Owens Lake Dust Mitigation Program
Phase 9/10 Project
Final Environmental Impact Report

May 2015

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Section 1
Introduction

1.1 INTRODUCTION TO THE FINAL ENVIRONMENTAL IMPACT REPORT

This document, together with the separately bound Draft Environmental Impact Report (Draft EIR), constitute the Final EIR for the Owens Lake Dust Mitigation Program Phase 9/10 Project. The City of Los Angeles Department of Water and Power (LADWP) is currently implementing the Owens Lake Dust Mitigation Program (OLDMP) on Owens Lake in order to reduce emissions of particulate matter less than 10 microns in diameter (PM_{10}). LADWP constructs and operates dust control measures (DCMs) on the lake in compliance with Agreements with the Great Basin Unified Air Pollution Control District (GBUAPCD) under the authority of California Health & Safety Code Sec. 42316, legal settlement agreements with GBUAPCD, lease agreements for use of state lands (administered by the California State Lands Commission (CSLC)), and other regulatory approvals. LADWP proposes to expand the OLDMP by construction and operation of the Phase 9/10 Project (proposed Project) in compliance with a 2014 Stipulated Judgment with GBUAPCD (Superior Court of the State of California Case No. 34-2013-800001451-CU-WM-GDS).

This document is organized as follows:

- **Section 1** provides an Introduction to the Final EIR and a summary of the California Environmental Quality Act (CEQA) Process for the Project.

- **Section 2** provides additions and corrections to the Draft EIR. Additions include information on dynamic water management, a lakewide Best Available Control Measures (BACM) map, salinity information for T18S, the results of cultural resources surveys on private parcels, and additional bird distribution and nesting information. Corrections to the Draft EIR include corrections to minor errors, updates, or amplifications of statements in the Draft EIR.

- **Section 3** includes a summary of oral comments received on the Draft EIR at the public meeting for the Project, a list of commenters who provided written comments, copies of written comments, and responses to comments.

1.2 CEQA PROCESS

1.2.1 Notice of Preparation

In July 2014 a CEQA Initial Study was prepared by LADWP based on State CEQA Guidelines Appendix G, to determine whether construction and operation of the proposed Project would result in significant effects on the environment. Since potentially significant effects were identified, LADWP determined that an EIR was needed to analyze those effects. A Notice of Preparation (NOP) of the EIR, along with the Initial Study, was prepared and filed with the State Clearinghouse on July 17, 2014. The NOP/Initial Study was distributed to 29 entities, including

potential responsible and trustee agencies, and interested organizations and individuals including 10 Native American tribal representatives. An additional 27 interested parties received a Notice of Availability (NOA) of the NOP/Initial Study. Reference copies were available at LADWP offices in Los Angeles and Bishop, at five libraries in Inyo County, and via a link on the LADWP website.

A copy of the NOP/Initial Study is included in Appendix A of the Draft EIR. Comments on the scope and content of the EIR were received on the NOP from seven regulatory agencies (Appendix B of the Draft EIR).

1.2.2 Public Meeting on the Notice of Preparation of an EIR

A public scoping meeting for the Phase 9/10 Project was held on July 29, 2014 at the LADWP office in Keeler, California. Notice of the meeting was provided in the NOP. Representatives from LADWP, GBUAPCD, the U.S. Bureau of Land Management (BLM), local industry, and Native American tribes attended the meeting. Comments received focused on definition of alternatives, identification of BACM for specific areas, the federal process for environmental review and specifically for cultural resources assessment, and Project schedule.

1.2.3 Draft Environmental Impact Report

A Draft EIR was prepared and distributed for public review on February 11, 2015. Fifteen copies of the document were distributed through the State Clearinghouse. The document was also directly distributed to 29 agencies, Native American tribes, and organizations. At the beginning of the public review period, the document was made available for review at LADWP offices in Los Angeles and Bishop, and at five public libraries in the project area (Bishop, Lone Pine, Big Pine, Independence and Cerro Coso Community College). A NOA of the Draft EIR was distributed to 35 agencies and organizations. The close of the public review period was March 30, 2015.

1.2.4 Public Meeting on the Draft Environmental Impact Report

Notice of a public meeting on the Phase 9/10 Project was provided in the NOA of the Draft EIR. Additionally, a notice of the meeting was published in the Inyo Register on February 10, 2015. The public meeting was held at 5:00 p.m. on March 5, 2015 at the LADWP office in Keeler, California. LADWP staff presented the project background, project description, CEQA process, environmental topics analyzed in the Draft EIR, project alternatives, and the alternative identified as environmentally superior. In addition to staff from LADWP and MWH, representatives from BLM, California Department of Fish and Wildlife (CDFW), and California Native Plant Society attended the meeting. Comments received at the public meeting are summarized in Section 3 of this document.

1.2.5 Adoption of the Phase 9/10 Project

Analysis of the impacts of the Phase 9/10 Project as originally proposed is presented in the Draft EIR. Significant impacts of the original proposed Project that could not be mitigated to less than

significant levels were identified for cultural resources. All other impacts were found to be beneficial, less than significant or less than significant as mitigated. Several alternatives to the proposed Project were defined with a focus on avoidance of significant impacts to cultural resources and on alternative methods and combinations of BACM. Based on the analysis presented in the Draft EIR, the Avoidance Alternative was identified as the environmentally superior alternative.

LADWP's determination of the environmentally superior alternative, which includes avoidance on approximately 278 acres on State lands plus additional acreage on federal parcels (approximately an additional 75 acres), recognizes the importance of protecting cultural resources and complying with the 2014 Stipulated Judgment. The Avoidance Alternative was identified as the environmentally superior alternative since it would reduce impacts on significant cultural resources to less than significant while providing dust control on approximately 3.2 square miles of Owens Lake that are currently uncontrolled. This area is considered the maximum dust control area feasible with avoidance of the known significant cultural resources.

Since preparation of the Draft EIR, a second review of the eligibility of the known archaeological sites has been conducted (Basgall, 2015). Based on the review by the designated second archaeologist, nine of 14 sites (12 sites discussed on the Draft EIR and 2 sites partially located on BLM property) were confirmed for recommendation as California Register of Historical Resources (CRHR)/National Register of Historic Properties (NRHP) eligible. While recommended as eligible for the CRHR, the determination of eligibility will be conducted by the State Office of Historic Preservation. Following the established procedure in the 2013 Stipulated Order for Abatement and the 2014 Stipulated Judgment, GBUAPCD considers the nine confirmed sites, plus the necessary buffers, as Eligible Cultural Resource (ECR) areas that can be removed from the Phase 9/10 Project so that a recommendation may be developed by the CRTF on the timing and method of their treatment. A change in eligibility status from eligible to ineligible was recommended for one site. As described in Section 2, LADWP concurs with this assessment and will amend the Phase II cultural resources report to reflect that determination. As described in Section 2, the Avoidance Alternative is revised to exclude 11 cultural resources sites on state lands recommended as eligible for the CRHR; one site, CA-INY-6065, is considered fully mitigated by previously conducted Phase II investigations.

The second archaeologist recommended additional investigation in order to determine the eligibility for four sites. Based on on-going negotiations between LADWP and GBUAPCD, it is anticipated that LADWP will apply to the CSLC and the BLM for permission to conduct Phase II Archaeological Investigations of the four sites recommended for additional assessment. The boundaries of the four sites recommended for further assessment may be refined based on the results of the Phase II testing; however, the total area of significant cultural sites and buffer that would be excluded from the Project under the Avoidance Alternative is on the order of about 350 acres.

Additionally, LADWP has received comments from BLM on the Phase II cultural resources report for the Project. While additional consideration of existing data, cultural report revisions

and/or additional field investigations may be conducted in collaboration with tribal representatives and State and/or federal agencies, LADWP's conclusions regarding the significance of the known cultural resources sites on federal lands in the Project area are unchanged. Future evaluation of these sites may refine the site boundaries and could impact the total acreage of the Avoidance Alternative. However, any refinements to site boundaries would be done in collaboration with BLM, and CSLC, as appropriate.

Prior to adoption of the Phase 9/10 Project, the Board of Water and Power Commissioners will consider which project most effectively balances and protects the competing interests of protecting air quality while ensuring the protection and preservation of cultural resources. The Board will consider the Draft EIR, comments on the Draft EIR and responses to those comments prior to adopting the Phase 9/10 Project as originally proposed or an alternative to the Phase 9/10 Project. The Phase 9/10 Project as originally proposed was found to have significant impacts on cultural resources. A Phase III data recovery investigation was considered as mitigation for these impacts but was found to not reduce impacts on cultural resources to less than significant levels. However, since publication of the Draft EIR, cultural resources sites confirmed as recommended eligible for the CRHR have been removed from the area requiring dust mitigation by GBUAPCD, and therefore removed from the Project by LADWP. Additional investigation of the four sites recommended for further assessment by the second archaeologist is on-going. However, based on assessment already conducted, LADWP has determined that these sites are significant resources and implementation of dust control in these areas would result in significant impacts. Adoption and implementation of the Avoidance Alternative would result in less than significant impacts to cultural resources.

Section 2
Additions and Corrections

The following section summarizes additions and corrections to clarify and amplify information presented in the Draft EIR.

2.1 ADDITIONS

Based on comments received on the Draft EIR (see Section 3), the following additions are made to the document.

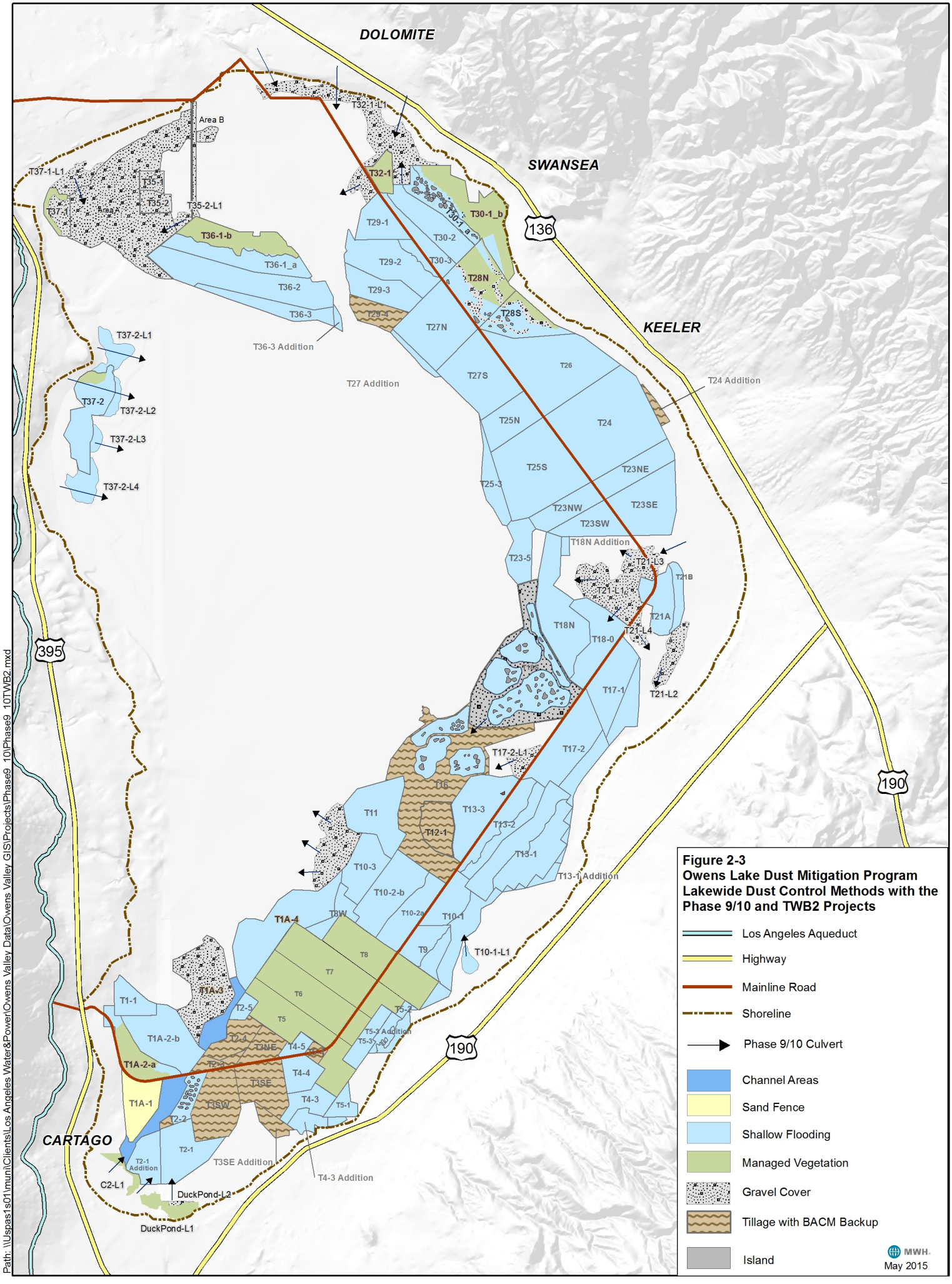
2.1.1 Dynamic Water Management

Draft EIR Section 3.1.8.4 is expanded to include the following paragraph.

An analysis of Owens Lake ambient air quality, meteorological and sand flux data along with lake bed field observations during the past 15 years has revealed that the Shallow Flood BACM dust season may be shortened for certain areas of the lake bed that have historically shown little dust activity in the early and/or late portions of the October through June dust season. In addition, wetness cover requirements to achieve the required Minimum Dust Control Efficiency may also vary depending on seasonal conditions that may affect salinity of the surface water and the formation of erosion-resistant brine crusts. Modifications to the dust season for certain areas are currently being considered by GBUAPCD and LADWP to address the commitment in the 2014 Stipulated Judgment to implement a Dynamic Water Management Plan in order to reduce water use on the lake bed. Dynamic Water Management could include modifications to the existing ramping schedules for flow operations and could apply to existing Shallow Flooding dust control areas (DCAs) as well as new areas of Shallow Flooding proposed under the Phase 9/10 Project (T10-1-L1, T37-2-L1, T37-2-L2, T37-2-L3, and T37-2-L4).

2.1.2 Lakewide Dust Control Map

Figure 2-2 included in Draft EIR Section 2.4 indicates existing and proposed DCMs by phase. In response to comments, **Figure 2-3** has been added to indicate existing and proposed dust control methods included in the OLDMP without separating the information by phase. Existing DCAs, DCAs under construction as part of the Phase 7a Project, Phase 9/10 Project DCAs and the 11 DCAs included in the TwB2 Project are included. To protect resources, areas with significant cultural resources excluded from the dust control project are not indicated. **Figure 2-3** also indicates the locations of culverts proposed as part of the Phase 9/10 Project.


DOLOMITE
SWANSEA
KEELER
CARTAGO
Area B
Area A
T37-1-L1
T35-1
T35-2
T35-2-L1
T37-1
T36-1-b
T36-1_a
T36-2
T36-3
T36-3 Addition
T32-1-L1
T32-1
T30-1_b
T30-1_a
T30-2
T30-3
T29-1
T29-2
T29-3
T29-4
T28N
T28S
T27N
T27S
T27 Addition
T26
T24 Addition
T24
T25N
T25S
T25-3
T23NE
T23NW
T23SE
T23SW
T18N Addition
T23-5
T21-L3
T21B
T21-L1
T21A
T18N
T18-0
T21-L4
T21-L2
T17-1
T17-2
T17-2-L1
T16
T13-3
T13-2
T13-1
T13-1 Addition
T11
T12-1
T10-3
T10-2-b
T10-2a
T10-1
T10-1-L1
T8W
T1A-4
T8
T7
T6
T9
T1A-3
T1-1
T2-5
T5
T5-2
T5-3 Addition
T5-3
T1A-2-b
T2-4
T3NE
T4-5
T4-2
T1A-2-a
T2-3
T4-4
T3SE
T1A-1
T3SW
T4-3
T5-1
T2-2
T2-1
T2-1 Addition
T3SE Addition
T4-3 Addition
C2-L1
DuckPond-L2
DuckPond-L1
136
395
190
190
Figure 2-3
Owens Lake Dust Mitigation Program
Lakewide Dust Control Methods with the Phase 9/10 and TWB2 Projects
Los Angeles Aqueduct
Highway
Mainline Road
Shoreline
Phase 9/10 Culvert
Channel Areas
Sand Fence
Shallow Flooding
Managed Vegetation
Gravel Cover
Tillage with BACM Backup
Island
MWH
May 2015
Path: \\Uspas1s01\muni\Clients\Los Angeles Water&Power\Owens Valley Data\Owens Valley GIS\Projects\Phase9_10\Phase9_10TWB2.mxd

2.1.3 Salinity in Transition Area T18S

Additional information on salinity in transition area T18S is added to the paragraph on Diving Waterbirds presented in Draft EIR Section 4.3.5.2 (Draft EIR page 4.3-39).

Table 4.3-9 presents the salinity in transition area T18S in spring.

Table 4.3-9
Salinity in T18S in Spring

Year	Salinity in T18S in Spring (Electroconductivity µmhos/cm)
2009	48.8
2010	26
2011	28.8
2012	25.8
2013	54.2
2014	36.3

2.1.4 Cultural Resources on Private Parcels

Privately-owned parcels contained within the Phase 9/10 Project footprint were surveyed for cultural resources on October 23, 2014; Dec. 30, 2014; January 2, 2015; and January 5, 2015. Three of the cultural properties recorded during the survey of the private parcels are isolated artifacts. However, isolated artifacts do not meet the definition of unique archaeological or historical resources, so they do not receive further consideration for avoidance or mitigation. One site was recorded during the survey; this site is an extension of a previously recorded site that has already been determined ineligible for inclusion on the CRHR/NRHP. Additional testing and/or evaluation is not warranted for the site extension. Therefore, Draft EIR mitigation measure CR-2 has been deleted. Construction on privately-owned lands would still be subject to mitigation measures CR-1, CR-3, CR-4 and CR-5.

2.1.5 References

The following references are added to Draft EIR Section 8.1 References and Bibliography:

Allen, Aaron. 2015. Personal Communication with M. Taghavi. Email from U.S. Army Corps of Engineers Regulatory Division to LADWP. February 17, 2015.

Basgall, Mark. 2015. An Assessment of Previous Management Recommendations for Select Archaeological Sites Subject to Impacts from Dust Mitigation Measures Being Implemented at Owens Lake, Inyo County, California. Prepared for the Los Angeles Department of Water and Power. Final Report. April 2015.

