (March through November). Please also see response to comment 3-9.

3-6 Refuse management during construction and maintenance activities on Owens Lake has been addressed since 2005 by the Corvid Management Plan and these measures would continue with implementation of the Solar Demo project. The Corvid Management Plan requires that refuse containers on the lake be secure receptacles with lids that prevent wildlife access. The focus of this measure is to avoid attracting potential nest predators such as ravens and coyotes into the area. Additionally, the lakebed worker education program directs workers not to leave any form of trash on the lakebed.

3-7 Vehicle parking, maintenance and fueling is conducted at the LADWP facility in Keeler, at a designated construction staging area located north of the project site, or potentially on the project site within a bermed area covered with a geotextile membrane. As is existing practice, spills are quickly contained and cleaned-up.

3-8 Under existing conditions, the Solar Demo project area is covered with 4 inches of gravel over a geotextile membrane. There are no plant species present on the site and establishment by plants in the future, including weed species, is not anticipated. However, a noxious weed monitoring and control program is being implemented as part of the OLDMP and these procedures would be followed for the Solar Demonstration project. Ground-disturbing activities outside of designated construction and maintenance areas are prohibited.

3-9 Monitoring of wildlife on Owens Lake is on-going including use of OLDMP shallow flood units, morbidity and mortality. The monitored area includes the Solar Demo project site. While wildlife collisions with existing OLDMP infrastructure are rare, the solar panels would receive additional scrutiny as described below. Data would be analyzed and reported in the Owens Lake biological compliance monitoring report.

Monitoring for mortality associated with the operations and maintenance of the Project would occur once monthly during migration and breeding periods (March through November). During monitoring, the biological monitor would walk the entire site for evidence of collisions (piles of feathers, dead or injured wildlife, etc.). Evidence of potential scavengers would also be documented, such as coyote tracks or scat and observed corvids use. Monitoring would occur for 1 year after Project commissioning with results documented in the Owens Lake biological compliance monitoring report. As necessary, the information would be used to modify project operations to minimize impacts to wildlife.

Operations and maintenance personnel frequent all areas of the lakebed and report any observations of dead or injured birds or other wildlife to biological monitors for collection and documentation (as per the Snowy Plover awareness training). Carcasses or injured wildlife, if any, are documented by the biological monitor. The following data are recorded: GPS location, date of collection, species, sex, age, condition (intact or

scavenged), estimated time since death or injury, and current weather conditions (temperature, wind events, and recent precipitation). As part of ecological toxicity monitoring for the OLDMP, mortalities may have a field necropsy performed, if time allows, to determine illness or potential cause of death. Tissue samples may also be analyzed for environmental toxins. Any raptor mortalities are reported to CDFW within 24 hours of discovery.

3-10 A utility-scale solar facility on Owens Lake is not currently proposed by LADWP. A future project, if any, would be evaluated for impacts to biological resources prior to project adoption and construction. However, it has not been documented that such a project would have the potential to kill or injure large numbers of migratory birds or bats. As recommended, LADWP would consult with the USFWS in the future if a utility-scale solar facility is proposed.

References

Ruhlen, T. D., G. W. Page, and L. E. Stenzel. 2006. Effects of a Changing Environment on Nesting Snowy Plovers at Owens Lake, California. Western Birds 37: 126-138.

LADWP. 2010. Owens Lake Habitat Management Plan, Owens Lake, California. March 2010.

DEPARTMENT OF TRANSPORTATION
DISTRICT 9
500 SOUTH MAIN STREET
BISHOP, CA 93514
PHONE (872-0785
FAX (760) 872-0754
TTY 711 (760) 872-0785
www.dot.ca.gov

Flex your power!
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Letter #4

April 18, 2013

Julie Van Wagner
Los Angeles Department of Water and Power
111 North Hope Street, Room 1044
Los Angeles, California 90012

File: 09-Iny-53.27
MND
SCH #: 2013031075

Dear Ms. Van Wagner:

Owens Lake Solar Power Demonstration Project – Mitigated Negative Declaration (MND)

The California Department of Transportation (Caltrans) District 9 appreciates the opportunity to comment on the MND for the proposed solar power demonstration project east of US 395 in the Owens Dry Lake area. We have the following comments:

4-1 • The project would use the US 395/Boulder Creek Campground Road (a non-county road) median crossover intersection and an existing unimproved Bureau of Land Management (BLM) roadway (referred to as "Brady Highway"), which the Department of Water and Power (DWP) already uses for other dust mitigation project access. This median crossover intersection, with some auxiliary lanes, was constructed as part of the Caltrans Bartlett US 395 four-lane project, which also defined an access control opening to be shared by the abutting parcels - Boulder Creek's (APN 026-170-27) and BLM's (APN 026-170-03). We find no record of an encroachment permit for the access. Access rights should be legitimized via a permit of record (no fee) to document current ownership/use.

4-2 • Given the minimal project trip numbers stated in the MND, the existing intersection configuration, should be sufficient. However, in order to ensure safety for workers, campground users, and through-traffic, a debris rack must be installed to avoid tracking onto the shared access and the highway. A Construction Phase Traffic Control Plan, including vehicle routing, signage, timing, etc. is also necessary. An encroachment permit would be required for placement of the rack, signs, or other traffic control items in Caltrans' right-of-way.

4-3 • Any damage to public roadways must be repaired to pre-construction phase conditions.

4-4 • For encroachment permit information you may contact Mark Reistetter of the District 9 Office at (760) 872-0674 or mark.reistetter@dot.ca.gov.

4-5 • The MND analysis of Aesthetics/Visual Resources appears to adequately address Caltrans' surface transportation concerns regarding aesthetics and light/glare.

• Oversized/overweight loads would require a permit from the Transportation Permits Office. See: http://www.dot.ca.gov/hq/traffops/permits/

4-6

We value our cooperative working relationship concerning project-related State highway impacts in Inyo County. You may contact me at (760) 872-0785, with any questions.

Sincerely,

Gayle J. Rosander

GAYLE J. ROSANDER
IGR/CEQA Coordinator

c: State Clearinghouse
Arthur Hickman, Boulder Creek Campground
Larry Primosch, BLM Bishop
Mark Reistetter, Caltrans

Letter #4

Gayle J. Rosander
IGR/CEQA Coordinator
California Department of Transportation
500 South Main Street
Bishop, California 93514

4-1 LADWP would coordinate with Mark Reistetter regarding an encroachment permit for access at US 395/Brady Highway.

4-2 LADWP would install a debris rack to avoid tracking onto the shared access with the campground and highway. A Construction Phase Traffic Control Plan would be prepared and submitted to Caltrans. An application for an encroachment permit for placement of a debris rack, signs and other traffic control items in Caltrans' right-of-way would be submitted.

4-3 LADWP would repair roadway damage caused by construction of the Solar Demo project to maintain public roadways to at least pre-construction phase conditions.

4-4 LADWP would coordinate with Mark Reistetter regarding encroachment permits.

4-5 The comment that the Aesthetics/Visual Resources analysis in the Initial Study is adequate to address Caltrans' concerns is noted.

4-6 Materials deliveries for the Solar Demo project may require oversized or overweight loads. If so, LADWP would obtain the necessary permit from the Transportation Permits Office.