California Fish and Game Commission. 1994. Miscellaneous Policies. Department of Fish and Game Recommended Wetland Definition, Mitigation Strategies, and Habitat Value Assessment Methodology. Available: http://www.fgc.ca.gov/policy/p4misc.aspx.

California Department of Transportation (Caltrans). 2013. 2013 Traffic Volumes on the California State Highway System. Prepared in Cooperation with the U.S. Department of Transportation Federal Highway Administration. Sacramento, California.

LADWP. 2010. 2010 Owens Lake Biological Compliance Monitoring Report.

-----. 2013. 2013 Owens Lake Biological Compliance Monitoring Report.

-----. 2014a. 2014 Owens Lake Biological Compliance Monitoring Report.

-----. 2014b. Annual and Second Semi-annual Monitoring Report for 2014, Southern Zones Dust Control Project Owens Lake Dust Mitigation Program Owens Lake, California.

2.1.6 Acronyms

The following acronym is added to Draft EIR Section 8.3, Acronyms and Abbreviations:

TwB2 Tillage with Shallow Flooding BACM Backup

2.2 CORRECTIONS TO THE DRAFT EIR

The following text edits are corrections to minor errors, updates, or amplifications of statements in the Draft EIR. Text inserts are shown as <u>underlined</u> and deletions are shown in ~~strikethrough~~ format. Draft EIR section numbers and names are noted in [brackets].

[**Draft EIR Section 2.9 Project Approvals**]

After consultation with the U.S. Army Corps of Engineers (USACE) on permitting issues for the Owens Lake Dust Mitigation Program, the agency has indicated that the boundaries of the Phase 9/10 Project are outside the regulatory jurisdiction of USACE under Section 404 of the Clean Water Act (Allen, pers. comm. 2015). Therefore, Draft EIR Section 2.9 is revised to delete the following text.

~~LADWP would consult with the U.S. Army Corps of Engineers regarding an amendment to existing Clean Water Act Section 404 permit SPL-2008-00582-BAH for the Phase 7 Project to include construction, operations, and maintenance associated with the Phase 9/10 Project.~~

In response to comment letter #4 (see Section 3), the following text from Draft EIR Section 2.9 is revised.

- A lease amendment for use of state lands from the CSLC prior to Project construction. GBUAPCD has committed to work with LADWP to secure approval for all proposed

BACM controls (letter from Mr. Ted Schade, GBUAPCD Air Pollution Control Officer, to Mr. Martin Adams, LADWP Director of Water Operations, February 15, 2013).

As part of this process, CSLC could ~~would~~ transfer portions of the U.S. Borax mineral lease area to DCA. An amendment to the U.S. borax lease could ~~would~~ delete the approved DCA from the mineral lease legal description. U.S. Borax may quitclaim the portion of its lease needed for cell T10-3-L1; this option would not require LADWP to resubmit its lease amendment application, but rather, the quitclaim component of the proposed Project could be incorporated into the CSLC's consideration of Project approval overall.

[**Draft EIR Section 4.1.4.1 Visual Impacts During Construction**]

In response to comment letter #8, the following text from Draft EIR Section 4.1.4.1 is expanded.

4.1.4.1 Visual Impacts During Construction

Construction activities for the Project include site preparation (excavation, soil conditioning, and land leveling), preparation of gravel stockpile areas, raised roadway and irrigation pipeline installation, installation of electrical and mechanical equipment related to the irrigation systems, installation of the geotextile and gravel, and planting activities. Throughout the construction period, additional vehicles including gravel haul trucks from the mines would be present on the lakebed. Views of the Project site during construction would include over 100 vehicles – including dozers, scrapers, flatbed trucks, backhoes, water trucks, fuel trucks, gravel haul trucks, and light duty trucks. Limited lighting may temporarily be used in the immediate area of Project construction or for emergency repairs. However, after construction is completed there will be no permanent nighttime lighting on the lakebed. The level of construction activity required for the Phase 9/10 Project would alter views of the Project site. However, within the context of the construction and maintenance activity ongoing on the lakebed, the impact of ground disturbance associated with installation of Project facilities would be temporary and less than significant on the visual character of the Project site.

[**Draft EIR Section 4.2.2.1 Federal Regulations**]

After consultation with the USACE on permitting issues for the Owens Lake Dust Mitigation Program, the agency has indicated that the boundaries of the Phase 9/10 Project are outside the regulatory jurisdiction of USACE under Section 404 of the Clean Water Act (Allen, pers. comm., 2015). ~~LADWP anticipates requesting an amendment to existing Clean Water Act Section 404 permit SPL-2008-00582-BAH from the U.S. Army Corps of Engineers (issued for OLDMP Phase 7 Project) to include construction, operations, and maintenance associated with Phase 9/10 Project. Based on past practices, LADWP does not expect the U.S. Army Corps of Engineers to assume jurisdiction over the Project.~~ However, BLM will, prior to issuing right-of-way agreement for use of federal lands, conduct a federal conformity analysis since the Project is in a federal nonattainment area for PM_{10}. Since the proposed Project is expected to decrease the frequency and severity of existing federal particulate matter violations, it is anticipated that the Project will be found in conformance.

[**Draft EIR Section 4.3.3.3 Existing Biological Resources Setting**]

The following corrections are made to Draft EIR Section 4.3.3.3.

Wetlands, including created wetlands, present at the time of survey in the Phase 9 DCAs and the 25-foot buffer areas are summarized in **Table 4.3-2**. Species present in wetland areas include wirerush (~~*Juba*~~ *Juncus* sp.) saltgrass, saltbush, and Mojave seablite, among other species. No wetlands are present in the Phase 10 DCAs or their buffer areas. Vegetation mapping for the Project areas is provided in **Appendix D**.

Sensitive Species. Based on the CNDDB listings for the Project area (CDFW, 2013, 2014), and LADWP knowledge of the areas, sensitive plant and animal species with the potential to occur on or near the Project sites are summarized in **Tables 4.3-4** (Listed Species), **4.3-5** (Sensitive Species) and **4.3-6** (Locally Important Species). Occurrence information from 2008 is also provided for additional reference. Species not included in these tables due to change in regulatory status are: Double-crested Cormorant (*Phalacrocorax auritus*), White-faced Ibis (*Plegadis chihi*), Osprey (*Pandion haliaetus*), Sharp-shinned Hawk (*Accipiter striatus*) Cooper's Hawk (*Accipiter cooperi*) Ferruginous Hawk (*Buteo regalis*), Merlin (*Falco columbarius*), Prairie Falcon (*Falco mexicanus*) Long-billed Curlew (*Numenius americanus*), California Gull (*Larus californicus*), and Virginia's Warbler (*Oreothlypis virginiae~~luciae~~*). Additionally, the Project area is outside the breeding range for the sensitive subspecies of California Horned Lark (*Eremophila alpestris actia*), Bell's Sage Sparrow (*Artemisiospiza belli canescens*) and Tricolored Blackbird *(Agelaius tricolor)*. Southern grasshopper mouse (*Onychomys torridus ramona*) ~~and Bell's Sage Sparrow (*Artemisiospiza belli belli*)~~ are not present in the Project area.

LeConte's Thrasher. The Special Status for LeConte's Thrasher (*Toxostoma lecontei*) only applies to the population of Le Conte's Thrashers breeding in the San Joaquin Valley of California (*T. lecontei macmillanorum*).

[**Draft EIR Section 4.3.3.4 Avian Use of the Project Area**]

In response to information requests from the CDFW (comment letter #5), Draft EIR Section 4.3.3.4 is revised in its entirety. Additional information on bird distribution and nesting on Owens Lake is provided.

4.3.3.4 Avian Use of Project Vicinity

A designated Nationally Significant Important Bird Area by the National Audubon Society and America Bird Conservancy, Owens Lake serves as a migratory stop-over site for shorebirds and waterfowl during spring and fall migration. American Avocets, Western and Least Sandpipers dominate during migration. Wilson's and Red-necked Phalaropes are common during migration particularly in fall. Owens Lake is also an important site for waterfowl and supports large numbers of Northern Shoveler and Ruddy Ducks, particularly in migration. Use of the Project vicinity by various waterbirds is much less notable in summer and winter. However, Snowy Plover and American Avocets commonly breed in dust control areas and around lake-fringing wetlands.

Multiple bird surveys per year were conducted in order to document use of the dust control project area by all Owens Lake guilds. In 2012, 2013, and 2014, the surveys consisted of:

- Two annual spring surveys – conducted within the last two weeks of both March and April
- One Snowy Plover/all species breeding survey – conducted in late May
- Three fall surveys – conducted in the last two weeks of August, September, and October
- One winter survey – conducted in January

Results of the bird counts in 2011, 2012 and 2013 are summarized by Owens Lake Guild in **Appendix D**. Data from 2012 to 2014 are provided below. 2010 bird data were used to calibrate the Habitat Suitability Model.

T18S Bird Species

The 2012-2014 bird use data were analyzed for bird use in T18S, an existing Shallow Flood DCA included in the Project. The following trends were observed (**Figures 4.3-1** through **4.3-3**). Bird use in T18S appears high in part due to the large size of the DCA. When bird use in T18S is compared to other DCAs on a per acre basis (**Figure 4.3-4** to **4.3-7**), T18S has moderate bird use.

- Diving waterbird use (including Eared Grebe, Ruddy Duck and Bufflehead) was high in T18S. Other high diving waterbird use cells are T16, T1A-2 and the T30s.

- Shorebird (including Snowy Plover, American Avocet, Black-necked Stilt and Killdeer) use of Transition Area T18S was moderate to high compared to other DCAs where shorebirds were found. These individuals represent adults observed during the breeding season and may include many non-breeding individuals.

- Waterfowl use in T18S during the breeding season (which may consist of non-breeding individuals including Gadwall, Cinnamon Teal and Mallard) was low to moderate compared to other DCAs. T29-1 had high breeding waterfowl use.

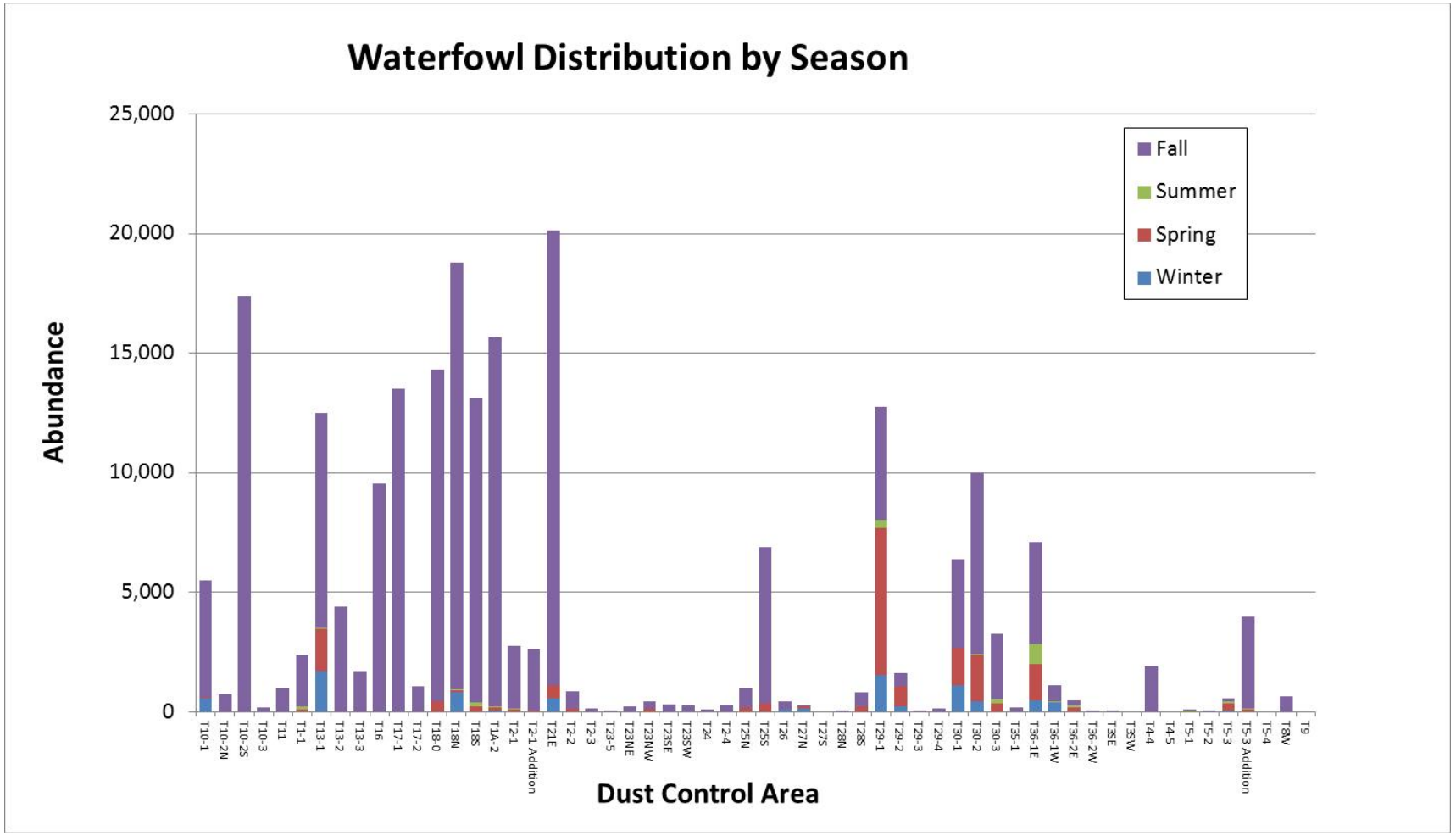


Figure 4.3-1
Owens Lake Waterfowl Distribution by Season

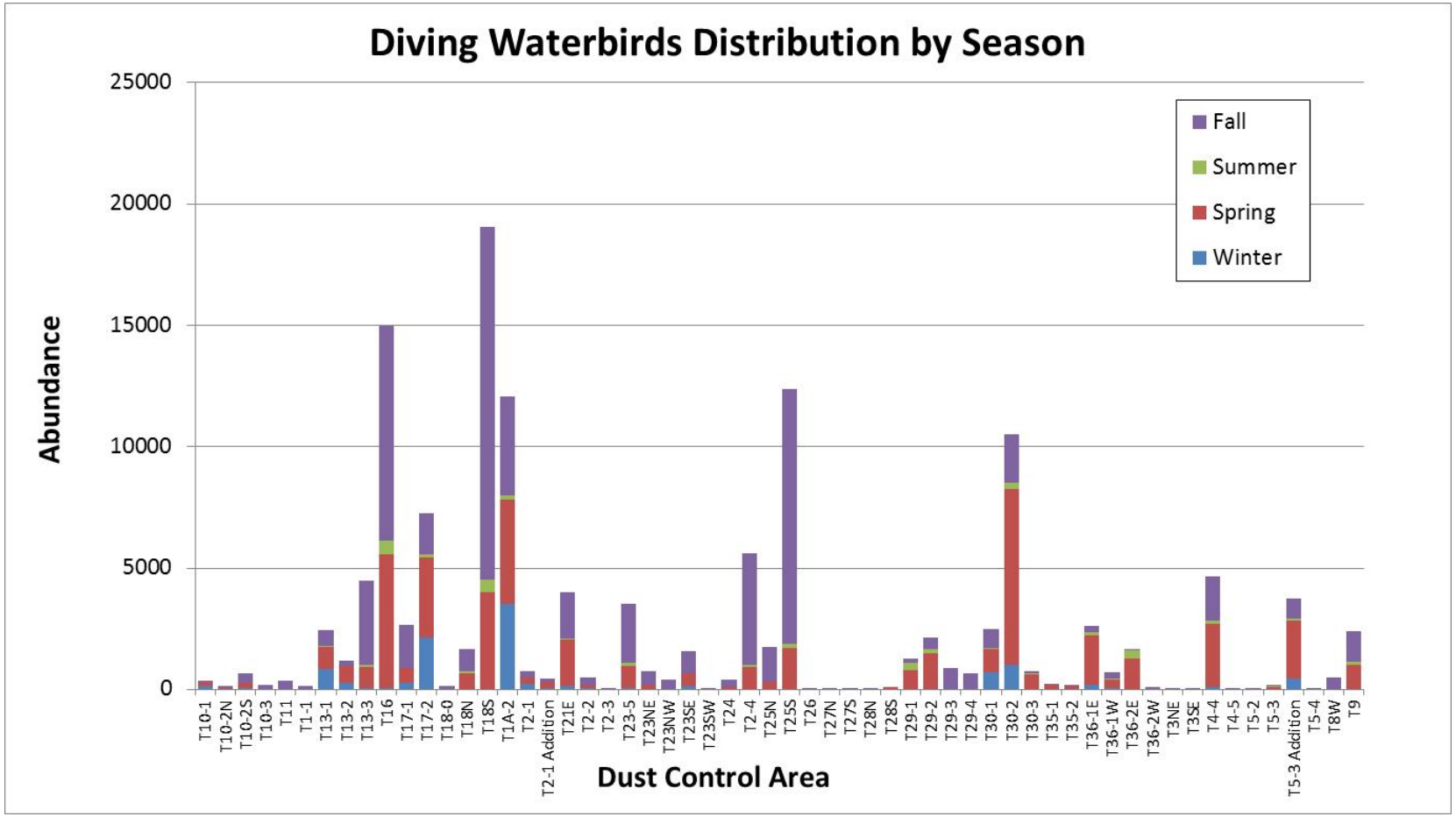


Figure 4.3-2
Owens Lake Diving Waterbirds Distribution by Season

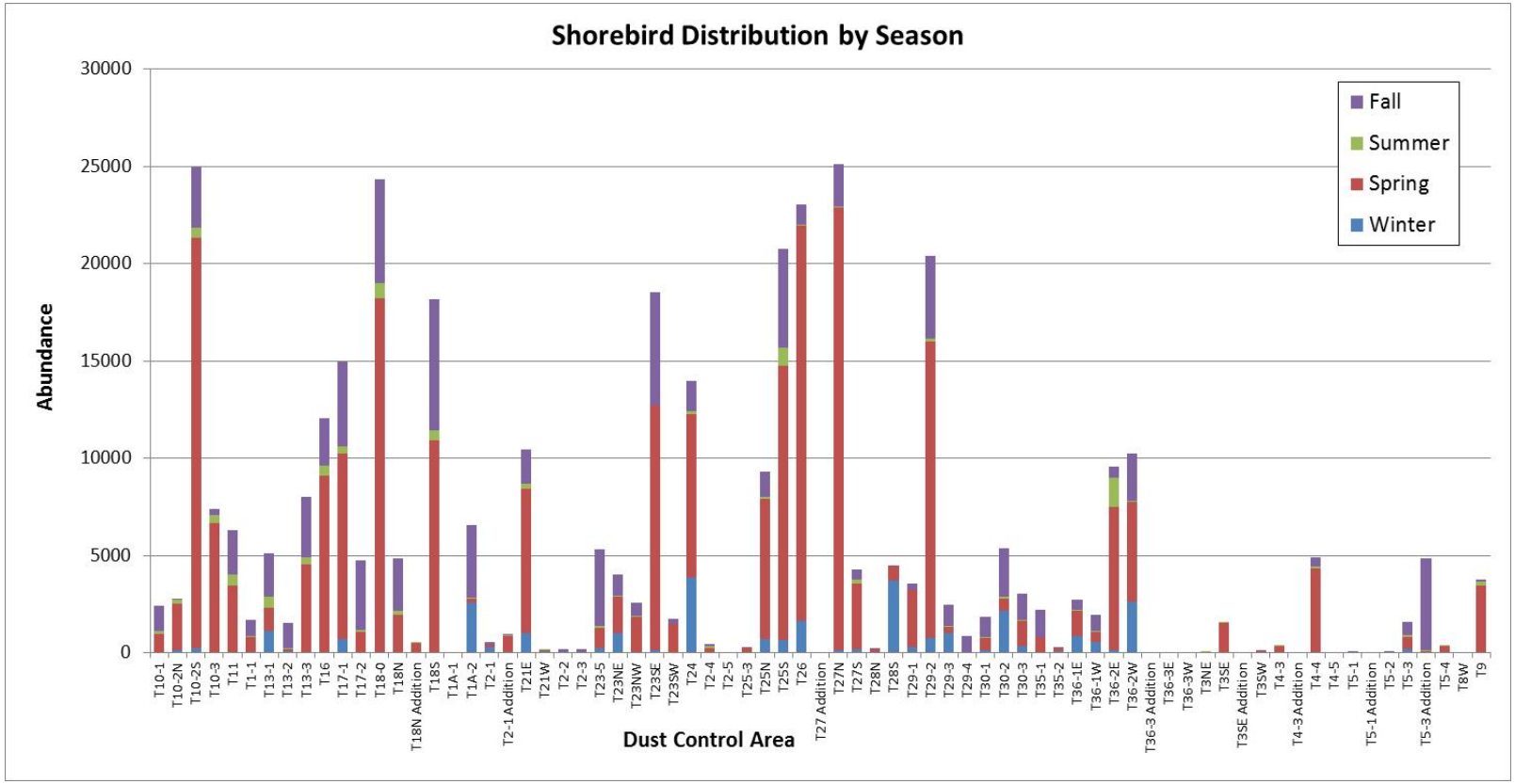


Figure 4.3-3
Owens Lake Shorebird Distribution by Season

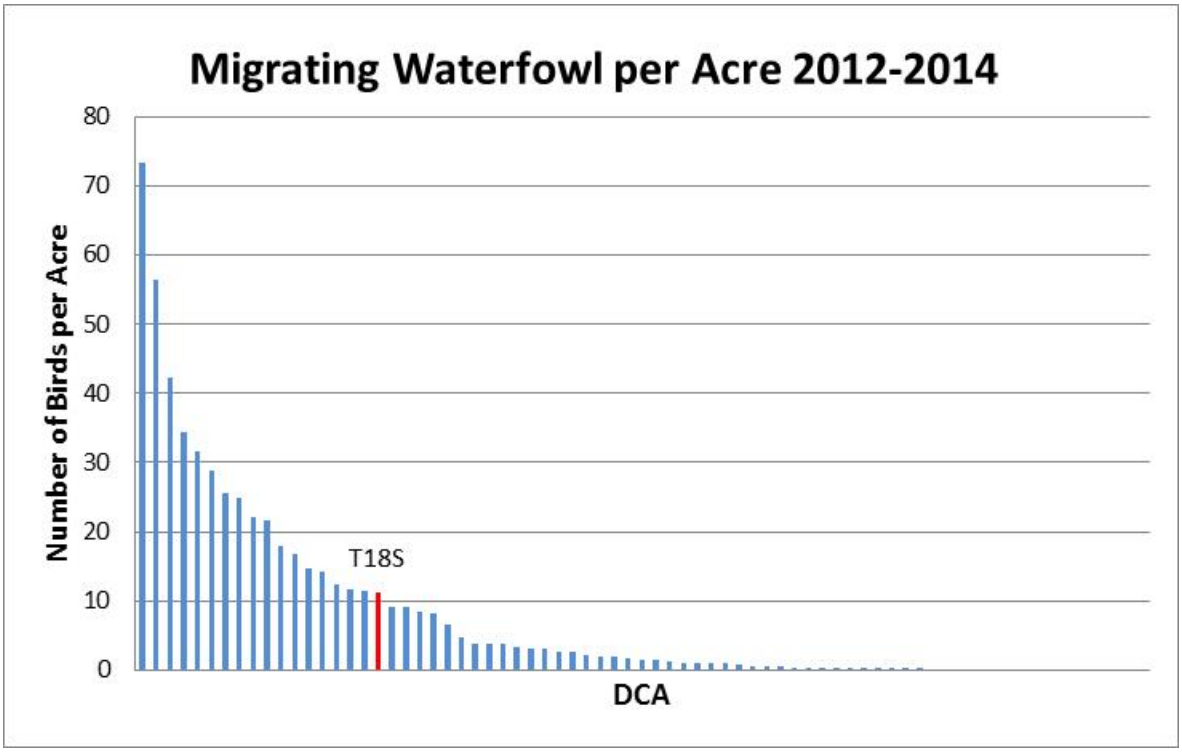


Figure 4.3-4
Owens Lake Migrating Waterfowl per Acre 2012-2014

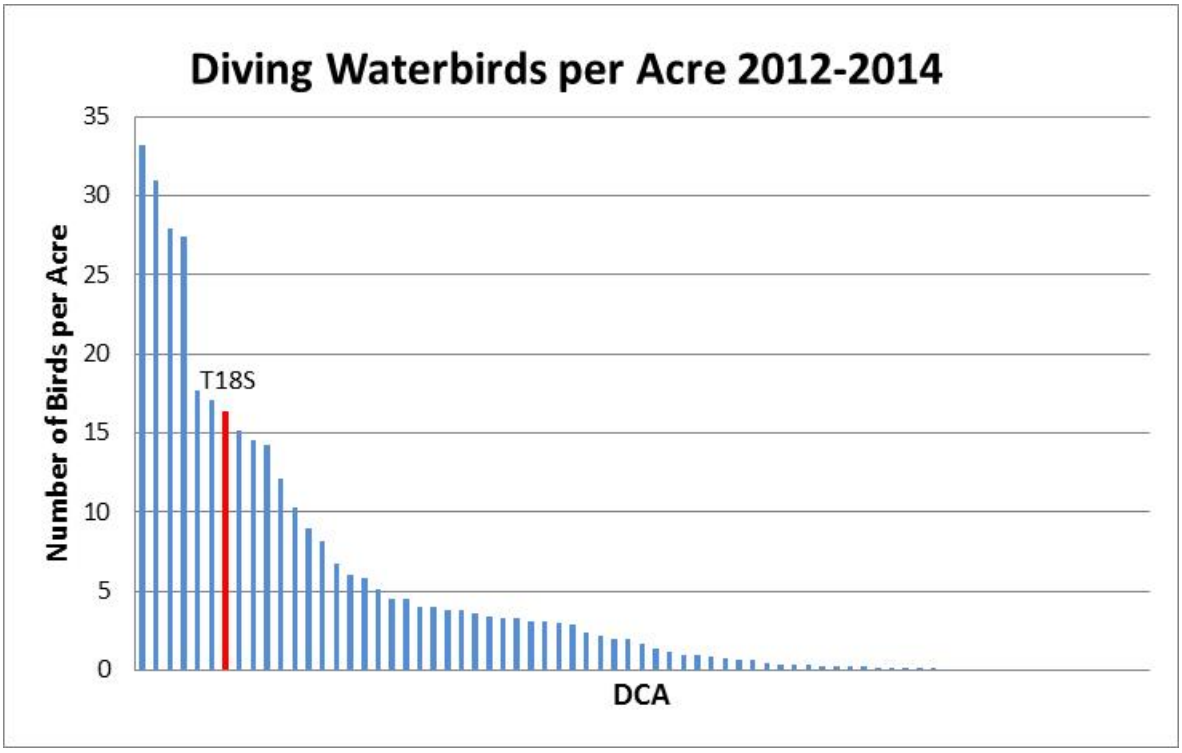


Figure 4.3-5
Owens Lake Diving Waterbirds per Acre 2012-2014

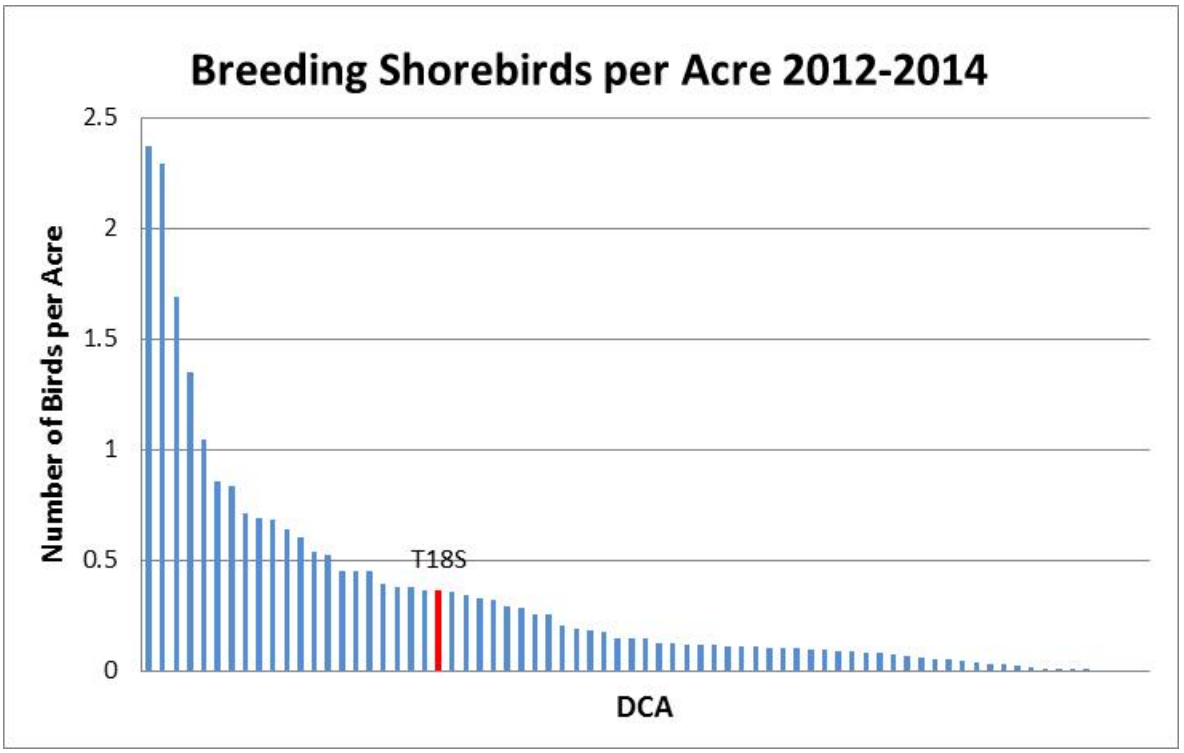


Figure 4.3-6
Owens Lake Breeding Shorebirds per Acre 2012-2014

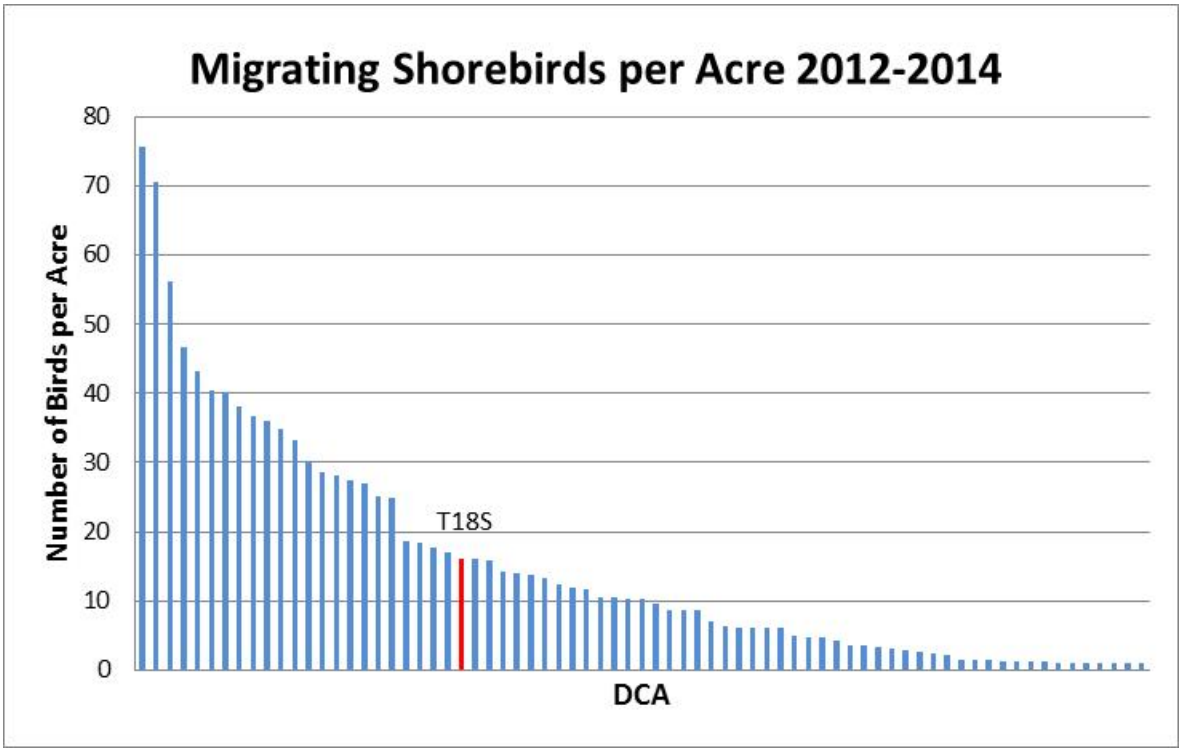


Figure 4.3-7
Owens Lake Migrating Shorebirds per Acre 2012-2014

Tables 4.3-6a through **4.3-6d** show the species abundance (species sorted into guilds) in T18S in spring, summer, fall and winter. The data show the variability of avian surveys. **Table 4.3-6e** shows all other species (not in the HSM habitat guilds) seen in T18S in 2012-2014 surveys.

Table 4.3-6a
Total Guild Species Observed in T18S During Spring Surveys

	Survey Year		
	2012	**2013**	**2014**
Total Waterfowl	6	151	42
Total Diving Waterbirds	144	3503	343
Total Shorebirds	1340	9353	164
Spring Species Composition			
	Survey Year		
Waterfowl	**2012**	**2013**	**2014**
Gadwall	3	25	40
Mallard	3		
Cinnamon Teal		13	1
Northern Shoveler		113	1
Diving Waterbirds	**2012**	**2013**	**2014**
Ring-necked Duck		1	
Lesser Scaup		3	
Bufflehead		3	
Ruddy Duck	58	665	
Eared Grebe	86	2831	343
Shorebirds	**2012**	**2013**	**2014**
Black-bellied Plover	2	1	
Snowy Plover	6		1
Semipalmated Plover	3	6	
American Avocet	459	965	75
Greater Yellowlegs	3	38	
Willet		4	1
Western Sandpiper	720	100	
Least Sandpiper	120	350	5
Dunlin		10	
Calidris sp.		7430	62
Long-billed Dowitcher	4		2
Unidentified Dowitcher		6	
Wilson's Phalarope		150	
Red-necked Phalarope	23	43	
Phalarope sp.		250	18

Note: Data reflect results from two spring surveys per year.

Table 4.3-6b
Total Guild Species Observed in T18S During Summer Survey

	Survey Year		
	2012	**2013**	**2014**
Total Waterfowl	23	41	109
Total Diving Waterbirds	173	274	55
Total Shorebirds	302	167	57
Summer Species Composition			
	Survey Year		
Waterfowl	**2012**	**2013**	**2014**
Gadwall	21	35	46
American Wigeon			1
Mallard		2	12
Blue-winged Teal			1
Cinnamon Teal		4	6
Northern Shoveler	2		10
Green-winged Teal			33
Diving Waterbirds	**2012**	**2013**	**2014**
Redhead	8		
Ruddy Duck	4	2	2
Eared Grebe	160	272	53
Western Grebe	1		
Shorebirds	**2012**	**2013**	**2014**
Snowy Plover	2	9	5
American Avocet	214	143	48
Spotted Sandpiper	2		1
Marbled Godwit			4
Sanderling	5		1
Western Sandpiper		12	
Wilson's Phalarope			3
Red-necked Phalarope	81	12	

Notes: Data reflect results from one summer survey per year.
Of the species observed during summer surveys, nesting habitat in cell is only currently present for Snowy Plover and American Avocet.

Table 4.3-6c
Total Guild Species Observed in T18S During Fall Surveys

	Survey Year		
	2012	**2013**	**2014**
Total Waterfowl	1638	6309	4793
Total Diving Waterbirds	2708	5815	6028
Total Shorebirds	533	3600	2596
Fall Species Composition			
Waterfowl	**2012**	**2013**	**2014**
Gadwall		212	47
American Wigeon			2
Blue-winged Teal	2		
Cinnamon Teal	3	10	16
Northern Shoveler	1618	5775	4676
Northern Pintail	14	8	24
Green-winged Teal	1	304	28
Diving Waterbirds	**2012**	**2013**	**2014**
Ruddy Duck	147	281	24
Eared Grebe	2560	5534	6004
Western Grebe	1		
Shorebirds	**2012**	**2013**	**2014**
Black-bellied Plover		1	
Snowy Plover	10		4
Semipalmated Plover	1	1	
Killdeer	4	4	13
Black-necked Stilt			2
American Avocet	142	1215	2230
Spotted Sandpiper			1
Greater Yellowlegs	1	20	5
Willet		1	
Sanderling			1
Western Sandpiper	140	977	39
Least Sandpiper	203	806	215
Baird's Sandpiper	15	2	6
Dunlin		15	1
Calidris sp.	15	58	72
Long-billed Dowitcher		4	
Wilson's Phalarope		21	6
Red-necked Phalarope	2	475	
Red Phalarope			1

Notes: Data reflect results from three fall surveys per year.