Letter #5

April 24, 2013

File: Environmental Doc Review
Inyo County

Julie Van Wagner
Los Angeles Department of Water and Power
111 North Hope Street, Room 1044
Los Angeles, CA 90012
Email: Julie.vanwagner@ladwp.com

COMMENTS ON THE NOTICE OF COMPLETION OF AN INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION FOR THE OWENS LAKE SOLAR DEMONSTRATION PROJECT, INYO COUNTY, STATE CLEARINGHOUSE NO. 2013031075

California Regional Water Quality Control Board, Lahontan Region (Water Board) staff received the Notice of Completion of an Initial Study and Mitigated Negative Declaration (IS/MND) for the above-referenced (Project) on April 2, 2013. The IS/MND was prepared by the Los Angeles Department of Water and Power (LADWP) and submitted in compliance with provisions of the California Environmental Quality Act (CEQA). Water Board staff, acting as a responsible agency, is providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations, title 14, section 15096. Based on our review of the IS/MND, we have determined that post-construction stormwater management must be considered a component of the Project. While we concur that preparation of an MND appears to be the most appropriate level of environmental review for this Project, best management practices (BMPs) that effectively treat post-construction stormwater runoff should be included as part of the Project. We recommend that LADWP consider our comments and value our mission to protect waters of the State and maintain water quality in the Lahontan Region.

5-1

Project Description

The proposed Project is to construct a 5.3 acre photovoltaic demonstration project on a portion of the Owens Lake bed known as the Phase 8 dust mitigation area. The Project has the potential to generate up to 500 kilowatts of electricity. The purpose of the Project is to evaluate the feasibility of a larger-scale project for cost and constructability, wind speed reduction, solar energy generation and performance, corrosion and load resistance, settlement, and other factors.

Specific Comments

Our specific comments on the Project are presented below.

1. The IS/MND did not include an adequate review of the Project's post-construction conditions with respect to hydrology. Project implementation will result in a net increase in the amount of post-construction stormwater runoff. We encourage maintaining natural drainage paths and landscape features to slow and filter runoff and utilizing vegetated areas for stormwater management and onsite infiltration. Without adequate design, the consequences of discharging concentrated stormwater flows to natural drainage systems could lead to scour and erosion and degradation of surface water resources. The IS/MND should evaluate the potential post-construction impacts, particularly potential post-construction hydrologic impacts, and describe specific BMPs that, when implemented, will reduce those potential impacts to a less than significant level.

5-2

2. The IS/MND did not identify existing surface waters within the Project vicinity, specifically the extent of waters of the state with respect to Owens Lake and associated tributaries and fringe wetland areas. Project implementation may permanently or temporarily impact these water resources by grading, infilling, and compacting. The IS/MND must accurately identify all surface water resources within the Project area and evaluate the Project's potential impacts to the environment including hydrology, water quality, and wildlife uses. Adequate mitigation must be provided to reduce potential Project impacts to a less than significant level.

5-3

3. We request that construction staging areas be sited in upland areas outside stream channels and other surface waters on or around the Project site. Buffer areas should be identified and exclusion fencing used to protect the water resource and prevent unauthorized vehicles or equipment from entering or otherwise disturbing the stream channel. Construction equipment should use existing roadways to the extent feasible.

5-4

4. All temporary impacts should be restored (recontoured and revegetated) to match pre-Project conditions.

5-5

5. Obtaining a permit and conducting monitoring does not constitute adequate mitigation. Development and implementation of acceptable mitigation is required. The environmental document must specifically describe the BMPs and other measures used to mitigate Project impacts.

5-6

Permitting Requirements

A number of activities associated with the proposed Project appear to have the potential to impact waters of the State and, therefore, may require permits issued by either the State Water Resources Control Board (State Water Board) or Lahontan Water Board. The required permits may include:

5-7

- Land disturbances of more than 1 acre may require a Clean Water Act (CWA), section 402 (p) stormwater permit, including a National Pollution Discharge Elimination System (NPDES) General Construction Stormwater permit obtained from the Lahontan Water Board;

5-7

- Water diversion and/or dewatering activities may be subject to discharge and monitoring requirements under the NPDES General Permit, Limited Threat Discharges to Surface Waters, Board Order R6T-2008-0023; and

- Streambed alteration and or discharge of fill material to a surface water may require a CWA, section 401 water quality certification for impacts to federal waters (waters of the U.S.), or dredge and fill waste discharge requirements for impacts to non-federal waters, both issued by the Lahontan Water Board.

5-8

Some waters of the State are "isolated" from waters of the US. Determinations of the jurisdictional extent of the waters of the US are made by the United States Army Corps of Engineers (USACE). Projects that have the potential to impact surface waters will require the appropriate jurisdictional determinations. These determinations are necessary to discern if the proposed surface water impacts will be regulated under section 401 of the CWA or through dredge and fill WDRs issued by the Water Board. We request that the Project proponent consult with the USACE and perform the necessary jurisdictional determinations for surface waters within the Project area.

5-9

Please be advised that these permits may be required for the proposed Project, as outlined above. Should Project implementation result in activities that will trigger these permitting actions, the Project proponent is urged to consult with Water Board staff prior to Project implementation. Information regarding these permits, including application forms, can be downloaded from our web site at https://waterboards.ca.gov/lahontan/.

Thank you for the opportunity to comment. If you have any questions regarding this letter, please contact me at (760) 241-7376 (jzimmerman@waterboards.ca.gov) or Patrice Copeland at (760) 241-7404 (pcopeland@waterboards.ca.gov).

Jan M. Zimmerman, PG
Engineering Geologist

cc: State Clearinghouse (SCH 2013031075)
(via email, state.clearinghouse@opr.ca.gov)
Debra Hawk, California Department of Fish and Wildlife
(via email, debra.hawk@wildlife.ca.gov)
Bruce Henderson, United States Army Corps of Engineers
(via email, bruce.a.henderson@usace.army.mil)

JZ\rc\U:\CEQA Review\OwensLake_MND.docx

Letter #5

Jan Zimmerman, PG
Engineering Geologist
Lahontan Regional Water Quality Control Board
14440 Civic Drive, Suite 200
Victorville, California 92392

5-1 This comment presents introductory remarks and summarizes the role of the Water Board under CEQA for the proposed project. Post construction stormwater runoff controls are addressed in response to comment 5-2.

5-2 This comment asserts that there will be a net increase in the amount of post-construction stormwater runoff when compared with preconstruction. This is not the case. The runoff without the solar panels is zero because the Phase 8 dust control measures project area, which is a layer of gravel on top of geotextile, is permeable. Therefore, under existing conditions, rain percolates into the gravel and through the geotextile. The same effect would occur after installation of the solar panels; some of the rain would hit the panels and flow onto the gravel and percolate downward. The small impervious areas created by the supports for the solar panels and the inverter pad would be inconsequential compared with the area covered by gravel. With regards to erosion, the energy dissipation provided by the gravel slows down any water that does not penetrate the soil. Thus, the Phase 8 project area acts as is its own BMP to control erosion.

5-3 This comment states that the IS did not identify existing surface waters within the Project vicinity. Please see attached letter regarding the U.S. Army Corps of Engineers' determination of no jurisdictional waters in the project vicinity. Note that the only indirect connection to downstream surface waters would be the Brine Pool, after passing through the existing Phase 8 gravel, which is permeable. As mentioned above, the existing Phase 8 gravel acts as a BMP, slowing down any rain flow and preventing erosion.

5-4 Equipment staging would be on the existing Gravel Cover (bermed) Phase 8 DCA. If needed, vehicle parking, maintenance and fueling may also be conducted at the LADWP facility in Keeler or at an existing construction staging area located north of the project site (outside Owens Lake). The project would not require vehicles or equipment in any stream channels. Construction vehicles and equipment would use existing roadways to access the Solar Demo site, which is adjacent to the existing Corridor 1 Road.

5-5 Existing contours of the site would be maintained (level Gravel Cover and existing roadway). The site is currently Gravel Cover DCA and unvegetated. Therefore, no revegetation would occur.