Table 4.3-6d
Total Guild Species Observed in T18S During Winter Survey

	Survey Year		
	2012	**2013**	**2014**
Total Waterfowl		28	
Total Diving Waterbirds	24	9	
Total Shorebirds	27	38	
Winter Species Composition			
	Survey Year		
Waterfowl	**2012**	**2013**	**2014**
Gadwall		28	
Diving Waterbirds	**2012**	**2013**	**2014**
Ruddy Duck	21	9	
Eared Grebe	3		
Shorebirds	**2012**	**2013**	**2014**
Snowy Plover	3		
Least Sandpiper	24	38	

Notes: Data reflect results from one winter survey per year.

Table 4.3-6e
2012-2014 Other Species Observations in T18S

Species	2012	2013	2014
White-faced Ibis		2	
American Coot	22	431	123
Sabine's Gull			3
Bonaparte's Gull		1	1
Franklin's Gull	1		1
Ring-billed Gull	3		
California Gull	468	2175	927
Peregrine Falcon		1	1
Common Raven	2	2	2
Horned Lark	25	64	3
Cliff Swallow	3	6	
Barn Swallow		2	20
Rock Wren		1	1
American Pipit		3	2
Common Yellowthroat		1	
Yellow-rumped Warbler		1	
Savannah Sparrow		1	1
Red-winged Blackbird		2	
Western Meadowlark	1		

Note: Data reflect results from seven surveys per year.

Table 4.3-6f lists the existing DCAs adjacent to each Phase 9/10 Project DCA.

Table 4.3-6f
Adjacent DCAs to Phase 9/10 Project Areas

Project Area	Adjacent DCAs
C2-L1	T2-1 Addition
DuckPondL1	T2-1
T10-1-L1	T10-1, T10-9
T17-2-L1	T13-3
T18S	T18N, T18-0, T16
T21-L1	T21
T21-L2	T21
T32-1-L1	T30-1, T30-2
T35-2-L1	T36-1W
T37-1-L1	
T37-2-L1	
T37-2-L2	
T37-2-L3	
T37-2-L4	
T21-L3	T21
T21-L4	T21
T10-3-L1	T10-3, T11

Table 4.3-6g shows the species composition (by Owens Lake Guild) in adjacent cells. **Table 4.3-6h** shows special status species in adjacent cells. The species observations are survey data and may not indicate separate individuals.

Table 4.3-6g
2012-2014 Bird Data by Guild in Adjacent Cells to Project Areas

DCA	HSM_Group	2012	2013	2014
T10-1	Diving Waterbirds	126	227	1
	Shorebird	636	589	1204
	Waterfowl	3852	1087	553
T-11	Diving Waterbirds	155	36	153
	Shorebird	1877	3263	1172
	Waterfowl	26	945	
T13-3	Diving Waterbirds	1500	1027	1951
	Shorebird	1462	2271	4296
	Waterfowl	85	707	906
T16	Diving Waterbirds	4740	9046	1187
	Shorebird	3854	5018	3196
	Waterfowl	6477	2276	814
T18-0	Diving Waterbirds	56	23	52
	Shorebird	8688	4974	10671
	Waterfowl	5215	3132	5984
T18N	Diving Waterbirds	383	874	387
	Shorebird	918	2000	1926
	Waterfowl	8427	3530	6822
T2-1	Diving Waterbirds	437	204	94
	Shorebird	448	94	11
	Waterfowl	1839	654	258
T2-1 Addition	Diving Waterbirds	242	262	374
	Shorebird	1718	220	28
	Waterfowl	1760	3220	308
T21E	Diving Waterbirds	1247	1858	888
	Shorebird	2946	5950	1543
	Waterfowl	8129	6241	5765
T21W	Diving Waterbirds			
	Shorebird	60		99
	Waterfowl			
T30-1	Diving Waterbirds	569	1657	260
	Shorebird	140	1722	
	Waterfowl	3933	1621	820
T30-2	Diving Waterbirds	1730	3442	5328
	Shorebird	2182	1850	1334
	Waterfowl	131	5441	4431
T36-1W	Diving Waterbirds	193	464	49
	Shorebird	700	733	512
	Waterfowl	336	539	258

Note: Data reflect results from seven surveys per year.

Table 4.3-6h
2012-2014 Special Status Species Observations in Adjacent Cells to Project Areas

DCA	Common Name	Grand Total
T10-1	Snowy Plover	24
T11	Snowy Plover	15
	Black Tern	
T13-3	Snowy Plover	4
	Willet	2
	Black Tern	
	Peregrine Falcon	
T16	American White Pelican	501
	Snowy Plover	39
	Black Tern	
T18-0	Northern Harrier	3
	Snowy Plover	8
T18N	Snowy Plover	2
	Willet	9
	Franklin's Gull	2
	Peregrine Falcon	2
T2-1	Peregrine Falcon	1
	Yellow-headed Blackbird	3
T2-1 Addition	Northern Harrier	2
	Snowy Plover	12
T21E	Northern Harrier	1
	Snowy Plover	53
T21W	Snowy Plover	5
T30-1	Northern Harrier	6
	Willet	7
	Peregrine Falcon	2
	Loggerhead Shrike	2
T30-2	Redhead	
	Northern Harrier	1
	Golden Eagle	1
	Willet	12
T36-1W	American White Pelican	14
	Northern Harrier	2
	Snowy Plover	
	Willet	1
	Peregrine Falcon	2
	Bank Swallow	3

Note: Data reflect results from seven surveys per year.

Snowy Plover Nest Data in T18S

Figure 4.3-8 shows Snowy Plover nests found in and around transition area T18S. Most of the nests were found prior to 2012-2014 on perimeter roads with gravel. Other species nests that were found were American Avocet and California Gull. **Figures 4.3-9** through **4.3-17** show Snowy Plover nests in the vicinity of other proposed Project areas.

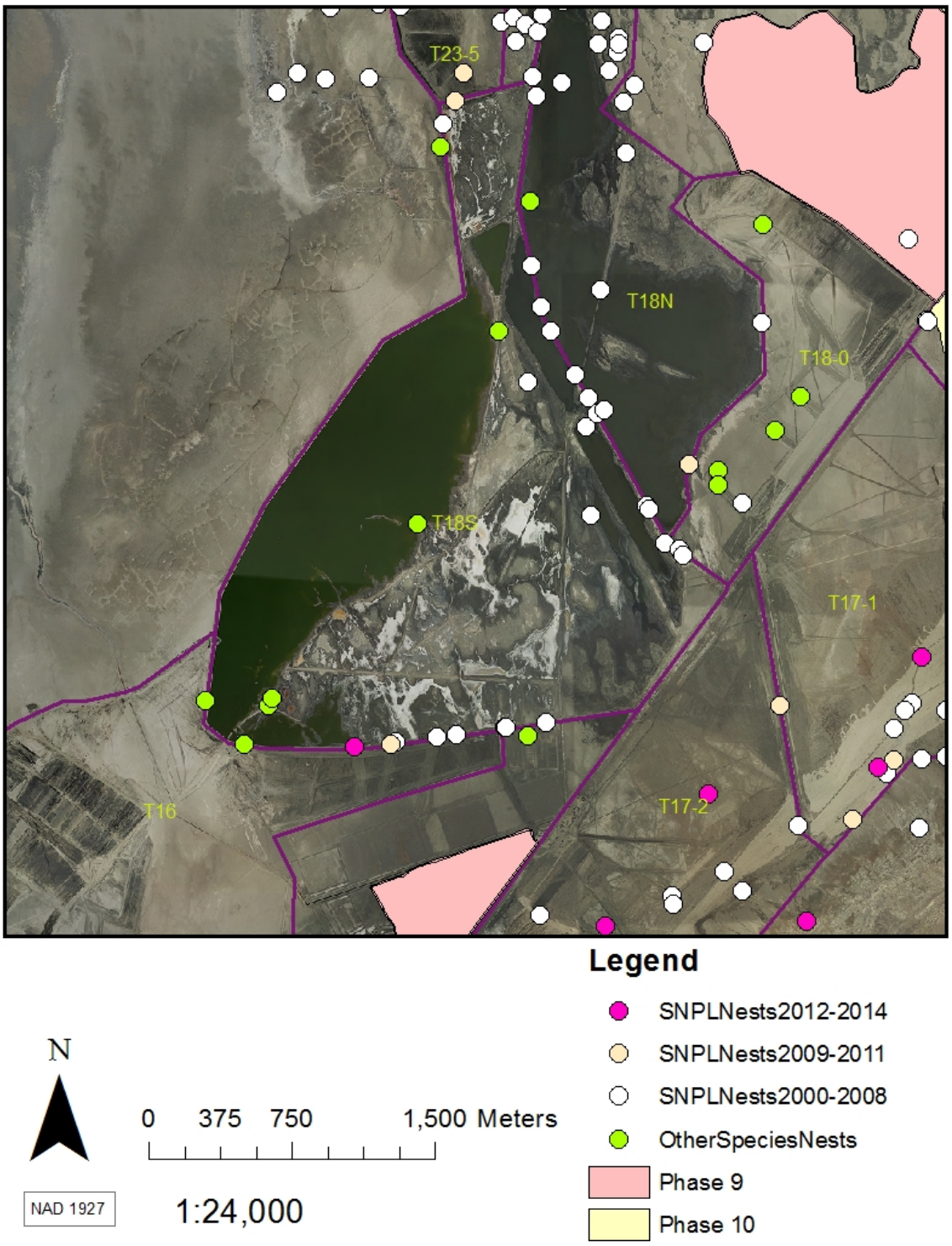


Figure 4.3-8. Owens Lake Snowy Plover Nests in Vicinity of T18S

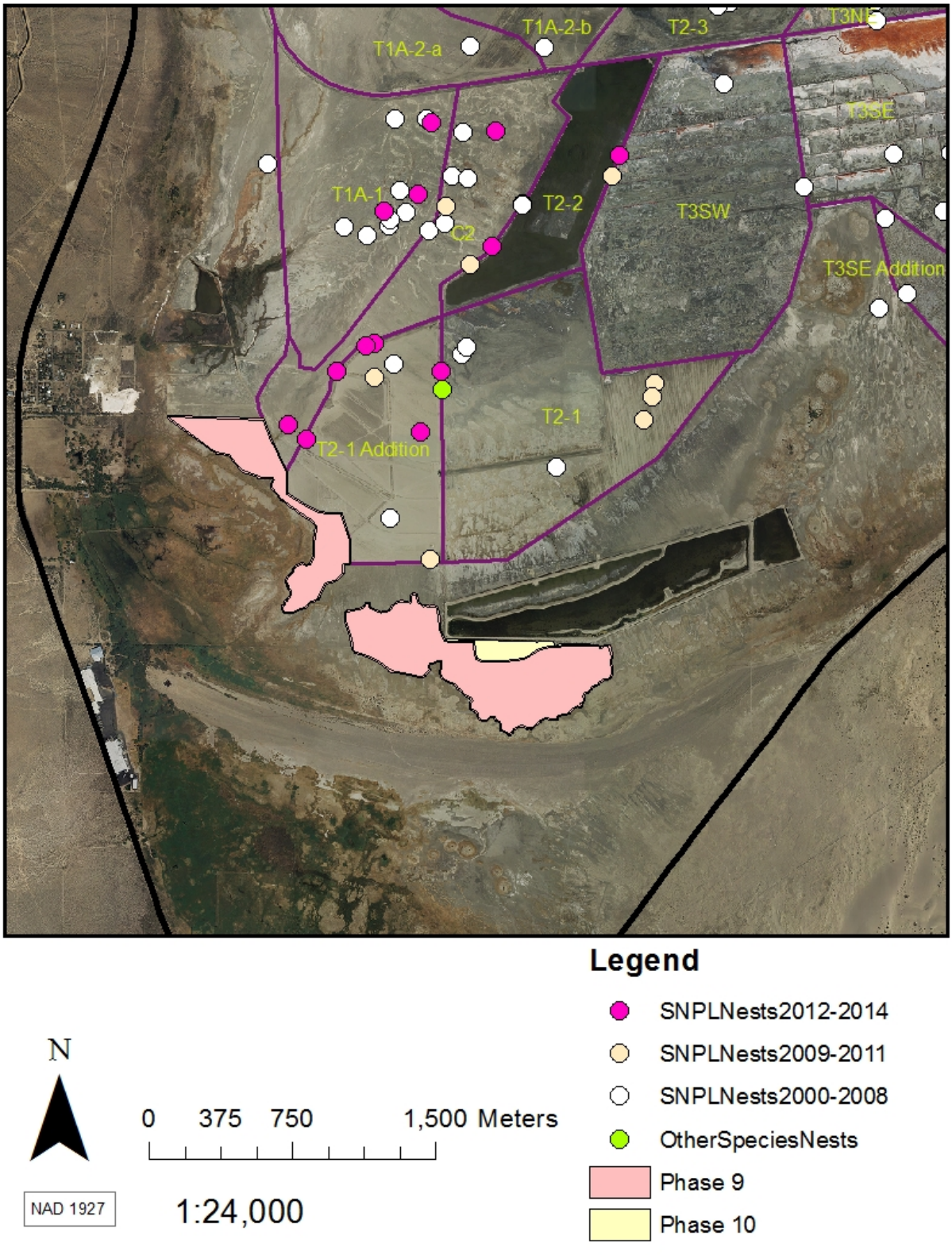


Figure 4.3-9. Snowy Plover Nests in Vicinity of C2 and DuckPond

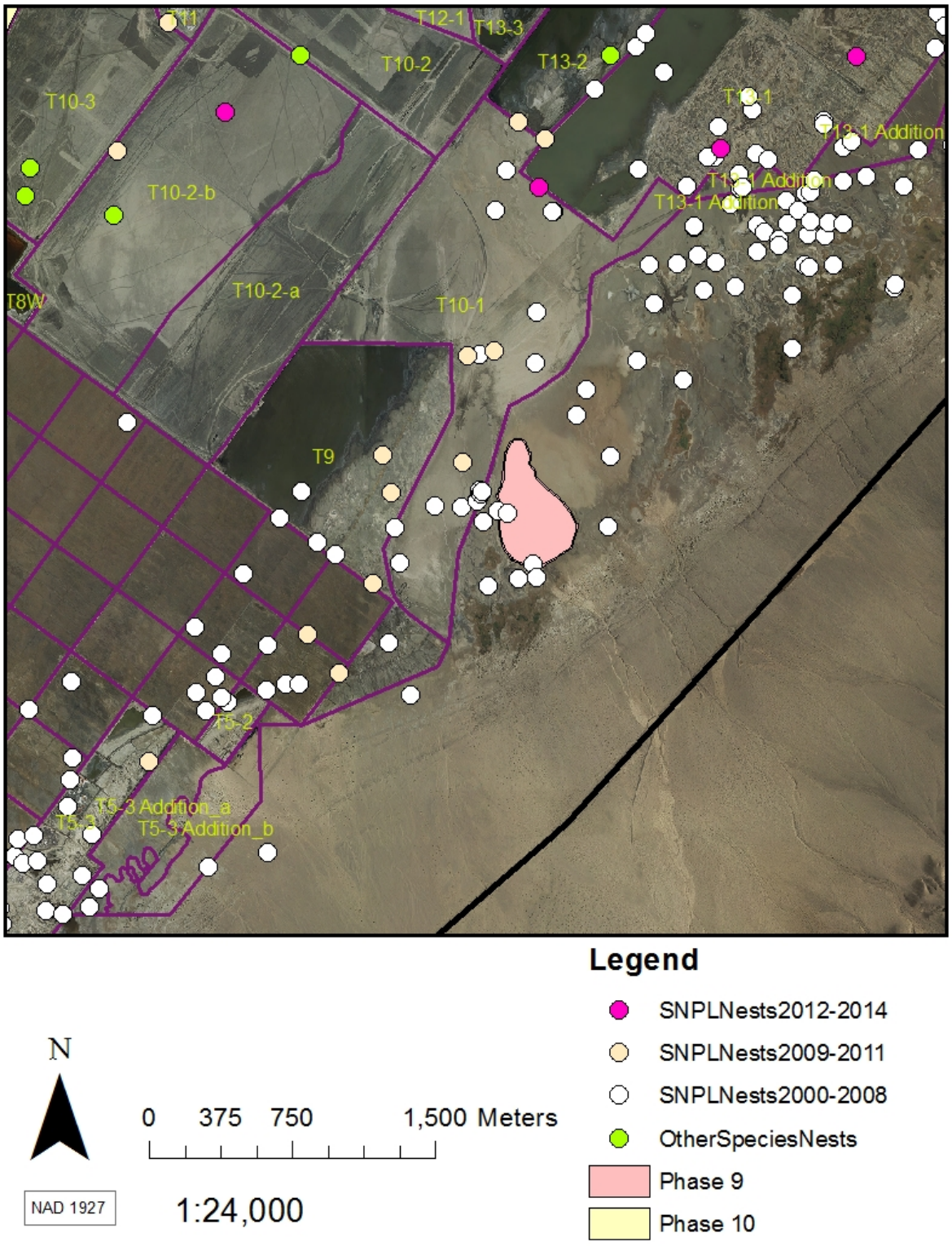


Figure 4.3-10. Snowy Plover Nests in Vicinity of T10-1-L1

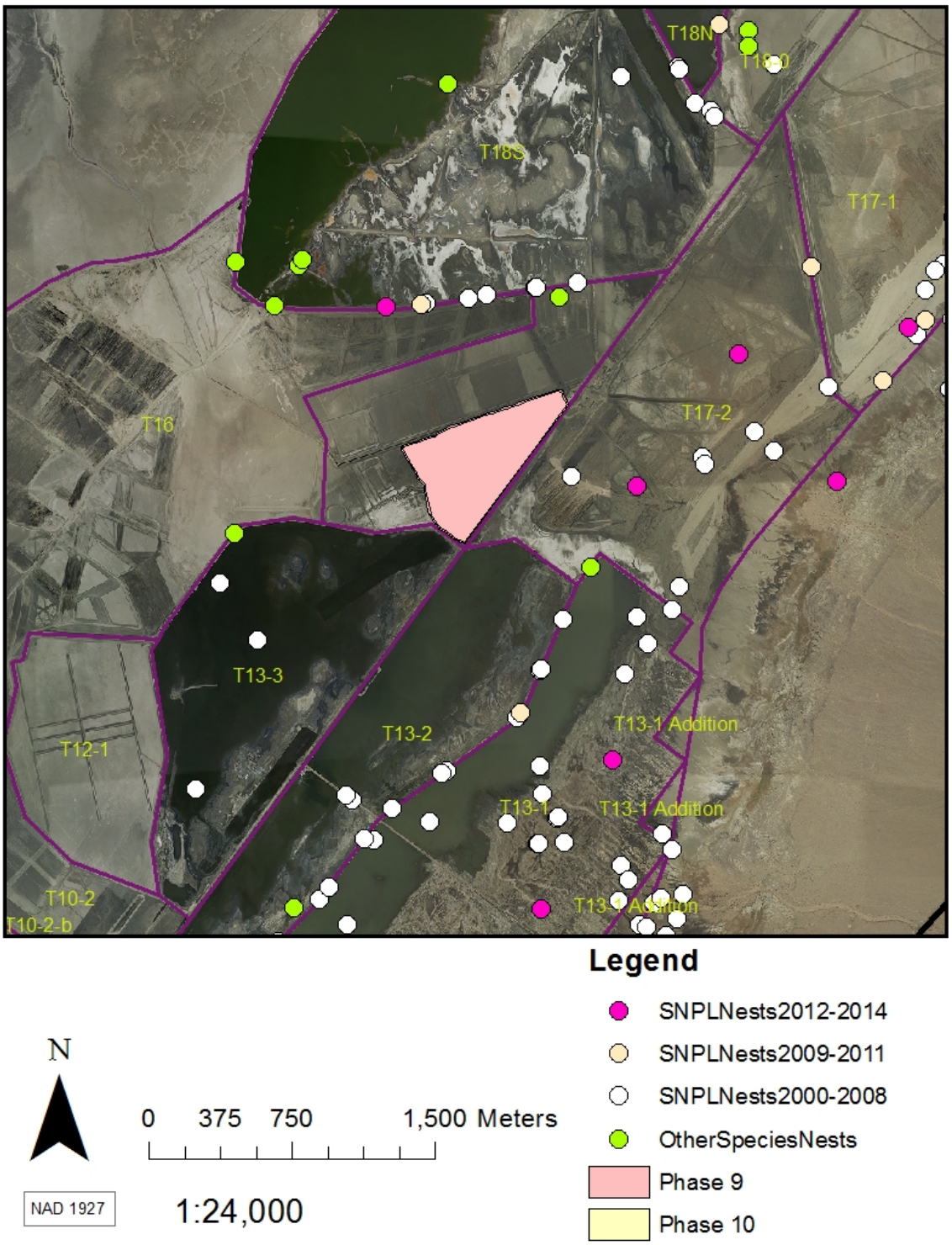


Figure 4.3-11. Snowy Plover Nests in Vicinity of T17-2-L1

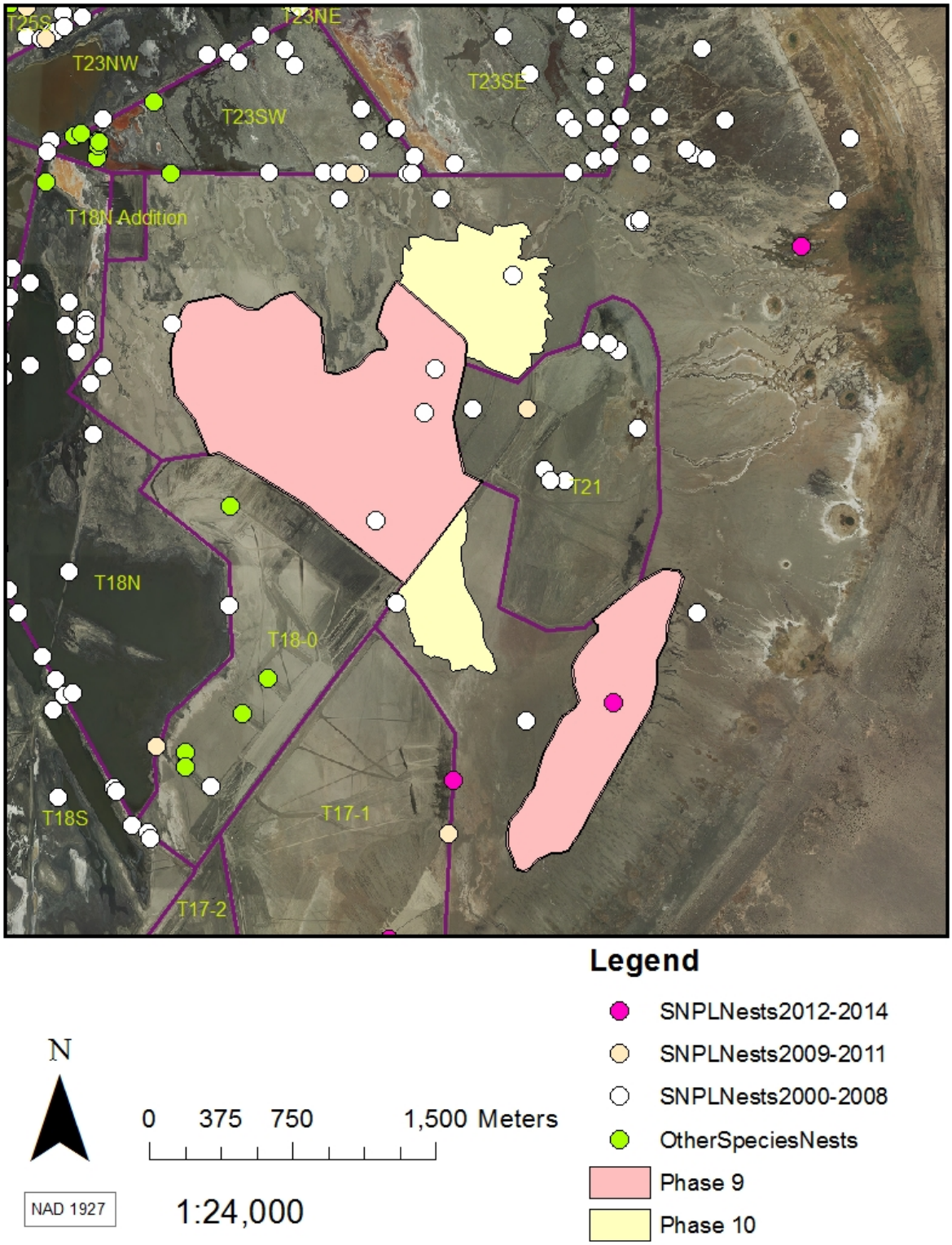


Figure 4.3-12. Snowy Plover Nests in Vicinity of T21-L1, -L2, -L3 and -L4

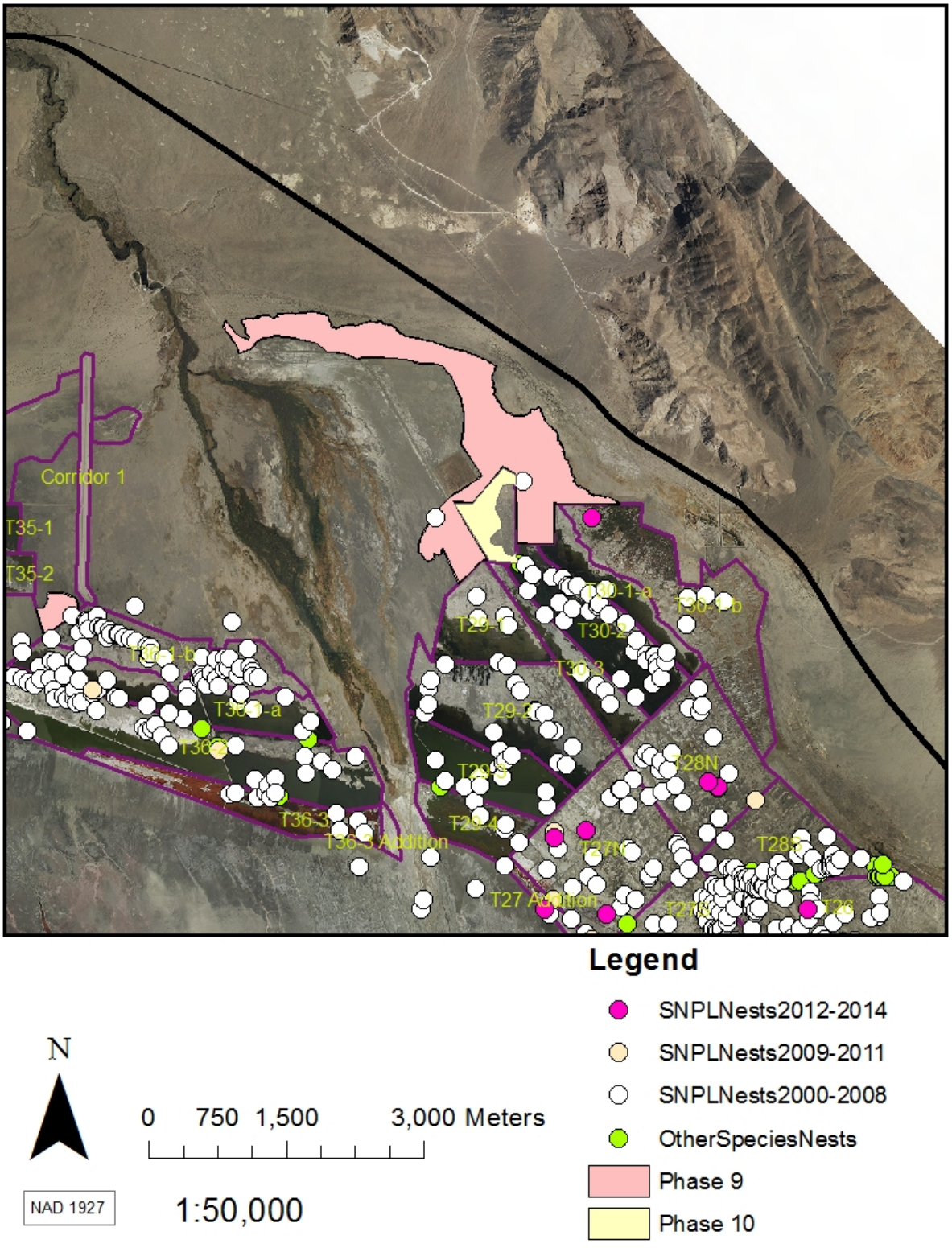


Figure 4.3-13. Snowy Plover Nests in Vicinity of T32-1-L1

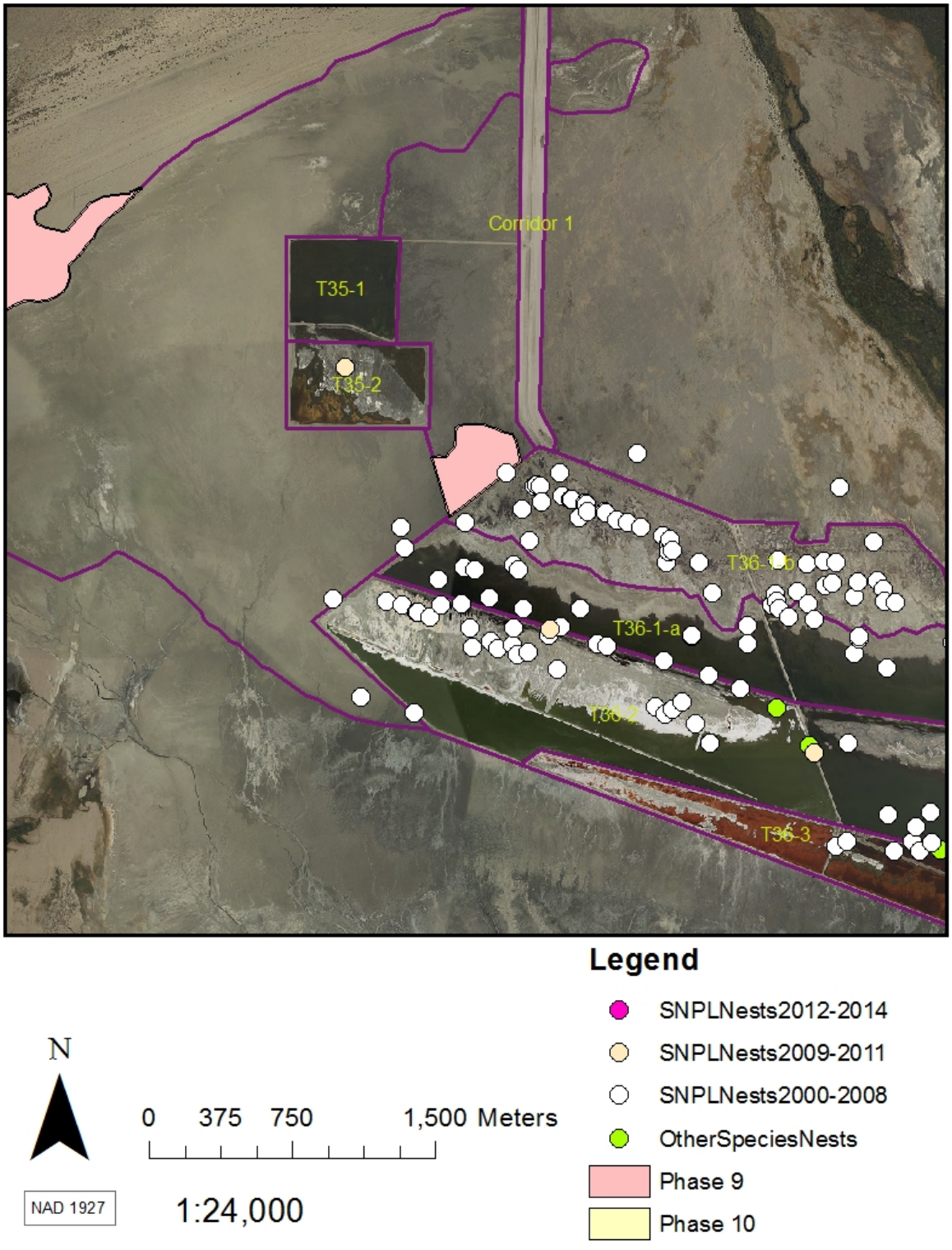


Figure 4.3-14. Snowy Plover Nests in Vicinity of T35-2-L1

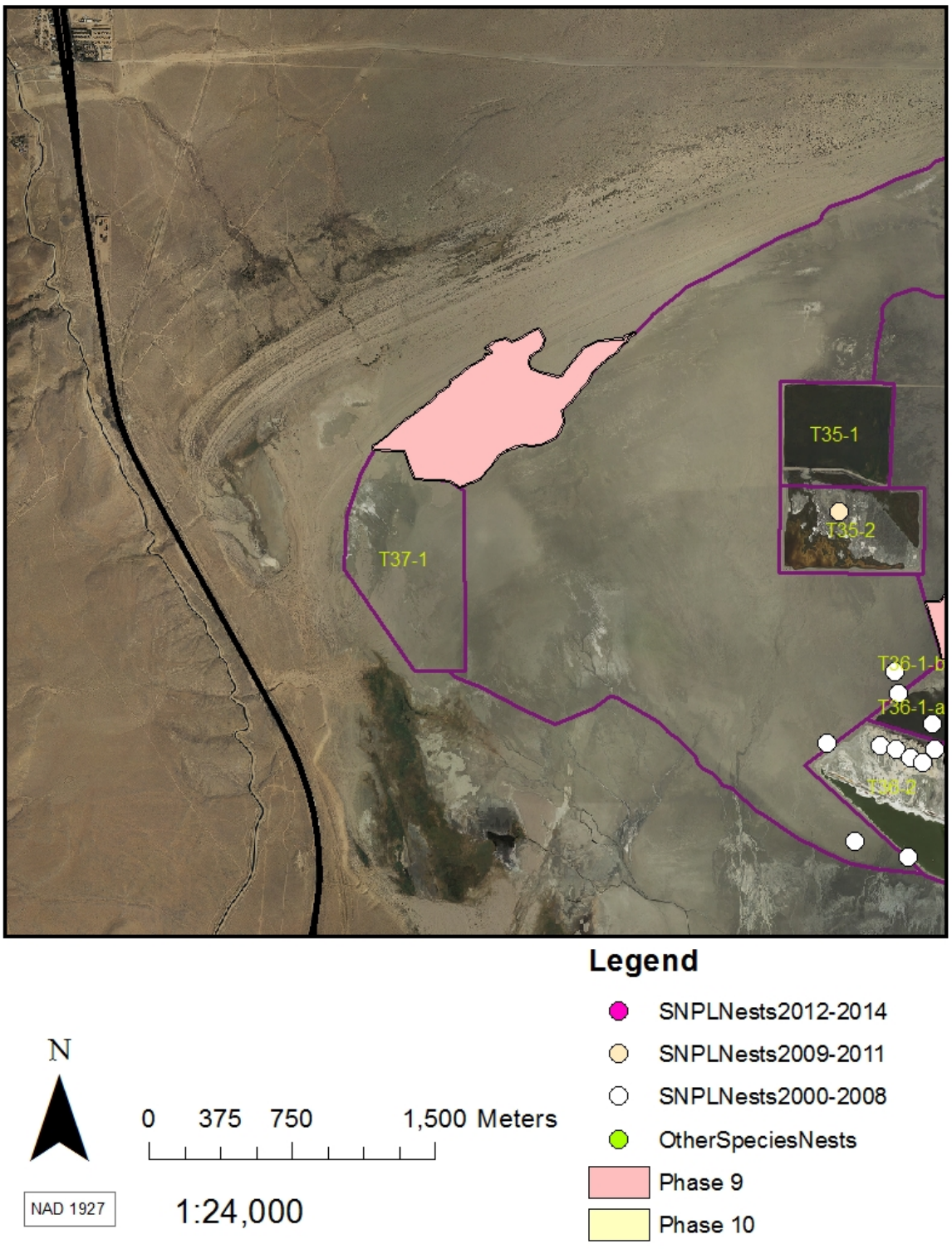


Figure 4.3-15. Snowy Plover Nests in Vicinity of T37-1-L1

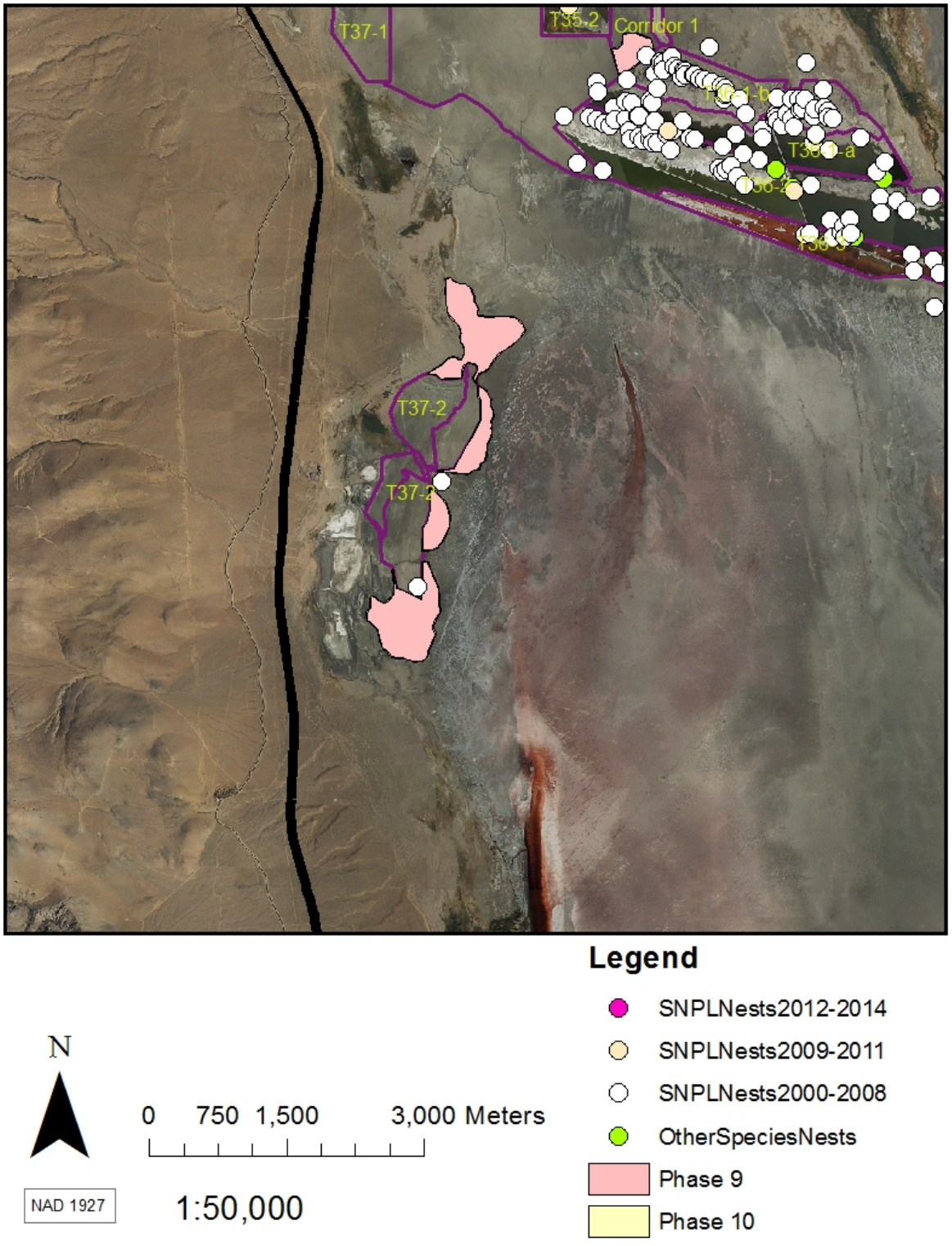


Figure 4.3-16. Snowy Plover Nests in Vicinity of T37-2-L1, -L2, -L3 and -L4

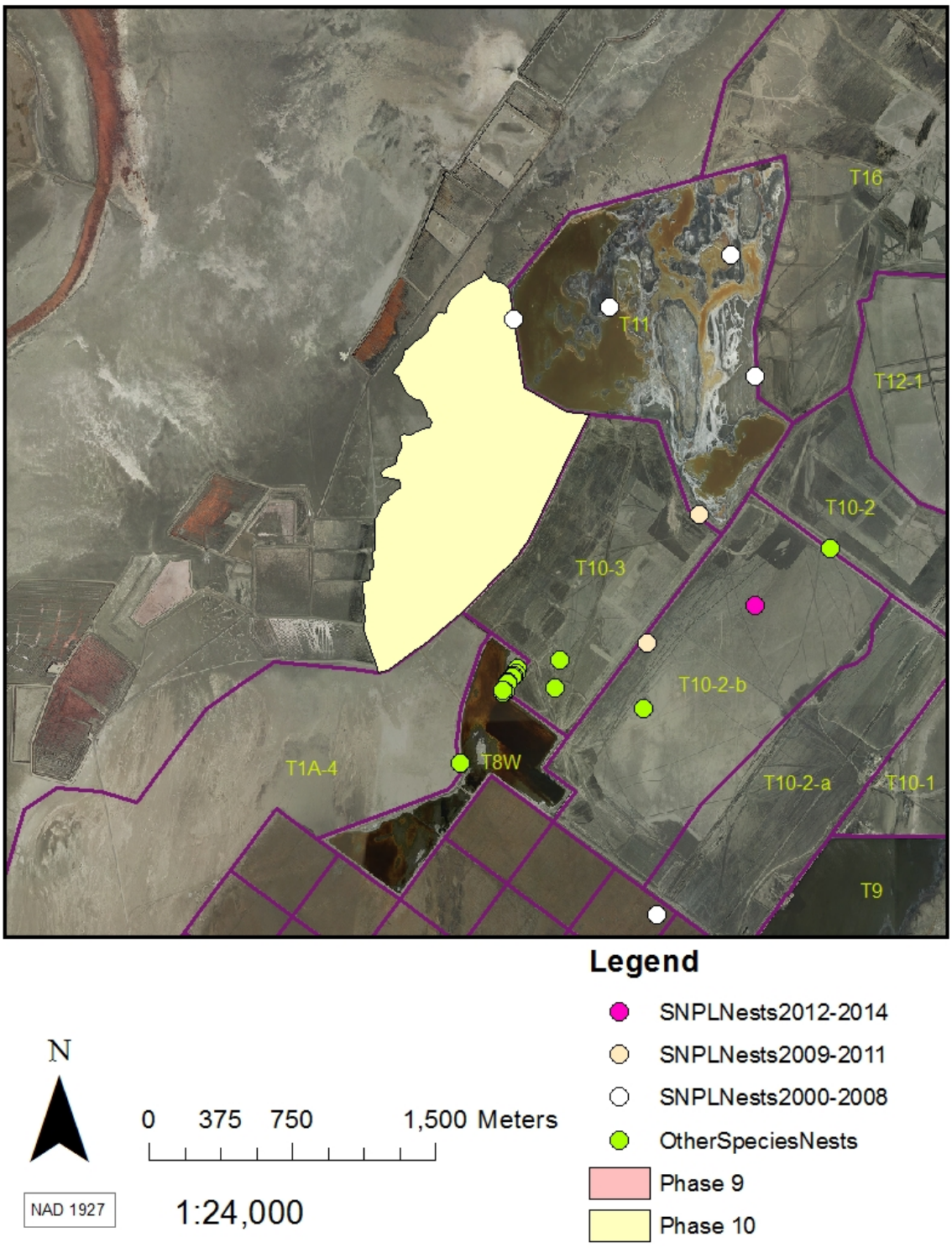


Figure 4.3-17. Snowy Plover Nests in Vicinity of T10-3-L1

[Draft EIR Section 4.4.7.5 Phase II Cultural Resources Evaluations, CRHR Eligibility]

Although identified as recommended eligible in the Phase II cultural resources report for the Project, site CA-INY-6065 is mostly contained in a Phase 7a DCA (T36-1-b). During Phase 7a construction monitoring, the site was considered eligible but fully mitigated by Phase II investigations completed previously (Jones & Stokes, 2002). Over approximately 90 percent of the site has since been disturbed during Phase 7a construction. Therefore, the remaining portion in the Phase 9 area is considered fully mitigated by the previously completed Phase II investigations; the text of the cultural resources report will be revised accordingly. Therefore, there are a total of 11 sites on state lands recommended as eligible in the Phase 9/10 Project area. There are an additional two sites on federal and states lands in the Project area recommended as eligible for the CRHR. The total area of significant cultural sites and buffer that would be excluded from the Project under the Avoidance Alternative is on the order of about 350 acres.

The text in Section 4.4.7.5 is revised as follows:

Evaluative testing, archival research, and review of existing cultural resources records revealed that ~~12~~ 11 sites on state lands in the Phase 9/10 Project areas contain dense, intact, primary cultural deposits that have yielded information important to the prehistory of the local area and California (Criterion 4), and are therefore eligible for listing under the CRHR (**Table 4.4-6**). The criteria for eligibility for the CRHR are based upon NRHP criteria, and they are nearly identical. An evaluation of each of the Phase 9 resources recommended eligible for listing under the CRHR indicates that each is recommended as significant as a historic property under the NRHP. One of the DCAs contains eight of the significant resources and should be considered exceptionally sensitive both for archaeological values and for traditional cultural values.

Most, if not all of the prehistoric/ethnographic archaeological resources at Owens Lake that meet the CRHR/NRHP's criteria can be considered contributors to a multiple property historic district. ~~However, the appropriate state/federal agency with jurisdiction would need to certify the recommendation.~~ The associated property types include *village*, *long-term residence*, *short-term residence, ideological*, *ethnographic*, *historic*, and *unknown*. Each of the sites is recommended significant under Criterion 4/D for their potential to yield important information about the prehistory of Owens Lake. Some sites are also recommended eligible for the CRHR/NRHP under Criterion 1/A for their association with the Indian War era of 1861-1867 at Owens Lake, considered an important period in California history. The chronological context includes sites within one or more of the following periods: Paleo-Indian Complex (10,000 to 8,000 cal BC); Lake Mojave Period (9,000 to 6,000 BP) and Little Lake Period (6,000 to 3,150 BP); Newberry Period (3,150 to 1,350 BP); Haiwee Period (1,350 to 650 BP); Marana Period (650 BP to Contact ~1782); and Historic (Post-Contact~1782). Geographic parameters include related historic properties with direct geographical context within and surrounding Owens Lake flanked by the foothills of the Inyo-White and Sierra Nevada mountain ranges.

[**Draft EIR Table 4.4-6, Summary of Significant Cultural Resources Located within the Phase 9/10 Project Areas**]

Table 4.4-6 is revised to delete the entry for CA-INY-6065.

~~CA-INY-6065~~	~~Sparse lithic scatter with a diversity of artifact types representing tool manufacture and habitation debris~~	~~Unknown~~	~~The site is eligible under Criterion 4/D because it represents a primary deposit with sufficient density, diversity, and integrity of its archaeological constituents and contains information important to understanding prehistoric use of the Owens Lake shoreline.~~

References in other sections of the Draft EIR, including the description of the Avoidance Alternative in Draft EIR Section 5.9, to 12 sites on state lands recommended as eligible for listing under the CRHR are revised to state that 11 sites on state lands are recommended as eligible for listing under the CRHR and are significant cultural resources.

[**Draft EIR Section 4.4.10.2 Mitigation Measures to be Incorporated as part of the Phase 9/10 Project**]

Since cultural resources evaluations on private property within the Phase 9/10 Project area have been completed and significant resources have not been identified, mitigation measure CR-2 is deleted in its entirety (Draft EIR Table 1-2 and Section 4.4.10.2).

~~**CR-2. Cultural Resources on Private Parcels**~~

~~As of January 2015, all of the private parcels included in the Phase 9/10 Project have been surveyed for cultural resources. Due to the time delay resulting from securing permissions to survey the sites, evaluations of the significance of observed cultural resources are pending. Prior to construction on private lands, a qualified archaeologist shall conduct evaluative testing (Phase II investigation), if recommended by the Project archaeologist.~~