5-6 Significant water quality impacts related to construction or operation of the Solar Demo project have not been identified. However, since the project site exceeds 1 acre, compliance with the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities would be required. The following BMPs are anticipated to be implemented as part of the SWPPP. The list of BMPs will be reevaluated with the required Stormwater General Permit inspections.

Best Management Practices for the Protection of Stormwater Quality During Construction
Housekeeping Measures • Conduct an inventory of products used or expected to be used • Cover and/or berm loose stockpiled construction materials • Store chemicals in watertight containers
Employee Training • Brief staff on the importance of preventing stormwater pollution • Have staff review SWPPP • Conduct refresher training during the wet season • Document training
Erosion and Sediment Controls • Establish and maintain effective perimeter control • Stabilize construction entrances and exits to control sediment – inspect ingress and egress points daily, and maintain as necessary • Control dust during earthwork
Spill Prevention and Control • Inspect construction equipment for leaking • Use drip pans until equipment can be repaired • Cleanup spills Immediately – remove adsorbent promptly • Notify the proper entities in the event of a spill
Hazardous Waters Management and Disposal • Store hazardous wastes in covered, labeled containers with secondary containment for liquid hazardous wastes, if any • Store wastes separately to promote recycling and to prevent undesirable chemical reactions
Materials Handling and Storage • Establish a designated area for hazardous materials, if any • Berm, cover, and/or contain the storage area as necessary to prevent materials from leaking or spilling • Store the minimum volume of hazardous materials necessary for the work

Best Management Practices for the Protection of Stormwater Quality During Construction
Vehicle and Equipment Maintenance, Repair, and Storage • Inspect vehicles and equipment regularly • Conduct maintenance as necessary • Designate areas for storage – where fluids can be captured and disposed of properly
Scheduling • Avoid work during storm events • Stabilize work areas prior to predicted storm events

5-7 Compliance with the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities would be required. The project does not include any water diversion or dewatering activities. LADWP would coordinate with the Regional Board regarding other permits, as relevant.

5-8 The U.S. Army Corps of Engineers determined that the Phase 8 project area (which includes the Solar Demo site) does not comprise a jurisdictional water of the U.S. pursuant to 33 CFR Section 325.9. A Department of the Army Section 404 permit for discharges of fill material would not be required for the Solar Demo project. It is therefore assumed that a Section 401 Water Quality Certification is not applicable to the proposed project.

5-9 LADWP would coordinate with the Regional Board regarding necessary permits.

DEPARTMENT OF THE ARMY
VENTURA REGULATORY FIELD OFFICE
2151 ALESSANDRO DRIVE, SUITE 110
VENTURA, CA 93001

April 28, 2011

REPLY TO
ATTENTION OF

Regulatory Division

Katherine Rubin
Los Angeles Department of Water and Power
111 N. Hope Street, Room 1213
Los Angeles, California 90012

SUBJECT: Jurisdictional Determination for Phase 8, Owens Lake Dust Remediation Project

Dear Ms. Rubin:

This is in response to your request (Corps File No. SPL-2011-00429-BAH) dated April 28, 2011 for a determination of Corps jurisdiction for a portion of the Owens Lake bed. The Los Angeles Department of Water and Power (LADWP) proposes to implement Phase 8 of the Owens Lake Dust Remediation Project at the northwest corner of Owens Lake approximately six miles southeast of the town of Lone Pine, Inyo County, California. The location is within the bed of the former lake at a location with an approximate midpoint at latitude 36.523237° north and longitude 118.009159° west (Area A) and latitude 36.536761° north and 117.987107° west (Area B). Phase 8 would entail placement of an estimated 1.04 million tons of coarse gravel (1.01 million tons in Area A, and 0.03 million tons in Area B) to an approximate depth of 4 inches.

LADWP also proposes to investigate the suitability of the substrate in the Phase 8 project area to support solar energy panels. This investigation would auger up to 60 test holes for placement of piles to test axial and lateral loads, as well as excavated trenches 4 feet wide and 10 feet long, and at least one 20-foot-deep test pit 10 feet square.

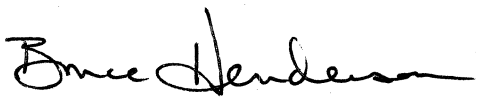
I have reviewed LADWP's delineation report and data sheets prepared on April 21, 2011. As you are aware, if an area is found to have indicators of hydrophytic vegetation, hydric soils, and suitable hydrology, it would be determined to be a wetland according to the Corps' 1987 Wetland Delineation Manual and the Arid West Supplement to the Manual. The delineation determined that none of the four sites examined had indicators of hydric soils or hydrophytic vegetation, and two of the sites had one primary indicator of wetland hydrology (salt crust). The report appropriately concluded that none of the sites met the criteria necessary to be determined a wetland. The Corps agrees with this assessment.

On a related note is whether or not the area may be determined to be jurisdictional as a non-wetland water of the United States pursuant to Section 404 of the Clean Water Act. In 1994, the Corps assessed its likely jurisdiction on Owens Lake in light of its being dewatered by diversions of inflows since the early 20th Century. Because there is often a residual "brine

pool" on the west side of the lake, the Corps' Los Angeles District Regulatory Branch (as it was known at that time) determined jurisdictional waters of the U.S. on Owens Lake to encompass the brine pool but most of the remainder would be non-jurisdictional. The Phase 8 project area is at a noticeably higher elevation. Therefore, it is the Corps' determination that the Phase 8 project area does not comprise a jurisdictional water of the U.S. pursuant to 33 C.F.R. §325.9, and a Department of the Army Section 404 permit is not required for discharges of fill material, including gravel to control fugitive dust, in this area.

If you have any questions, please contact me at 805-858-2145 or via e-mail at Bruce.A.Henderson@usace.army.mil. Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at: http://per2.nwp.usace.army.mil/survey.html.

Sincerely,



Bruce Henderson
Sr. Project Manager
North Coast Branch
Regulatory Division

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

JENNIFER LUCCHESI, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
California Relay Service From TDD Phone **1-800-735-2929**
from Voice Phone **1-800-735-2922**

Contact Phone: **(916) 574-1900**
Contact FAX: **(916) 574-1885**

April 25, 2013

Letter #6

File Ref: SCH #2013031075

Ms. Julie Van Wagner
Los Angeles Department of Water & Power
111 North Hope Street, Room 1044
Los Angeles, CA 90012

Subject: Initial Study and Mitigated Negative Declaration (MND) for the Owens Lake Solar Demonstration Project, Inyo County

Dear Ms. Van Wagner:

The California State Lands Commission (CSLC) staff has reviewed the subject MND for the Owens Lake Solar Demonstration Project (Project), which is being prepared by the Los Angeles Department of Water and Power (LADWP). The LADWP, as a public
6-1 agency proposing to carry out a project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The CSLC is a trustee agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters. Additionally, because the Project involves work on sovereign lands, the CSLC will act as a responsible agency.

CSLC Jurisdiction and Public Trust Lands

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways (Pub. Resources Code, § 6301). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

6-2

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark

except where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

The proposed Project involves the historic bed of Owens Lake, which is State sovereign land under the jurisdiction of the CSLC and, as correctly stated in the MND, will require a new or amended lease from the CSLC. On February 25, 2010, LADWP submitted a
6-2 lease application for a General Lease – Public Agency Use, for a solar demonstration and information collection study at Owens Lake (file reference W 26396). On March 22, 2010, CSLC staff sent a letter to LADWP stating that the application was incomplete and requesting additional information. As of this date, the application remains incomplete. CSLC staff recommends that LADWP formally request the application be terminated and a new lease application and minimum expense deposit submitted in the amount of $3,025. Please contact Drew Simpkin, Public Land Management Specialist, at the contact information at the end of this letter for more information on leasing and jurisdiction.

Project Description

The LADWP proposes to construct a photovoltaic system on a 5.3-acre parcel located in the existing Phase 8 dust control area (DCA) to meet the agency's objective to construct a permanent solar facility to generate energy which would assist LADWP and the City of Los Angeles in meeting their Renewable Portfolio Standard goals while determining the feasibility of additional solar facilities on Owens Lake.

From the Project Description, CSLC staff understands that the Project would include the following components:

- Photovoltaic Panels. Solar photovoltaic panels would be installed in rows on an
6-3 aluminum framework attached to one of the three types of foundation: two concrete ballast-based systems and one pile-driven pier system. Concrete ballasts would be placed on top of existing gravel cover, while the pile-driven system would require driving approximately 150 piles through the existing gravel and geotextile cloth into the ground to a depth of 8 to 10 feet. Two inverter units up to 7 feet in height would also be installed on a concrete pad.
- Ancillary Facilities. To connect the photovoltaic systems to LADWP's existing electrical distribution lines located north of Owens Lake, a new electrical line would be installed via trenching; the trench itself would be approximately 175 feet long, 3 feet wide and 3 feet deep. At the end of the trench near the existing distribution lines, a new pole with transformer units would also be constructed to step up the voltage of the power from the inverters.

Environmental Review

CSLC staff requests that LADWP consider the following comments on the Project MND.

Project Description

1. Decommissioning: Although the Project is described as a small-scale "demo" system to both generate electricity and determine the feasibility of future or expanded solar installations on the lake, it is not clear if the Project is intended as a permanent installation, or if the panels and other infrastructure would be removed if production did not meet certain success criteria. Please clarify in the MND whether the proposed Project would be permanent, or if the system would be reevaluated and/or removed after a certain number of years. Furthermore: 6-4

    a. If the Project would be permanent, the MND should clarify the effect the structures would have on maintenance of the underlying gravel for dust control purposes; or

    b. If the Project is proposed as potentially temporary, the MND should specify proposed method of removal, particularly related to the 150 piles.

2. Panel Maintenance: The MND describes that, other than water used to manage construction-related dust, Project construction and operation would not require any water (p. 2-32); however, the Project Description does not describe ongoing maintenance requirements for the Project, particularly related to cleaning accumulated dust off the panels, given the prevalence of wind-borne dust on the lake. The MND should describe how the Project will be maintained during operation; moreover, if there is any possibility water would be used to maintain panel efficiency, the MND should identify the source and expected volume of that water, and any implications that may have for the MND's analysis of impacts related to depletion of groundwater supplies or water discharge requirements. If any impacts are potentially significant, possible mitigation measures could include requiring alternate cleaning techniques or identifying a substitute water source. 6-5

Biological Resources

3. Panel Reflection: The MND should evaluate the Project's potential to adversely impact waterfowl on the lake by acting as an attractant to water-based invertebrates. Photovoltaic panels and other surfaces that reflect polarized light have been shown to attract aquatic insects that may mistake the panels for surface water (Horvath et al. 2010). The presence of these invertebrates near the Project may, in turn, attract waterfowl in search of food sources, possibly resulting in wasted energy and changed or confused behavior. 6-6

    Given that aquatic invertebrates provide a significant source of nourishment for waterfowl on the lake, particularly migrating birds with considerable energy requirements, the MND should consider whether the design of the Project could create significant impacts as a "wildlife trap" from the panels' reflectivity. The MND must also identify feasible mitigation for any potentially significant impact; measures could include changes in the Project design or layout or reduction in the Project acreage.

Cultural Resources

4. Title to Resources: The MND should also mention that the title to all archaeological sites and historic or cultural resources on the bed of Owens Lake of California is vested in the State and under the jurisdiction of the CSLC. CSLC staff requests that LADWP consult with Senior Staff Counsel Pam Griggs at the contact information noted at the end of this letter, should any cultural resources on State lands be discovered during construction of the proposed Project. 6-7

Land Use and Planning

5. Public Trust: Owens Lake is State sovereign land held in trust for the people of the State under the Public Trust Doctrine. This common law doctrine ensures the public's right to use California's waterways for navigation, fishing, boating, and other water-oriented activities. Preservation of lands in their natural state to protect scenic and wildlife habitat values is also an appropriate Public Trust use. (*Marks v. Whitney* (1971) 6 Cal.3d 251.) Uses that do not protect or promote Public Trust values, are not water dependent or oriented, and exclude rather than facilitate public access and use are not consistent with the Public Trust Doctrine. The CSLC has the responsibility to manage Owens Lake on behalf of the public to protect these rights and values. 6-8

   In the MND's discussion on the Project's consistency with relevant land use plans and policies, LADWP concludes that, because the Project "would promote the scientific study of green energy generation" (p. 2-33), and because the CSLC approved the Phase 8 gravel dust control project, the Project would be consistent with the Public Trust (p. 2-34). Although the CSLC has officially expressed support for environmentally responsible renewable energy development on the State's "school lands", which are not subject to the Public Trust, staff cautions LADWP against asserting that renewable energy generation on *sovereign* lands in Owens Lake is compatible with the Public Trust Doctrine; only the State Lands Commission can make this determination.

Thank you for the opportunity to comment on the MND for the Project. As a responsible and trustee Agency, the CSLC will need to rely on the Final MND for the issuance of any new or amended lease as specified above and, therefore, we request that you consider our comments prior to adoption of the MND.

Please send copies of future Project-related documents, including electronic copies of the Final MND, Mitigation Monitoring and Reporting Program (MMRP) and Notice of Determination (NOD) when they become available, and refer questions concerning environmental review to Sarah Sugar, Environmental Scientist, at (916) 574-2274 or via e-mail at Sarah.Sugar@slc.ca.gov. For questions concerning archaeological or historic resources under CSLC jurisdiction, please contact Senior Staff Counsel Pam Griggs at (916) 574-1854 or via email at Pamela.Griggs@slc.ca.gov. For questions concerning 6-9

CSLC leasing jurisdiction, please contact Drew Simpkin, Public Land Management Specialist, at (916) 574-2275, or via email at Drew.Simpkin@slc.ca.gov.

6-9

Sincerely,

Cy R. Oggins, Chief
Division of Environmental Planning
and Management

References

Horváth, G., Blahó, M., Egri, A. *et al.* (2010). Reducing the Maladaptive Attractiveness of Solar Panels to Polarotactic Insects. *Conservation Biology*. 24(6):1644-1653

cc: Office of Planning and Research
Drew Simpkin, LMD, CSLC
Sarah Sugar, DEPM, CSLC
Pam Griggs, Legal, CSLC

Letter #6

Cy R. Oggins
Chief, Division of Environmental Planning and Management
California State Lands Commission
100 Howe Street, Suite 100-South
Sacramento, California 95825-8202

6-1 This comment presents introductory remarks and summarizes the roles of LADWP and CSLC under CEQA for the proposed project. As noted in Section 1 of the Initial Study, the Solar Demonstration project is located on State lands and a lease from CSLC is needed.

6-2 As recommended, a new lease application for the Solar Demo project was submitted to CSLC on April 25, 2013. The application included a request that the former lease application be terminated.

6-3 The project description is correctly described.

6-4 The proposed Solar Demo project facilities would be considered to be a permanent installation. The anticipated life of the solar panels is 20 years. In the future, if facility efficiency declined substantially, panels would be replaced. Maintenance of the underlying Gravel Cover would be as described for the Phase 8 Dust Control Measures project. However, since large vehicles and equipment would not be able to access the site, hand crews would replenish gravel as necessary.

6-5 LADWP currently operates solar generation facilities in various environments. Solar panels are also used on and adjacent to Owens Lake for monitoring equipment and to power well pumps. Cleaning of these panels is not conducted. Experience has determined that any potential increase in generation from water-based cleaning is not justified by the costs incurred. Therefore, no cleaning of solar panels is planned for the Solar Demo project.