~~Under the Avoidance Alternative to the proposed Project, the treatment plan for significant archaeological resources identified on private parcels shall describe avoidance/preservation in place. If the Avoidance Alternative is not adopted, and the proposed Project for the entire 3.61 square miles of dust control is adopted by LADWP, and if avoidance of significant archaeological resources on private parcels is deemed infeasible, a data recovery plan shall be implemented for the resources and the impact on archaeological resources would be significant with mitigation.~~

In response to comments from the CSLC, cultural resources mitigation measures CR-3 and CR-5 are revised to delete the requirement for CSLC approval of the Project archaeologist and paleontologist.

The first bullet of CR-3 is modified as follows:

- The retention of a qualified archaeologist to implement a monitoring and recovery program. The "qualified archaeologist" shall meet the U. S. Secretary of the Interior's Historic Preservation Professional Qualification Standards for Archaeology. ~~The qualifications of the archaeologist shall be submitted to the responsible agency (CSLC) for approval.~~

The following additional bullet is added:

- An Unanticipated Discovery Evaluation Protocol shall be developed by the qualified archaeologist. Prior to the evaluation of any newly discovered resources on state lands, the California State Lands Commission shall be afforded an opportunity to comment on the research design, including research questions and evaluation methodologies, included in the Unanticipated Discovery Evaluation Protocol. Prior to evaluation of any newly discovered resources on federal lands, the BLM shall be afforded an opportunity to comment on the Unanticipated Discovery Evaluation Protocol.

The first bullet of CR-5 is modified as follows:

- LADWP shall retain a qualified paleontologist to implement the mitigation plan and maintain professional standards of work. A "qualified paleontologist" is defined as a practicing scientist who meets the qualifications established by the SVP. ~~The qualifications of the paleontologist shall be submitted to the responsible agency (CSLC) for approval.~~

[**Draft EIR Section 4.4.10.2 Table 4.2-3**]

Draft EIR Table 4.2-3 is replaced in its entirety, to clarify footnotes and delete a duplicate entry for the Lone Pine monitoring station.

Table 4.2-1
Air Quality Data for the Owens Lake Area (2007-2013)

Air Quality Indicator	2007	2008	2009	2010	2011	2012	2013
Ozone (O_3)[1]							
Peak 1-hour value (ppm)	0.107	0.098	0.098	0.081	0.084	0.082	0.080
Days above state standard (0.09 ppm)	3	1	1	0	0	0	0
Peak 8-hour value (ppm)	0.094	0.094	0.086	0.076	0.079	0.078	0.074
Days above state standard (0.070 ppm)	35	21	4	2	20	8	5
Days above federal standard (0.075 ppm)[2]	18	5	2	1	3	1	0
Particulate matter less than or equal to 10 microns in diameter (PM_{10})							
Olancha Monitoring Station							
Peak 24-hour value (μg/m^3)	114	357	650	577	779	485	276
Days above state standard (50 μg/m^3)	*	*	*	*	*	*	*
Days above federal standard (150 μg/m^3)	*	5	2	7.3	4	3	6
Dirty Socks Monitoring Station							
Peak 24-hour value (μg/m^3)	497	499	556	1437	914	858	*
Days above state standard (50 μg/m^3)	*	*	*	*	*	*	*
Days above federal standard (150 μg/m^3)	*	9	7	*	8.1	5.9	*
Lone Pine Monitoring Station							
Peak 24-hour value (μg/m^3)	66	399	264	142	134	168	137
Days above state standard (50 μg/m^3)	*	*	*	*	*	*	*
Days above federal standard (150 μg/m^3)	*	1	2	0	0	*	0
Ash Point							
Peak 24-hour value (μg/m^3)	104	198	1506	285	277	232	120
Days above state standard (50 μg/m^3)	*	*	*	*	*	*	*
Days above federal standard (150 μg/m^3)	0	1	5	1	*	3	0
Shell Cut							
Peak 24-hour value (μg/m^3)	136	693	397	842	393	2149	447
Days above state standard (50 μg/m^3)	*	*	*	*	*	*	*
Days above federal standard (150 μg/m^3)	*	5.1	3	4	4	10	3
Flat Rock							
Peak 24-hour value (μg/m^3)	727	532	389	871	424	-	-
Days above state standard (50 μg/m^3)	*	*	*	*	*	-	-
Days above federal standard (150 μg/m^3)	*	3	5.1	3	*	-	-
Lizard Tail							
Peak 24-hour value (μg/m^3)	*	633	395	4570	3444	3916	283

Air Quality Indicator	2007	2008	2009	2010	2011	2012	2013
Days above state standard (50 μg/m^3)	*	*	*	*	*	*	*
Days above federal standard (150 μg/m^3)	*	2.2	6.1	16	7.6	12	2
North Beach							
Peak 24-hour value (μg/m^3)	*	40	1406	2067	937	1535	*
Days above state standard (50 μg/m^3)	*	*	*	*	*	*	*
Days above federal standard (150 μg/m^3)	*	*	9.1	8.0	10.1	8.3	*
Particulate matter less than or equal to 2.5 microns in diameter ($PM_{2.5}$)[3]							
Peak 24-hour value (μg/m^3)	57	58	69	106.2	208	99	93.6
Days above federal standard (35 μg/m^3)	2	4	4	5	9	4	8.2
Annual Average value (ppm)	5.8	7.1	6.8	7.1	8.1	6.6	7.8
Hydrogen Sulfide (H_2S)[4]							
Peak 1-hour value (ppm)	0.003	0.003	0.006	0.005	0.007	0.008	0.005
Days above state standard (0.03 ppm)	0	0	0	0	0	0	0

Notes: [(1)] Data from the Death Valley monitoring station.
[(2)] The federal O_3 standard was revised downward in 2008 to 0.075 ppm.
[(3)] Data from the Keeler – Cerro Gordo Road monitoring station.
[(4)] Data from the Coso Junction – Hwy 395 Rest Area monitoring station.
ppm = parts per million; μg/m^3 = micrograms per cubic meter
* insufficient data available to determine the value

Source: CARB, 2014

Section 3
Responses to Comments on the Draft EIR

3.1 ORAL COMMENTS RECEIVED AT THE PUBLIC MEETING AND RESPONSES TO COMMENTS

A public meeting for the Phase 9/10 Project was held at 5:00 p.m. on March 5, 2015 at LADWP's office in Keeler, California. In addition to staff from LADWP and MWH, attendees included representatives of BLM, CDFW, and California Native Plant Society. The meeting included a presentation to review the project background, project description, CEQA process, environmental topics analyzed in the Draft EIR, project alternatives, and the alternative identified as environmentally superior.

Comments made during the meeting and responses to comments are summarized in **Table 3-1**.