6-6 Over 30 square miles of Shallow Flooding, which provide aquatic invertebrate and bird habitat, have been installed on Owens Lake by LADWP. Construction of the Solar Demo project on 0.008 square miles would have a less than significant impact on aquatic invertebrates. As explained in Response 3-3, the solar panels would not appear as one continuous body of water. While insects may be attracted to the panels, aquatic habitat is over 900 meters away, reducing the potential for attracting large amounts of aquatic insects. Waterbirds, including various waterfowl, rarely forage in areas distant from water. Only wildlife species that forage on the wing are likely to utilize any insects that

may potentially be attracted to the solar panels. If this occurs, this would not be an "ecological trap" for these species since forage would be available and individuals could readily leave the area, which would not result in "confused behavior". Ongoing monitoring would continue to document wildlife use of the Project site. Please also see responses to the comments from USFWS (letter 3).

6-7 Discovery of cultural resources during construction of the Solar Demo project is not anticipated due to past disturbances of the project site. However, cultural monitoring would take place for ground disturbing activities within the Corridor 1 Road. If resources are encountered, LADWP would coordinate with the designated CSLC staff.

6-8 Under existing conditions, the project site is not water dependent or oriented. As part of the CSLC lease process for the approximately 1,300-acre Phase 8 DCA, the loss of potential enhancement of Public Trust values at the project site was mitigated. For this reason, LADWP concludes that the addition of solar facilities over the existing Gravel Cover on 5 acres of the DCA would not further impact Public Trust values on this site. LADWP does, however, acknowledge that the final determination is within the authority of the State Lands Commission.

6-9 The Board of Water and Power Commissions will consider the Initial Study, all comments received on the Initial Study and staff responses to comments prior to taking any action on the Solar Demo project. As requested, the documents referenced will be forwarded to the designated CSLC staff person.

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region-R6
Bishop Field Office
407 West Line Street
Bishop, CA 93514
(760) 872-1171
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

Letter #7

April 25, 2013

Ms. Julie Van Wagner
Los Angeles Department of Water and Power
111 North Hope Street, Room 1044
Los Angeles, California 90012

Initial Study and Mitigated Negative Declaration for the Owens Lake Solar Demonstration Project, March 2013.
(State Clearinghouse Number: 2013031075)

Dear Ms. Van Wagner:

Thank you for providing the California Department of Fish and Wildlife (Department) the opportunity to review and comment on the Initial Study and Mitigated Negative Declaration (IS/MND) for the Owens Lake Solar Demonstration Project, March 2013 (State Clearinghouse Number 2013031075), hereinafter referred to as the "project". The Los Angeles Department of Water and Power (LADWP) has proposed the project site as being a 5.3 acre parcel located within the 2.03 square mile Phase 8 dust mitigation area located in the northwest section of the 110 square mile Owens Lake, Inyo County, California.

7-1 The Department is providing comments on the IS/MND as the State agency which has the statutory and common law responsibilities with regard to fish and wildlife resources and habitats. California's fish and wildlife resources, including their habitats, are held in trust for the people of the State by the Department (Fish and Game Code §711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitats necessary for biologically sustainable populations of those species (Fish and Game Code §1802). The Department's fish and wildlife management functions are implemented through its administration and enforcement of Fish and Game Code (Fish and Game Code §702). The Department is a trustee agency for fish and wildlife under the California Environmental Quality Act (see CEQA Guidelines, 14 Cal. Code Regs. §15386(a)).

The Department may also assume the role of Responsible Agency. The Department most often becomes a responsible agency when a §1600 Lake or Streambed Alteration Agreement or a 2081(b) California Endangered Species Act Incidental Take Permit is needed for a project. The Department relies on the environmental document prepared by the Lead Agency to make a finding and decide whether or not to issue the permit or agreement. It is important that the Lead Agency's document considers the Department's responsible agency requirements. In rare cases, the Department as Responsible

7-1 Agency may be required to assume the role of the Lead Agency under certain conditions (CEQA Guidelines, section 15052). The Department is providing these comments in furtherance of these statutory responsibilities, as well as its common law role as trustee for the public's fish and wildlife.

7-2 The Department agrees with the conclusion in the IS/MND that a Lake or Streambed Alteration Agreement, pursuant to §1600 et seq. of the Fish and Game Code, will be required for the project.

7-3 The Department requests LADWP to identify if the selected PV panels will require routine cleaning and maintenance. If so, additional information should include providing the specific amount and type of water (e.g. surface or ground) required for cleaning/maintenance, frequency of cleaning/maintenance, and any potential for other project maintenance activities also requiring water use; e.g. dust suppression on access roads. Potential impacts from cleaning/maintenance activities may also have long-term consequences as associated vehicle travel and site security will be required monthly for the length of the project. This in turn could result in continued and ongoing disturbance, noise, traffic, etc., for shorebirds and waterfowl utilizing nearby shallow flood cells within the project area and associated travel routes. The analysis for this project should also be made concurrent and cumulative to the impacts for the Owens Lake Phase 7a Dust Control project. A maintenance and monitoring plan should be prepared and include a proposed operation schedule, the best and worst case scenario for monthly maintenance, and a full location description on where all on-going maintenance activity will take place. The monitoring plan should include a survey schedule with a complete analysis of potential direct and indirect impacts on these species during and post-project construction.

7-4 The Department is concerned there is no specific construction schedule in the IS/MND for the estimated "3 months" required to complete project construction. This similar concern has been expressed for the Owens Lake Phase 7a Dust Control Measures Draft Environmental Impact Report. Again, the analysis for this project should be made concurrent and cumulative to the impacts for the Phase 7a project. For the proposed solar project, and as possible for the Phase 7a project, the Department requests scheduling construction during the identified winter season for Owens Lake, November 15th through February 15th, to minimize impacts from construction activities and vehicle traffic to avian species. Preconstruction and during construction wildlife surveys inclusive of, but not limited to, snowy plovers and all shorebirds and waterfowl, should be conducted to ensure reduction of potential impacts to species which may be utilizing all construction and travel routes identified for the project site and adjacent Phase 8 areas. The Department also supports implementation of Mitigation Measures BIO-1 through BIO-5 for the project, with the addition that roads should be closed if nest buffers intersect with the road and no vehicular traffic should be allowed within road closure areas. Please consider these additional special status species in the IS/MND which have been documented on Owens Lake. The following are state species of special concern: American white pelican (*Pelecanus erythrorhynchos*), long-eared owl (*Asio otus*), black swift (*Cypseloides niger*), Vaux's swift (*Chaetura vauxi*), Le Conte's thrasher (*Toxostoma lecontei*). The bank swallow (*Riparia riparia*) is a state threatened species and the willow flycatcher (*Empidonax trailii,*all subspecies) is a state endangered species. In addition, the American Peregrine Falcon (*Falco peregrinus anatum*) is a fully protected species.

7-5 The Department recommends additional environmental analysis regarding potential impacts to birds and bats from both direct collision with project structures and the mistaken identification of solar panels for water bodies, which could result in both direct collision impacts and stranding of some avian species drawn to the project location; e.g. birds which otherwise would not have accidentally interpreted the area as a water body without the panels from the project. Some insects have also mistaken solar panels for water bodies, which could result in foraging by birds and bats in the project area and associated potential impacts. As a Solar Demonstration Project, a rigorous biological monitoring plan should be developed and implemented for the project site and activities. The Department recommends close consultation in this regard and in developing possible mitigation measures to minimize project impacts.