Table 3-1
Responses to Comments Received at the Public Meeting

Oral Comments	Responses to Comments
• What are the six guilds considered for Owens Lake biological resources evaluations?	Biological resources assessment for the proposed Project included review of the following six guilds: diving waterbirds, breeding waterfowl, migrating waterfowl, breeding shorebirds, migrating shorebirds, and alkali meadow species.
• It was noted that the federal property included in the Project footprint would be addressed via a federal environmental review document.	Comment noted.
• What is the timeframe for the federal environmental document?	The federal environmental review process is expected to start in 2015. The specific type of federal environmental document for the Phase 9/10 Project has not been determined.
• Where is the federal land?	As noted in Draft EIR Section 4.5, federal land is located in T32-1-L1, Duck Pond L-1 and Duck Pond L-2.
• What is the source of the Project water supply?	The Los Angeles Aqueduct and the Lower Owens River are the sources of the Project water supply.
• Is the Duck Pond DCA near the duck club?	Yes
• Is infrastructure needed for engineered roughness?	Tillage being implemented on Owens Lake as part of a related project includes the infrastructure necessary for Shallow Flood backup.
• What monitoring is planned for biological resources?	Monitoring for habitat value is described in Draft EIR Section 4.3.5.3.

3.2 WRITTEN COMMENTS RECEIVED ON THE DRAFT EIR AND RESPONSES TO COMMENTS

Eight comment letters were received on the Draft EIR. Copies of the letters are followed by responses to comments. **Table 3-2** is a list of persons, organizations, and public agencies that provided written comments on the Draft EIR.

Table 3-2
List of Persons, Organizations and Public Agencies Commenting in Writing on the Draft EIR

Comment Letter Number	Organization	Commenter
1	Private land owner	John Connolly
2	Great Basin Unified Air Pollution Control District	Duane Ono
3	Rio Tinto	Paul Lamos, Superintendent Owens Lake Operations
4	California State Lands Commission	Cy. R. Oggins, Chief Division of Environmental Planning and Management
5	California Department of Fish and Wildlife	Curt Taucher, Environmental Program Manager II
6	California Department of Parks and Recreation Office of Historic Preservation	Carol Roland-Nawi, State Historic Preservation Officer
7	Lahontan Regional Water Quality Control Board	Patrice Copeland, Senior Engineering Geologist
8	Local resident	Earl Wilson

Comment #1

3-17-2015

1-1

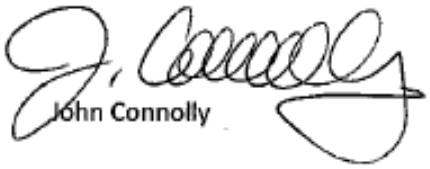
Hi David Porter, I was looking through the draft EIR for the phase 9/10 project and noticed some hard-stance wording regarding private land owners whose property might fall within the project scope.

To summarize: (somewhere around page 235)

1. Obtain approval for dust control installation (or)
2. Purchase private properties (or)
3. Pursue condemnation through eminent domain

Frankly, I don't care for your tone regarding our property. I've been working in good faith with local LADWP staff in Bishop, CA to find out the best way to work out dust control on our lake-front lot. Furthermore, condemning this property in the benefit of 'public interest' is a stretch. I'd suggest some re-wording to not sound like a bully.

Thanks for the opportunity to comment,



John Connolly

Comment Letter #1
John Connolly
P.O. Box 9037
Mammoth Lakes, CA 93546-9037

1-1 As noted in Draft EIR Section 4.5.1.4, the process of eminent domain would only be pursued as a last resort to acquire necessary land rights for the construction of dust control on private parcels. LADWP appreciates the cooperation shown by Mr. Connolly in allowing LADWP to survey his land for cultural resources. As the project proceeds, LADWP will continue to work with Mr. Connolly regarding installation of dust control on private lands included in the Phase 9/10 Project area.

Comment #2

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

157 Short Street, Bishop, California 93514-3537
Tel: 760-872-8211

March 26, 2015

Mr. Milad Taghavi
Manager of Owens Lake Planning
Los Angeles Department of Water and Power
111 N. Hope Street
Los Angeles, CA 90012

RE: Draft Environmental Impact Report for the Phase 9/10 Project

Dear Mr. Taghavi:

We appreciate the opportunity to submit comments on the Draft Environmental Impact Report (DEIR) and encourage you to integrate the recommended changes into your Final EIR.
The District acknowledges that LADWP is the California Environmental Quality Act (CEQA) lead agency for the Phase 9/10 Project and also the agency responsible for constructing and operating dust control measures (DCMs) on Owens Lakes in compliance with Orders from the District under the authority of California Health & Safety Code Sec. 42316 and the California Superior Court 2014 Stipulated Judgment. The District supports LADWP's proposed Phase 9/10 Project which will expand and modify the existing system of dust controls on the lake by installing Best Available Control Measures (BACM) on 3.61 square miles of area identified as emissive by the District. Also supported by the District, is the additional approximately 1.82 square miles of existing Shallow Flooding dust control area (DCA) that will be transitioned to approximately 0.81 square miles of Gravel Cover and 1.02 square miles of Shallow Flooding to minimize dust while conserving water use on Owens Lake.

The following comments relate to specific sections of the DEIR.

2-1

1) Section 2.7.5 Intended Uses of the EIR. The District intends to act as a responsible agency and use the City's Phase 9/10 CEQA/NEPA documents to act on the 2015 State Implementation Plan (SIP) revision as specified in Article 11 of the 2014 Stipulate Judgment. The District suggests that the analysis in the DEIR be extended to cover all elements of the Stipulated Judgment to be included in the 2015 SIP, including but not limited to all proposed control measures. Paragraphs A – E of Article 11 of the 2014 Stipulated Judgment is quoted in entirety below.

> ***11. 2015 SIP revision and CEQA/NEPA compliance***
> *A. By July 1, 2015, the City shall prepare and consider for certification the*

environmental impact analysis documents required by the California Environmental Quality Act ("CEQA") and, if applicable, the National Environmental Policy Act ("NEPA") necessary to proceed with Phase 9/10 Project.

B. By December 31, 2015, the District shall prepare a SIP revision that consists of the 2008 SIP Order and the provisions of this Stipulated Judgment ("2015 SIP Order"). The City shall support and not challenge the adoption of the 2015 SIP Order by the District Governing Board, CARB and EPA, except that the City may challenge any new term that the City has not agreed to in advance, and that is not contained in the 2008 SIP Order as modified by this Stipulated Judgment.

2-1

C. The City shall not appeal or contest the 2015 SIP Order that contain the terms of this Stipulated Judgment now or in the future in any administrative or judicial forum, under any law, statute or legal theory whatsoever including CEQA or Section 42316, and agrees that the terms of that 2015 SIP Order are valid and reasonable under Section 42316.

D. The District intends to act as a responsible agency and use the City's Phase 9/10 CEQA/NEPA documents to act on the SIP revision. If the City's CEQA/NEPA document is not adequate for the District's approval purposes, the District shall have until December 31, 2016 to act on the SIP revision.

E. The Parties have developed the terms of this Stipulated Judgment with the intention that its provisions will be incorporated into the 2015 SIP Order and are consistent with applicable provisions of federal, state and local law, including Section 42316, including all applicable provisions of federal law regarding attainment of the NAAQS and exceptional events.

2) Section 6.1.1.5 Future Dust Control Areas. As specified in Article 3 of the 2014 Stipulated Judgment, additional BACM contingency measures may be necessary to meet the National Ambient Air Quality Standard (NAAQS) in the Owens Valley Planning Area (OVPA). Any future dust control projects associated with these additional BACM contingency measures will require additional review under CEQA. The District suggests that the analysis in the DEIR be extended to cover all elements of those future control areas, including but not limited to all areas (and potential contingency areas) that are the subject of the Stipulated Judgment and to be included in the 2015 SIP. Paragraphs A – F of Article 3 of the 2014 Stipulated Judgment is quoted in entirety below.

3. Additional BACM Contingency Measures

A. To provide the emission reductions necessary to meet the NAAQS in the OVPA, the District's Air Pollution Control Officer ("APCO") may order the City on or any time after January 1, 2016 to implement additional BACM contingency measure controls on up to 4.8 square miles (which need not be contiguous) of the dried Owens Lake bed ("BACM Contingency Measures"). If the City implements the entire 4.8 square miles of BACM Contingency Measure controls, there will be a total of 53.4 square miles of dust controls on the Owens Lake bed. Any BACM Contingency Measure orders shall be based on evidence presented to the APCO that the area considered for such order has caused or contributed to an exceedance of the NAAQS or State Standard. Areas that are deferred for controls under the procedures in Paragraph 2.B because of the presence of significant cultural resources, then re-ordered for controls per those procedures, shall not be counted as part of the 4.8 square miles allowed for BACM Contingency Measures. Although the City may provide comment on a proposed BACM Contingency Measures order by the APCO, the City shall not appeal or contest the APCO's order for dust controls included in the combined 53.4 square miles now or in the future in any administrative or judicial forum, under any law, statute or legal theory whatsoever including Section 42316.

2-2

B. Except for the 4.8 square mile BACM Contingency Measure area and any area re-ordered for control under Paragraph 2.B of this Judgment, the District shall not issue any further orders for mitigation measures to the City under Section 42316 or any other law,

including but not limited to SCRDs, requiring the City to control windblown dust emissions (including PM 10, PM 2.5 or any speciated components or products of PM) from any areas on the dried Owens Lake bed beyond the combined 53.4 square miles. The provisions in this paragraph do not apply to fee orders issued to the City under Section 42316, or any orders for areas that are not on the dried Owens Lake bed.

C. The BACM Contingency Measures provided under this paragraph will be limited to the Owens Lake bed below elevation 3,600.00 feet above mean sea level ("amsl") and above the natural brine pool at elevation 3,553.55 feet amsl.

D. The BACM Contingency Measures areas will be controlled with waterless or water-neutral dust control measures by offsetting any new or increased water use with water savings elsewhere on the lakebed.

2-2

E. The BACM Contingency Measures shall be installed by the City and be operational within three years of the date that the APCO orders City to implement the BACM Contingency Measures, except that if the City selects the use of managed vegetation for its BACM for any of the areas ordered for BACM Contingency Measures, the City will be allowed an additional two years to achieve full vegetation-cover compliance for those areas. The implementation deadline set forth in this paragraph is subject to the Force Majeure and Stipulated Penalties provisions set forth in Paragraphs 14 and 15 below. The City shall be solely responsible for all CEQA compliance, and to the extent joint documents are prepared under CEQA and NEPA, for CEQA/NEPA compliance, and all lease and permit requirements associated with any Contingency Measures.

F. Within 60 days of the date that the APCO orders City to implement the BACM Contingency Measures, the City shall prepare and submit for the APCO's consideration and written approval, which approval shall not be unreasonably withheld, a RAP that provides for the completion of those measures by the time deadlines provided in Paragraph 3.E above. The plan shall contain intermediate milestones specifying the completion dates for CEQA/NEPA compliance, construction bid award and control measure compliance.

3) Section 5 Project Alternatives. As required by Article 7, paragraph A, of the 2014 Stipulated Judgment, "Dynamic Water Management" actions will be incorporated into the District's 2015 SIP revision. Technical staff of both the District and LADWP have been working to determine specific areas with potential and develop a dynamic water management strategy for potential delayed fall and early spring shoulder season shallow flood ramping flow operations. In light of these actions, an additional alternative in Section 5 should be included which is specific to Dynamic Water Management. Article 7 of the 2014 Stipulated Judgment is quoted in entirety below.

2-3

7. Lake-wide efforts to reduce water use

A. The City and the District commit to work together to jointly develop and propose "Dynamic Water Management" actions for incorporation into the 2015 SIP revision referenced in Paragraph 11. These actions may include "early water ramp-down" in non-emissive years. TwB2 is not a Dynamic Water Management concept. The proposed actions shall set forth the conditions upon which the APCO can approve the City's application to undertake these dynamic water management actions.

We look forward to completion of the Phase 9/10 by December 31, 2017 and appreciate the chance to comment on this Draft Environmental Impact Report. Please call me at (760) 872-8211 if you have any questions.

Sincerely,

Original signed by

Duane Ono
Acting Air Pollution Control Officer

cc: Phill Kiddoo
Nik Barbieri
Grace Holder
Chris Lanane

Comment Letter #2
Mr. Duane Ono
GBUAPCD
157 Short Street
Bishop, California 93514-3537

2-1 LADWP understands that GBUAPCD is a responsible agency for the proposed Project and intends to use the City's CEQA document to act on the 2015 State Implementation Plan (SIP) revision. Note that NEPA documentation would be prepared by the BLM prior to issuance of a right-of-way to construct dust control on federal parcels under their management that are included in the Project area, which will be subject to a federal NEPA compliance document to support the BLM's consideration of that portion of the project. Elements of the Stipulated Judgment that depend on a federal approval are beyond the scope of LADWP's authority.

The analysis in the EIR, however, covers all physical aspects of the Project proposed to be constructed and operated by LADWP. Procedural requirements of the 2014 Stipulated Judgment are noted, however GBUAPCD has not identified what additional environmental effects beyond those described in the Draft EIR would be related to these requirements.

2-2 Future expansion of the OLDMP to include up to an additional 4.8 square miles of BACM is noted in the Draft EIR as a related project (Draft EIR Section 6.1.1.5). However, the necessity to install BACM on these locations is not currently known, the specific locations are not identified, and the timing for dust control on this additional acreage is not known. Thus, whether further BACM will be necessary and, if so, what those might entail are speculative at this time. Further, without specific locations, LADWP cannot select site-appropriate BACM, nor perform surveys for biological or cultural resources. Therefore, additional review under CEQA would be performed for any future phases of the OLDMP at the time they are defined if and when additional BACM contingency measures are triggered.

2-3 During the past 15 years, the City of Los Angeles has been mitigating dust emissions from Owens Lake through implementation of three types of BACM. These BACMs – Shallow Flooding, Managed Vegetation, and Gravel Cover – were primarily established in 1998. DCAs that are mitigated via Managed Vegetation and Gravel Cover are generally maintained throughout the year. DCAs that are mitigated via Shallow Flooding are generally operated during the dust season (October 16th through June 30th).

An analysis of Owens Lake ambient air quality, meteorological and sand flux data along with lake bed field observations during the past 15 years has revealed that the Shallow Flood BACM dust season may be shortened for certain areas of the lake bed that have historically shown little dust activity in the early and/or late portions of the October through June dust season. In addition, wetness cover requirements to achieve the required Minimum Dust Control Efficiency can vary depending on seasonal conditions that may

affect salinity of the surface water and the formation of erosion-resistant brine crusts. Modifications to the dust season for certain areas are currently being considered by GBUAPCD and LADWP to address the commitment in the Stipulated Judgment to implement a Dynamic Water Management Plan in order to reduce water use on the lake bed. With the anticipated modifications to the Shallow Flood dust season, LADWP can continue to meet the National Ambient Air Quality Standards (NAAQS) at the regulatory shoreline, while also conserving precious water resources.

Dynamic Water Management could include modifications to the existing ramping schedules for flow operations and could apply to existing Shallow Flooding DCAs as well as new areas of Shallow Flooding proposed under the Phase 9/10 Project (T10-1-L1, T37-2-L1, T37-2-L2, T37-2-L3, and T37-2-L4). Implementation of Dynamic Water Management would be part of general OLDMP operations, not an alternative to the proposed Project or a separate project under CEQA. Note that seasonal water availability is one of the habitat parameters considered for the HSM, so management of the Phase 9/10 DCAs will take seasonal water availability into account. As described in Draft EIR Section 4.3.5.3, LADWP will conduct a Habitat Value Acre (HVA) review to confirm predicted habitat impacts.

Section 3.1.8 of the Draft EIR has been modified to include a reference to the on-going development of Dynamic Water Management as part of OLDMP operations (see Final EIR Section 2).

Rio Tinto

Comment #3

Thursday, March 26, 2015

Los Angeles Department of Water and Power
Environmental Planning and Assessment
111 North Hope Street, Room 1050
Los Angeles CA 90012
Attention: David Porter

Via Fax 213 367-4710

Re: DEIR Proposed Owens Lake Duct Mitigation Program Phase 9/10 Project

Dear Mr. Porter:

3-1 Thank you for the opportunity to review and provide comments on the Los Angeles Department of Water and Power's Draft Environmental Impact Report (DEIR) for Owens Lake Dust Mitigation Program – Phase 9/10 Project (Project). Rio Tinto Minerals supports the Project and use of Brine and its variations as discussed in the DEIR. The use of Brine and its variations for lake-wide dust mitigation purposes are effective, efficient and environmentally sustainable method for meeting ambient air quality standards.

Sincerely,

Paul Lamos

Paul Lamos

Superintendent
Owens Lake Operations

Owens Lake Operations, P. O. Box 37, 209 North Main Street, Lone Pine, CA 93545, T +1 760 876 4775, F +1 760 876 4469

Comment Letter #3

Mr. Paul Lamos
Rio Tinto
P.O. Box 37
Lone Pine, California 93545

3-1 Rio Tinto's support of Brine Shallow Flood for dust control on Owens Lake is noted. LADWP will continue to work with Rio Tinto to develop a brine application method and with GBUAPCD to develop a BACM standard for salt crust deposit using Brine Shallow Flood.

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**

Established in 1938

March 30, 2015

Comment #4

File Ref: SCH #2014071057
PRC 8079.9

Los Angeles Department of Water and Power
Attention: Milad Taghavi
111 North Hope Street, Room 1044
Los Angeles, CA 90012

Subject: Comments on the Draft Environmental Impact Report (EIR) for the Owens Lake Dust Mitigation Program - Phase 9/10 Project, Inyo County

Dear Mr. Taghavi:

The California State Lands Commission (CSLC) staff has reviewed the subject Draft EIR for the Owens Lake Dust Mitigation Program - Phase 9/10 Project (Project), which is being prepared by the Los Angeles Department of Water and Power (LADWP). The LADWP, as a public 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 and their accompanying Public Trust resources or uses. Additionally, because the Project involves work on sovereign lands, the CSLC will act as a responsible agency.

CSLC JURISDICTION AND PUBLIC TRUST LANDS

4-1 The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). 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.

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.

4-1

The proposed Project involves the historic bed of Owens Lake, which is ungranted sovereign land under the jurisdiction of the CSLC. On May 1, 1999, the CSLC authorized Lease No. PRC 8079.9 to LADWP for construction and operation of dust control measures on the bed of Owens Lake. The lease has since been amended 15 times to allow for dust control measures on more areas of the lake bed. Because the Project is located on sovereign land, CSLC authorization in the form of a lease amendment will be required. On January 27, 2015, LADWP submitted an application to amend Lease No. PRC 8079.9 for the proposed Phase 9/10 Dust Control Project. On February 26, 2015, CSLC staff notified LADWP that the lease amendment application was incomplete; however, CSLC staff continues to review the available information while waiting for the additional requested information.