7-6 The Department recommends reevaluating the accuracy of the IS/MND pursuant to CEQA as it relates to the Owens Lake Master Planning Process which has significantly changed in recent weeks. The IS/MND also assumes permitting is in place for the Owens Lake Phase 7a Dust Control project, which has yet to be obtained (i.e., Figure 2). Updated information should also be provided regarding the recent Owens Lake Master Project dated April 2013 as it relates to the project.

7-7 The Department appreciates the opportunity to review and comment on the IS/MND and looks forward to receiving additional information in regard to the provided comments. The Department looks forward to working with LADWP to discuss and resolve our concerns and complete the required Lake or Streambed Alteration Agreement pursuant to §1600 et seq. of the Fish and Game Code.

Questions regarding this letter and further coordination on these issues should be directed to Lacey Greene, Environmental Scientist, 760-872-1128, Lacey.Greene@wildlife.ca.gov; additional questions and concerns may also be addressed to Mr. Bruce Kinney, Staff Environmental Scientist, 760-872-1129, Bruce.Kinney@wildlife.ca.gov.; Department of Fish and Wildlife, 407 W. Line Street, Bishop, CA 93514, (760) 872-1171.

Sincerely,

Bruce Kinney, Staff Environmental Scientist

cc: State Clearinghouse
State Lands Commission
GBUAPCD

Ec: Heidi Sickler, CDFW
Bruce Kinney, CDFW
Lacey Greene, CDFW

Letter #7

Bruce Kinney
Staff Environmental Scientist
California Department of Fish and Wildlife
Bishop Field Office
407 West Line Street
Bishop, California 93514

7-1 This comment presents introductory remarks and summarizes the role of CDFW under CEQA for the proposed project. The comment does not address specific issues or concerns related to the adequacy of the environmental analysis in the MND.

7-2 The applicability of a Lakebed Alteration Agreement for the project in accordance with Section 1600 of the Fish and Game Code is noted in Initial Study Section 1.6. As noted in the Initial Study, LADWP will coordinate with CDFW to obtain this agreement.

7-3 Solar panels are currently used on and adjacent to Owens Lake for monitoring equipment and to power well pumps. Cleaning of these panels is not conducted. Based on this and experience with other solar facilities, no cleaning of solar panels is planned for the Solar Demo project. Operations, including generation capacity, is monitored remotely. The electrical equipment associated with the panels would be periodically inspected and maintained as required. Infrequent travel by maintenance personnel would be on established travel routes and similar to existing conditions. Maintenance of the Solar Demo project would therefore not result in new significant impacts related to noise and traffic disturbance to birds at shallow flooding areas. As stated on page 2-44 of the IS, due to the limited amount of construction activity taken in the context of the existing lake operational activity, the Solar Demo project would not lead to cumulatively considerable impacts.

Additionally, to minimize impacts to Snowy Plover, construction workers on Owens Lake are trained on an annual basis as part of the lakebed worker education program to recognize Snowy Plover, their life history, and the requirements for nest buffer and speed limits (Mitigation Measure BIO-1). Nest buffers are more densely marked where they intersect roads which may include placement of signs in high traffic areas. Maps with nest location information and construction restrictions are distributed whenever a new nest is found. Details of on-going biological monitoring on the lake are included in Response 3-9.

7-4 Currently, construction of the Solar Demo project is scheduled to begin in January 2014 (outside the Snowy Plover breeding season). However, the start date could change, and

regardless, the total construction period would be expected to extend into the breeding season. Therefore, preconstruction surveys focused on Snowy Plover would be conducted; nesting by other species would also be noted and nests protected if active.

Vehicle speed restrictions, prohibitions against parking or stopping, and limiting work to foot crews in nest buffer areas on active roadways are existing mitigation measures used throughout the lake for construction and maintenance activities associated with the OLDMP. These measures have been proven to be effective in protecting Snowy Plover nests. When nests are found on a roadway, biological monitors have the authority to close roads until the nest is no longer active.

Construction activities on Owens Lake have typically occurred during the summer and nesting season (this is when the playa is driest and capable of supporting equipment). With implementation of current mitigation measures to protect biological resources, these activities have not resulted in impacts to shorebirds or waterfowl, even in areas of much higher wildlife use than the Solar Demo site.

As noted in the Initial Study, the Solar Demo site is Gravel Cover devoid of habitat potentially suitable for foraging, nesting, and wintering of sensitive avian species, with the exception of Snowy Plover. Additional information on each of the species noted in the comment letter is provided below. Construction of the Solar Demo project would generate noise and additional vehicle traffic on the lake. However, since the project site does not provide any habitat values for the sensitive avian species noted below, impacts on these species would be less than significant.

American White Pelican. American White Pelican use Owens Lake as a temporary stopover site in migration. Birds encountered are often seen sleeping or resting. American White Pelicans are limited ecologically by the availability of remote nesting sites and rich foraging habitats (Shuford and Gardali, 2008). The Owens Valley is not within the historic breeding range for this species and there is no available breeding habitat at Owens Lake. In addition, due to the lack of water on the Solar Demo site, the project site does not provide foraging habitat.

Long-eared Owl. The Long-eared Owl nests in dense woodlands adjacent to grasslands and meadows or shrublands that are used for foraging. No potential nesting habitat would be impacted by the project as no woodlands occur within the project area. No foraging habitat would be impacted by the project as no vegetation occurs on the project site.

Black Swift. Black Swifts have unique nesting habitats in that their nesting sites are associated with sheer cliff and waterfalls, often nesting behind waterfalls (Lowther and Collins, 2002). Black Swifts are aerial insectivores and range widely over forested and open areas in montane habitats when foraging (Lowther and Collins, 2002). Black Swifts

may occur as a rare migrants or occasional visitors on the lake. No nesting habitat exists on or adjacent to the project site.

Vaux's Swift. In the summer, the Vaux's Swift is found in coastal California and most commonly in the redwood zone where they nest in tree cavities (Shuford and Gardali, 2008). During migration, they are found throughout California in a variety of habitats. Vaux's Swift occur regularly in Owens Valley during migration and have been observed over Owens Lake. Foraging opportunities for this species are abundant and widespread at Owens Lake. There would be no impact to nesting habitat for this species as nesting does not occur in this area.

LeConte's Thrasher. The Special Status for LeConte's Thrasher only applies to the population of Le Conte's Thrashers breeding in the San Joaquin Valley of California (DFG Special Animals List, 2011).

Bank Swallow. The Bank Swallow is an aerial insectivore that nests in the cavities along the banks of streams and rivers, and feeds over waterbodies, streams and fields (Garrison, 1999). The average height of nesting banks in California is 3.3 meters (Garrison, 1999). Bank Swallows occur as seasonal migrants at Owens Lake and foraging opportunities for this species are abundant and widespread at Owens Lake. There is no nesting habitat for this species on the project site and no known colonies near Owens Lake.

Willow Flycatcher. Willow Flycatcher is a riparian obligate species that inhabits riparian deciduous shrubs, particularly willow species (Grinnell and Miller, 1944). Willow Flycatchers are common migrants in the region, and habitats used in migration are generally similar to those used for breeding (Sedgwick, 2000). The Southwestern Willow Flycatcher (E. t. extimus) is the subspecies that breeds in Owens Valley and the minimum habitat patch size required is 1.98 acres (USFWS, 2002). There is no nesting or suitable migratory habitat for this species on the project site.

American Peregrine Falcon. The Peregrine Falcon is a cliff-nesting species that forages in a wide variety of habitats, often in areas of high prey concentrations. Peregrine Falcons are seen at Owens Lake somewhat regularly. There is no nesting habitat for the species on the project site.

7-5 The solar panels that would be installed have color variations within and between the individual solar cells. In addition, the rows of panels would be separated by four to six feet of gravel to allow access. Therefore, the project would not appear as one continuous body of water. It has been found that Eared Grebes, and other diving waterbirds that may only be able to take flight from water, rarely use ponds less than 40 acres in size at Owens Lake (Owens Lake Master Plan Draft, Appendix F). The Project site is only 5 acres in size.

Over 40 square miles of Shallow Flooding and Managed Vegetation, which provide habitat for numerous species, have been installed on Owens Lake by LADWP. Construction of the Solar Demo project on 0.008 square miles would have a less than significant impact on insects, birds and bats. While wildlife collisions with existing OLDMP infrastructure are rare, the solar panels would receive additional scrutiny. Data would be analyzed and reported in the Owens Lake biological compliance monitoring report. Regarding the monitoring plan, please see response to comment 3-9 from USFWS.

7-6 The Owens Lake Master Plan is described in Initial Study Section 2.3.10. As stated in this comment, the planning process has changed since the time the Initial Study was released for public review. The focus of this effort is now on the Owens Lake Master Project. The purpose of this project is to determine a balanced approach to dust control based on the goals developed through the Owens Lake Master Planning process. These goals include the control of dust for improved air quality, protection of biological and cultural resources, promotion of economic development, exploration of renewable energy development, creation of an appropriate viewshed, creation of an adaptive management plan, and reduction of water use. The Master Project was discussed at the Owens Lake Master Planning Committee meeting held on May 15, 2013 and a schedule will be presented to the group at the next meeting. Since the Solar Demo project would be constructed in an area that has already been controlled for dust without utilizing water, it would be consistent with the goals of the Owens Lake Master Project.

Figure 2 in the Initial Study indicates Phase 7a Transition, Gravel Cover, and Managed Vegetation areas as proposed. This project is expected to be approved by the City of Los Angeles Board of Water and Power Commissioners in June, 2013. Permitting for the Phase 7a project is in progress.

7-7 LADWP will continue to coordinate with CDFW regarding the required Lakebed Alteration Agreement for the project.

References

Garrison, Barrett A. 1999. Bank Swallow (*Riparia riparia*), The Birds of North America Online (A. Poole, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America Available: http://bna.birds.cornell.edu/bna/species/414.

LADWP. 2012. 2012 Owens Lake Biological Compliance Monitoring Report.

Lowther, Peter E. and Charles T. Collins. 2002. Black Swift (*Cypseloides niger*), The Birds of North America Online (A. Poole, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America Online: http://bna.birds.cornell.edu/bna/species/676.

Sedgwick, James A. 2000. Willow Flycatcher (*Empidonax traillii*), The Birds of North America Online (A. Poole, Ed.). Ithaca: Cornell Lab of Ornithology. Retrieved from the Birds of North America Available: http://bna.birds.cornell.edu/bna/species/533.

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USFWS. 2002. Southwestern Willow Flycatcher Recovery Plan. Albuquerque, New Mexico. I-ix + 210pp. Appendices A-O.

BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY
Big Pine Paiute Indian Reservation

Letter #8

May 1, 2013

Los Angeles Department of Water and Power
111 North Hope Street, Room 1044
Los Angeles, CA 90012
Attention: Julie Van Wagner

RE: **Initial Study and Mitigated Negative Declaration for the Owens Lake Solar Demonstration Project**

Dear Ms. Van Wagner:

8-1 The Big Pine Paiute Tribe of the Owens Valley (Tribe), a federally recognized Tribe, has the following comments regarding the *Initial Study and Mitigated Negative Declaration for the Owens Lake Solar Demonstration Project* (IS/MND) prepared by the Los Angeles Department of Water and Power (LADWP).

PURPOSE OF PROJECT: TRIBE SUPPORTS DISTRIBUTED POWER, NOT FACILITIES IN REMOTE AREAS

8-2 The Tribe has previously stated a position with regard to large scale solar projects in Inyo County and other parts of California's desert region. The Tribe supports "Distributed Photovoltaic," defined as placing photovoltaic panels wisely, near places where people use electricity and may individually or collectively benefit from local generation. If LADWP has funds to purchase, transport, and situate (including the costs of piers and pile drivers) the materials for this Solar Demonstration, why not save some money and develop the installation methods for distributed places such as onto rooftops, parking lots, disturbed places, and other reasonable locations in the LADWP service area? The recommends that LADWP expand its already existing in-basin solar generation with accompanying photovoltaic energy storage systems.

LOCATION OF PROJECT IS NOT LADWP LAND

8-3 The Tribe notes that LADWP's proposed Solar Demonstration project takes advantage of the fact that LADWP is already obligated to have a presence on Owens Lake bed due to the need to mitigate dust it caused by a century of water gathering activities. However, the lake bed site belongs to all the people of the state of California, not to LADWP. If the people of the state wish to develop solar on the lake bed, the people of California should benefit from the project, and public trust values should be respected. Instead, LADWP proposes to establish this facility on land that is not theirs. To set up this operation, will LADWP be paying rent? If the project generates electricity, who will benefit from the monetary value of the electricity?

Big Pine Tribal Office
P.O. Box 700 • 825 South Main Street • Big Pine, CA 93513
Phone: 760-938-2003 • Fax: 760-938-2942

CUMULATIVE IMPACTS

1. The Cumulative Impact Analysis in Section 2.3.18 (c) is inadequate. The 2012 CEQA Guidelines state that an Environmental Impact Report is required if:

> (3) The project has possible environmental effects that are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects (p. 125).

The IS/MND states that there would be less than significant cumulative impacts because: "Cumulatively with other solar projects in the Owens Valley, the project would be beneficial related to reductions in GHG [Green House Gas] emissions" (p. 2-43). This misreading of the cumulative impacts of solar projects does not take into consideration impacts on at least two environmental impacts, Aesthetics and Cultural Resources, and probably many others. Cumulative impact analysis must fully assess environmental impacts of projects, not just their effect on greenhouse gas emissions. 8-4

The IS/MND needs to address the cumulative impacts of the Solar Demonstration Project in relation to the proposed Southern Owens Valley Solar Ranch project of LADWP, and the 200 MW photovoltaic (PV) power plant east of Independence proposed by Northland Power Independence, LLC. If all these projects are built, including possible solar power plants on Owens Lake, the cumulative aesthetic and cultural resources impacts would certainly be considered potentially and adversely significant. Because of this, and for reasons stated below, an Environmental Impact Report (EIR) is needed for the Solar Demonstration Project.

CULTURAL RESOURCE IMPACTS

The Tribe believes that many of the cultural sites associated with Owens Lake should be nominated as a Traditional Cultural Property following National Register Bulletin 38, *Guidelines For Evaluating And Documenting Traditional Cultural Properties*, revised, 1998. The area around the lake can also be considered a Cultural Landscape of great importance for the Owens Valley Paiute. Traditional Cultural Properties may be eligible for listing on the California Register of Historical Resource (CRHR), and this type of analysis should be conducted in the Cultural Resources component for the proposed project. The archaeological record alone is not sufficient for assessing whether a place is eligible for the CRHR. 8-5

Thank you for considering the Tribe's comments. 8-6

Sincerely,

Virgil Moose
Tribal Chairperson

Letter #8

Virgil Moose
Tribal Chairperson
Big Pine Paiute Tribe of the Owens Valley
P.O. Box 700
Big Pine, California 93513

8-1 This comment presents introductory remarks and does not address specific issues or concerns related to the adequacy of the environmental analysis in the Initial Study.

8-2 LADWP is currently planning and constructing solar energy projects in both urban and undeveloped areas in order to meet renewable energy goals established by the State Legislature. These goals require 33 percent of retail electrical energy sales be generated from eligible renewable resources by the end of 2020. To achieve this, LADWP has committed to acquire a minimum of 1,505 MW of additional renewable generation capacity, including 242 MW from geothermal and biomass energy, 382 MW from distributed generation solar power, and 842 MW from non-distributed generation solar installations. Because of the amount of renewable generation needed and the deadline for acquiring it, relying solely on distributed generation sources is not feasible.

8-3 As stated in the Initial Study, the project site is on land owned by California State Lands Commission and managed for the benefit of the citizens of California. Green power generation as well as data collection on the potential for solar facilities to reduce ground wind speeds and potentially wind borne dust on Owens Lake are benefits to the residents of California. The project would help meet renewable energy goals set by the State Legislature. A lease application has been filed with the CSLC for construction and operation of the Solar Demo project. Aside from the lease processing fee, an annual rent is not anticipated. The power generated by the project would provide power for the Owens Lake Dust Mitigation Program as well as assist LADWP in meeting its renewable generation goals.

8-4 The proposed Southern Owens Valley Solar Ranch project (located approximately 15 miles north of the Solar Demo project site) and the power plant east of Independence (which is further north) are both too distant from the Solar Demo project to have a significant cumulative aesthetic impact.

Regarding cultural resources, the Solar Ranch project has been reconfigured to avoid the majority of the significant cultural resources found at the site. The Solar Demo project site has been evaluated and mitigated for cultural resources under the Owens Lake Dust Mitigation Program (OLDMP) Phase 8 project (Initial Study Section 2.3.5).

Archaeological data recovery was conducted for significant cultural resources prior to installation of the Phase 8 Gravel Cover. Since further impacts to cultural resources from installation of the Solar Demo facilities are not anticipated, cumulative impacts to cultural resources would be less than cumulatively considerable. Since un-mitigable significant impacts were not identified for the Solar Demo project, preparation of an Environmental Impact Report is not required.

8-5 The Phase 8 DCA was determined to contain significant cultural resources and data recovery of these resources was conducted. LADWP understands that the tribe may pursue designation of areas of Owens Lake as Traditional Cultural Properties. However, since data recovery has occurred on the Phase 8 parcel and since the Solar Demo project site is currently level Gravel Cover, the impact on the cultural landscape from the installation of solar facilities would be less than significant.

8-6 The Board of Water and Power Commissioners will consider the Initial Study, all comments received on the Initial Study (including those from the Tribe) and staff responses to comments prior to taking any action on the Solar Demo project.

Letter #9

Boulder Creek RV Resort, LLC
2550 S. Hwy 395
P.O. Box 870
Lone Pine, CA 93545
(760) 876-4243, 876-9940
Fax (760) 876-9942
jaquehickman@yahoo.com

April 26, 2013

Julie Van Wagner
Los Angeles Department of Water and Power
111 North Hope Street, Room 1044
Los Angeles, California 90012

Re: Comments -
Owens Lake Solar Power Demonstration Project - Mitigated Negative Declaration (MND)

Dear Ms. Van Wagner:

Boulder Creek RV Resort, LLC has some thoughts and comments on the adequacy of the proposed solar demonstration project on Owens Lake:

9-1

- Concern for the use of the entrance to Boulder Creek RV Resort and the impact of the construction traffic, wear and tear on the entrance concrete and paving, which is maintained solely by Boulder Creek.

9-2

- This phase is called a demonstration project. What is the total proposed build out, if future phases are undertaken. How would the construction traffic, and ensuing noise, and viewshed impairment impact Boulder Creek RV Resort.

9-3

- How will construction signage, speed control, dust, etc., be handled as it affects Boulder Creek RV Resort guests, particularly the tent campers, and RV guests using the south side facilities of the RV Resort. Note that the swimming pool is on the south side and ensuing dust impacts the amount of cleaning manpower and chemicals needed for pool maintenance.

9-4

- At one point, during initial public discussion of this and future solar projects, DWP stated that a housing "neighborhood" would be constructed for the Solar projects. It was stated that this housing "neighborhood" would be located just east of Boulder Creek RV Resort, on the North side of the access road. Boulder Creek asked to be included in discussion of this possibility, perhaps with the ability to offer other housing solutions. What is the status of this aspect of the current and future construction phases?

9-5

- It is very interesting, and somewhat disturbing, that there has been no direct contact with Boulder Creek RV Resort by DWP regarding this proposed solar demonstration project. The initial study refers to Dolomite as the closest neighbor. This is a very misleading statement because Dolomite may be closer, by one tenth of a mile, as the crow flies, but that statistic

9-5 refers to the actual completed demonstration project site and does not address the closest neighbors that the actual construction process impacts, which happens to be Boulder Creek RV Resort.

9-6 Boulder Creek RV Resort, LLC would appreciate the opportunity to discuss these concerns in greater detail. It would be advantageous to meet with a DWP representative in person to discuss these, and any other, concerns regarding the Owens Lake Solar Demonstration Project.

Please note the contact information listed in the letterhead, or feel free to contact Jaque Hickman by personal cell phone at (760) 937-4233.

Sincerely,

Jaque and Art Hickman, Owners

Letter #9

Jaque and Art Hickman
Owners
Boulder Creek RV Resort, LLC
2550 S. Hwy 395
P.O. Box 870
Lone Pine, California 93545

9-1 Construction vehicles and delivery trucks for the Solar Demo project would use the exit from U.S. 395 at Brady Highway (Lubken Canyon Road) immediately adjacent to the Boulder Creek RV Park entrance. Prior to construction for the Solar Demo project, LADWP would prepare a Construction Phase Traffic Control Plan for review and approval by Caltrans. A debris rack would be installed to avoid tracking onto the shared access and the highway. The traffic generated during construction of this project would consist of a maximum of 20 workers daily and approximately 20 delivery trucks over the 3 month construction period. These additional vehicle trips would not be expected to cause deterioration of the pavement, but as stated in Response 4-3 (Caltrans letter), LADWP would repair any damage to maintain public roadways to at least pre-construction phase conditions.

9-2 The Solar Demo project is intended as a pilot study to determine the feasibility of additional solar facilities on Owens Lake. Future projects, if any, have not been defined and are not currently proposed. Any solar development proposed in the future would be subject to environmental review under the California Environmental Quality Act (CEQA).

9-3 As stated in response to comment 9-1, LADWP would prepare a Construction Phase Traffic Control Plan prior to construction of the project. This plan would include signage, speed controls, timing of vehicle trips and other methods to reduce impacts. Dust would be controlled throughout the construction site by periodic watering as needed to prevent visible dust from leaving the project site. Additionally, to limit dust generation from construction-related vehicle travel along the currently unimproved Brady Highway, LADWP would pave the portion of the roadway from Highway 395 eastward to the gate prior to construction.

9-4 Housing for solar construction workers is an issue for the larger (approximately 3,100 acres) Southern Owens Valley Solar Ranch project. The Environmental Impact Report currently being prepared for that project is expected to be released for public review this

summer. Due to the limited size and construction duration of the Solar Demo project, housing is not an issue.

9-5 Section 2.3.1 of the Initial Study notes that the closest residences to the Solar Demo site are at the Boulder Creek RV Park (located approximately 2.8 miles northwest at the intersection of Hwy 395 and Brady Highway), in Keeler (located approximately 7 miles southeast), and in Dolomite (located approximately 2.7 miles to the east). Notice of the preparation of an Initial Study was published in the Inyo Register on March 28 and April 2 and 4, 2013 and copies of the document were available at the Lone Pine and Independence Libraries, at LADWP offices in Bishop and Los Angeles, and electronically on LADWP's website.

9-6 LADWP will coordinate with you both on this project and the larger Southern Owens Valley Solar Ranch project. In addition, the Board of Water and Power Commissioners will consider the Initial Study, all comments received on the Initial Study and staff responses to comments prior to taking any action on the Solar Demo project.