4-2

Please note that on August 15, 2014, the CSLC staff submitted comments on the Notice of Preparation (NOP) for the "Owens Dry Lake 2011 Supplemental Control Requirements Determination (SCRD) and 2012 SCRD Dust Control Measures Projects" (enclosed). However, while the subject Draft EIR appears to be for the same proposed activities based on the project description, the title for this document is the "Owens Lake Dust Mitigation Program - Phase 9/10 Project EIR." Considerable confusion may result due to the modification of the Project title in regards to public review. CSLC staff suggests that, in the future, LADWP endeavor to be more consistent with project titles.

4-3

PROJECT DESCRIPTION

The Project includes implementation of new dust control measures on 2,312 acres (3.61 square miles) in 17 Dust Control Areas (DCAs) and 1,166 acres (1.82 square miles) of transitioned dust control in one existing DCA. Implementation of the proposed Project would use a mix of the three approved Best Available Control Measures (BACM): shallow flooding, managed vegetation, and gravel cover. Activities would require land leveling; berm creation; gravel application; seeding and planting; installation of surface and/or subsurface irrigation pipelines; excavation for pond creation and installation of associated electrical, mechanical and communication systems.

4-4

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

- New DCAs. Implementation of 2,312 acres of dust control in 17 new DCAs, including:
    - Shallow Flooding in T37-2-L1, T37-2-L2, T37-2-L3, T37-2-L4, and T10-1-L1;
    - Managed Vegetation in C2-L1 and Duck Pond-L1;
    - Gravel Cover in T37-1-L1, T35-2-L1, T32-1-L1, T21-L1, T21-L2, and T17-2-L1 (within Phase 9); and T21-L3, T21-L4, T10-3-L1, and Duck Pond-L2 (Phase 10).

- Transition Area. Conversion of 1,166 acres of existing shallow flood dust control in DCA T18S to:
  - Two deep water ponds (125 and 126 acres);
  - Two shallow ponds (315 and 85 acres);
  - Gravel Cover (516 acres); and
  - A visitor overlook area as a recreation amenity.

4-4 The Project also includes: construction of drainage management unit pump stations, lateral control valve facilities, and pipe outfalls; new berm and access roads; new rip-rap to improve existing berms; and new submains to convey water from T2-1 DCA to Duck Pond-L1 and C2-L1 DCAs.

The Draft EIR identifies the Avoidance Alternative as the environmentally superior alternative. Under the environmentally superior alternative, BACM would not be installed on approximately 278 acres (plus any acreage of significant archaeological sites on federal or private land, or significant sites identified during construction) of the 3.61 square miles of DCAs identified for dust control.

ENVIRONMENTAL REVIEW

CSLC staff requests that LADWP consider the following comments on the Project's Draft EIR.

Previous Comments not Addressed in the Draft EIR

Although page 2-12 of the Draft EIR states that "Information included in this EIR responds to the comments raised at the public meeting and in the comment letters on the NOP," several comments provided by CSLC staff on the NOP have not been addressed in the Draft EIR.

4-5 1. Construction Detail: CSLC staff requested that detail be provided for the construction of particular improvements, mentioned in the NOP, so that they could be adequately analyzed in the EIR. Examples provided were the use of a gravel conveyor and components of the proposed drainage system.

   CSLC staff requests discussion of how a conveyor would be used during gravel distribution and whether any impacts would result, to avoid the need for subsequent CEQA review.

4-6 2. Drainage: CSLC staff's previous NOP comment letter requested that LADWP evaluate potential impacts to the existing drainage patterns, both surface and subsurface, and analyze the potential impacts to mining activities by U.S. Borax under CSLC Lease No. PRC 5464.1 (Borax Lease) on the Lakebed from any changes in drainage patterns. This evaluation, however, does not appear to be included in the Draft EIR.

   CSLC staff requests, therefore, that LADWP revise the EIR to include a discussion of this issue prior to taking action on the EIR or the Project.

3. Greenhouse Gas Emissions (GHGs): CSLC staff's previous NOP comment letter stated that "The analysis in the EIR should also evaluate the possibility of cumulative impacts of GHG emissions (e.g., with other phases of the Owens Lake Dust Mitigation Program, proposed projects in the developing Owens Lake Master Project, and Lakebed mining activities)." In addition, the Draft EIR (p. 4.2-3) states that "As individual sources, Project GHG emissions are not large enough to have an appreciable effect on climate change. Therefore, the impact of proposed GHG emissions to climate change is discussed in the context of cumulative impacts." However, the cumulative impacts analysis mentions neither cumulatively considerable GHGs nor the potential significance of construction and maintenance emissions from multiple, gravel-heavy projects on the Lake bed built within several years of one another.

4-7

The EIR for Phase 7A evaluated the potential significance of the Project's GHG emissions by combining the estimated annual construction emissions (amortized over 30 years) with those associated with maintenance, which assumed annual replacement of 2 percent of the total Project gravel. That analysis then compared the total (1,196 metric tons CO_2 equivalent) with interim or recommended thresholds for industrial projects from both the South Coast Air Quality Management District (SCAQMD) (10,000 metric tons/year) and the California Air Resources Board (CARB) (7,000 metric tons/year). The projected amortized emissions from the Phase 7a Project were below both thresholds. The 2010 Mitigated Negative Declaration (MND) prepared for Phase 8 also assumed construction-related GHGs to be amortized over 30 years. Because the gravel portions of the Phase 9/10 Project are proposed to be complete by 2016, separate, amortized GHG evaluations for multiple dust control projects occurring within the same amortization period give an incomplete representation of the cumulative contributions of relying on gravel for new and transitioned dust control.

CSLC staff requests, therefore, that the cumulative impacts analysis evaluate all dust control-related GHGs over the course of the amortization period.

4. Salt Extraction: The NOP (p. 2-28) discussed the "implementation of a brine method DCM (dust control measure)" that would use salts extracted from the area subject to the Borax Lease. A previous comment from CSLC staff requested that the method be analyzed and that the EIR discuss how the method would be accomplished and whether additional infrastructure would be needed. In addition, page 3-10 of the Draft EIR includes a paragraph describing "Brine Shallow Flood" and indicates that LADWP will continue to work with Great Basin Unified Air Pollution Control District to develop a BACM standard for salt crust deposit using Brine Shallow Flood.

4-8

CSLC staff requests that clarification as to whether the brine method mentioned in the NOP is equivalent to the Brine Shallow Flood BACM indicated above. In regard to the overlap between a portion of the Project area (cell T10-3-L1) and the existing CSLC lease with U.S. Borax, page 2-14 of the Draft EIR states that "CSLC would transfer portions of the U.S. Borax mineral lease area to DCA." CSLC staff understands that U.S. Borax may be open to a quitclaim of the portion of its lease needed for cell T10-3-L1; this option would not require LADWP to resubmit its lease amendment

application, but rather, the quitclaim component of the proposed Project could be incorporated into the CSLC's consideration of Project approval overall. 4-8

5. Transportation and Traffic: An impact to transportation and traffic was found to be significant in the NOP, and Mitigation Measure Trans-1 was proposed that would develop and implement a Traffic Work Safety Plan. CSLC's NOP comment letter requested that the EIR address how the gravel hauling tracks (when approximately one truck would cross SR 136 every 3 minutes) would affect posted speed limits in the area, which could be of concern to the local population over the Project construction period. Despite the identified impact and the potential for additional impacts, transportation and traffic resources were not carried forward into the Draft EIR for a more detailed analysis, nor did the Draft EIR address CSLC staff's comment. 4-9

   Because impacts to transportation and traffic were not carried forward for a more detailed analysis of the identified and potential impacts, CSLC staff requests that this analysis be included in the final document.

6. Reliance on Habitat Suitability Model (HSM): As stated in its NOP comment letter and as discussed at the meeting between CSLC and LADWP staffs on January 15, 2015, CSLC staff remains concerned that dust control projects on the lakebed are being proposed in a piecemeal fashion rather than in the context of the Master Project. The Master Project is the product of years of collaboration with many agencies and interested stakeholders, and is designed to address preservation/maintenance of important values in a comprehensive way. This is why the CSLC has required integration of new areas such as Phases 9 and 10 into the Master Project planning process (see Fifteenth Amendment to Lease No. PRC 8079.9, for "Tillage with BACM Backup" (TWB2, section 2, paragraph c). 4-10

   With LADWP's continued efforts to reduce water use, the preservation of habitat values on the lakebed have become a focal issue, and has resulted in the development of the HSM. While CSLC staff believes the HSM can be a valuable tool for measuring whether habitat values can be maintained when used in combination with bird count data and adaptive management, the HSM was developed as a lake-wide strategy and its value or appropriateness for use on a project-by-project basis has not been evaluated or agreed to.

Comments on the Draft EIR

Lake Wide Map

7. To improve clarity for the reader, CSLC staff requests that Figures 1-1 and 2-2 be revised or supplemented with additional maps that show the total area currently using the different dust control methods without distinguishing the construction phase. Distinguishing by construction phase tends to obscure the bigger picture of what portions of the lake are committed to the various dust control methods. For example show all the existing or approved gravel areas in one color or shading, all the managed vegetation in another, etc. For shallow flooding, please distinguish between 4-11

4-11 shallow ponds and the 11 cells that were approved by the CSLC in the Fifteenth Amendment to Lease No. PRC 8079.9 to be transitioned to "Tillage with BACM Backup" (TWB2). Although CSLC staff recognizes that TWB2 is considered "Shallow Flooding" from a regulatory standpoint, from an environmental perspective, particularly for aesthetics and habitat, TWB2 is very different from shallow flooding that makes ponds.

Aesthetics

4-12 8. Gravel Cover: Page 1-21 of the Draft EIR states that "The application of Gravel Cover would alter views of the site; however, the use of gravel from local sources will be consistent in coloration with the Lakebed." The Draft EIR also states that improvements such as meandering edges and transitions to soften the historically straight lines of the berm roads and ponding areas, etc. would be used to reduce aesthetic impacts. Generally, CSLC staff remains concerned that Gravel Cover does not protect or promote the Public Trust uses and values of the lake, has little or no value in restoring or protecting wildlife habitat, would eliminate wildlife habitat, and does not facilitate public access and use for public trust purposes. Although LADWP has taken steps to increase the aesthetic appeal of gravel, LADWP correctly acknowledges in Section 1.11.1 on page 1-26 of the Draft EIR that the CSLC must review the use of gravel cover on a case-by-case basis for consistency with Public Trust principles, values and needs specific to that location. See additional comment on gravel cover under "Land Use and Planning," below.

Air Quality

4-13 9. Best Management Practices (BMPs): Mitigation Measure Air-1 (p. 4.2-18) lacks specific criteria to ensure the proposed Dust Control Plan, when developed, will be stringent enough to avoid PM-10 emissions that exceed air quality thresholds. LADWP should identify the criteria the Plan will meet (e.g., what qualifies as a "high wind event?" In what instance would tillage be used?) to ensure implementation of the Plan would be adequate mitigation for construction impacts. In addition to ensuring the Plan provides sufficient mitigation, the Draft EIR should clarify how LADWP will ensure that the Plan's BMPs, such as tillage, do not have unintended significant environmental consequences themselves. More specifically, information on the effects of the BMPs on wildlife movement, cultural resources, and scenic vistas should be discussed. Without restrictions in place, measures such as the construction of tillage or the placement of sand fencing may disturb identified or undiscovered cultural resources or impact wildlife by impeding movement. Details on location restrictions, use of specific BMPs with design components, and standard practices used to minimize environmental disturbance could assist in this analysis.

Biological Resources

4-14 10. Wetland Habitat Impacts: The Draft EIR discusses the anticipated impacts to 1.2 acres of wetlands and 3.3 acres of created wetlands within the Project area. The Draft EIR determines that these impacts would be less than significant because the "enhancement of habitat values in the 152 acres of Managed Vegetation proposed

under the Project would be anticipated to more than offset the loss of 1.2 acre of wetland and 3.3 acres of created wetland in the Gravel Cover DCAs." This less-than-significant conclusion appears unsupported by a clear and logical chain of evidence, especially since the Draft EIR also states that "Since the success rate of vegetation establishment is unknown, and since the hydrologic regime will be determined based on dust compliance, the exact acreage of wetlands created under the Project cannot be predicted (p. 4.3-47)."

4-14

Without incorporating a specific analysis, impacts to existing wetlands are potentially significant. Additionally, the Draft EIR should identify and discuss when the compensation areas would be fully functional, and whether those temporal effects are, or contribute to, a significant effect.

11. Habitat Value Projections: Given the importance of the habitat maintenance objective for a number of responsible agencies and other Owens Lake stakeholders, and given the potential for the Project to provide a case study for using the HSM in the Master Project, CSLC staff requests that LADWP provide more detailed information explaining the basis for the habitat impact conclusions. While the existing and projected habitat value acres for the proposed new and transition DCAs were provided in Table 4.3-8 (p. 4.3-38 in the Draft EIR), the proposed/target Habitat Suitability Index values for each habitat component (e.g., salinity, water depth, vegetation, etc.), from which these totals were calculated, do not appear in the Draft EIR. Without these calculations, the Draft EIR provides insufficient evidence to conclude that the Project would actually attain its stated objectives, including "maintaining existing habitat values" (p. 1-3). CSLC staff requests that LADWP add an appendix that includes the HSM calculations that were performed for each of the guilds so that staff can review the Habitat Suitability Index values that were used to derive the projected overall value acres for each DCA.

4-15

12. Adaptive Management/Long-term Success: The Draft EIR states on page 4.3-41 that success of the habitat maintenance requirement will be based on a review of the calculated Habitat Value Acres for each guild and that "measurements within 10 percent of baseline will be considered maintenance of habitat value." CSLC staff respectfully reminds LADWP staff that the CSLC requires that successful habitat maintenance be measured by both Habitat Value Acre measurements and actual bird use. CSLC staff has consistently communicated this position to LADWP in Master Project meeting discussions, and this requirement was further described in the Fifteenth Amendment to Lease No. PRC 8079.9, section 2, paragraph f, which requires the preparation of an Adaptive Management Plan that contains monitoring and remediation protocols and also states, "the Adaptive Management Plan shall further describe replacement habitat to be provided by [LADWP] should the TWB2 DCAs not meet the identified performance standard... as measured by both the [HSM] and actual habitat use by the target guilds..." (emphasis in original). In addition, LADWP indicates on page 4.3-41:

4-16

Project design, along with biological monitoring and adaptive management, would result in a long-term benefit to wildlife over existing conditions. Under the Phase 9/10 Project, LADWP is committing to the Master Project concepts of

designing, maintaining and adaptively managing new DCAs and the T18S Transition Area for habitat value, public use, and other resources, and not solely for dust mitigation.

4-16 While CSLC staff appreciates the collaborative spirit in which the Master Project is being pursued, the Master Project has not been fully developed as of this date, and has not yet undergone public review or approval by LADWP and other agencies. As a result, it is not appropriate to rely on the Master Plan concepts, by themselves, to meet the requirement under CEQA that mitigation be specific, feasible, and enforceable (see State CEQA Guidelines, § 15126.4). Instead, the Draft EIR should be revised to include one or more mitigation measures that describe an adaptive management framework or plan that will ensure impacts to biological resources on the Lake are less than significant. CSLC staff cautions against widespread reliance on the HSM outside the context of the Master Project effort without further discussion and consultation with CSLC and California Department of Fish and Wildlife staffs and development of a robust adaptive management and compliance plan.

13. Dust Control Area T18S: CSLC staff has several concerns about LADWP's proposal to transition T18S to a combination of gravel cover and ponded areas. First, while CSLC staff understands LADWP's objective to carry out the Project in a "water neutral" fashion, meaning that the water used to shallow flood certain new DCAs would be offset by transitioning other existing DCAs to a less water-intensive method, the transition of T18S is not, per se, required by the Great Basin Unified Air Pollution Control District. Rather, LADWP selected T18S because it "is of the necessary size and was redesigned to include Gravel Cover and pond areas of various depths with habitat islands providing more varied habitat conditions while saving water." (Draft EIR, p. 5-1). However, page 4.3-29 of the Draft EIR also describes T18S as supporting the highest species richness and one of the most used of all DCAs.

4-17 During the development of the Owens Lake Master Plan, now the Master Project, on which CSLC staff participates, LADWP indicated that low habitat value/low bird use shallow flood DCAs would be targeted for transition to achieve water savings. The selection of T18S for this Project does not appear to be consistent with these prior statements, does not consider or provide a discussion of alternatives to the transition of T18S, and does not explain why transitioning alternative cells is not feasible. CSLC staff believes one of the main benefits of the Habitat Value Acreage approach to mitigation on Owens Lake is that it provides LADWP considerable flexibility in how it might increase or maintain habitat value acreage across Owens Lake, and that other DCAs with lower bird use and diversity should be considered to achieve the targeted 1,569 acre-feet per year water savings identified by LADWP as necessary under the Project Objectives.

If the transition of DCAs other than T18S to achieve desired water savings is truly infeasible, which the Draft EIR does not explain is the case, CSLC staff encourages LADWP to consider alternative water saving methods, like TWB2, rather than large expanses of gravel cover. As stated elsewhere in this letter, the CSLC has repeated its concern about the use of Gravel Cover in several of its decisions, and has indicated it may not approve requests for Gravel Cover in the future because, among

other reasons, gravel is a highly permanent dust control measure and limits future flexibility should circumstances, including the need to maintain bird habitat/use, become necessary. In September 2014, the CSLC approved the transition of T16 to TWB2, in part, because the method would achieve both dust control and water savings without permanently covering the playa with gravel. Despite this recent approval of a less concerning but effective method of dust control, the Draft EIR for the Project does not consider nor discuss an alternative that would implement this or a similar method in place of gravel on T18S, instead only considering the proposed transition, or no transition.

4-17 Lastly, CSLC staff is concerned that the proposed T18S transition to gravel and ponds is not consistent with the current planning efforts on the Master Project and the expectations of the stakeholders, and as a result, may undermine the Master Project's progress by foreclosing other options for comprehensive Lake wide management. In particular, T18S is depicted on the "Conceptual Land Cover Plan" contained in LADWP's April 2013 Owens Lake Master Project overview documents as "curving tillage" with ponds, not gravel cover with ponds. As indicated above, one of the reasons CSLC staff supported the transition of T16 was that TWB2 was consistent with the Conceptual Land Cover Plan for the Master Project. CSLC staff requests LADWP explore the option of transitioning T18S gravel areas to TWB2 to be consistent with the Master Project concepts.

14. Drainage System. In regard to the drainage system, page 3-35 of the Draft EIR states the following: "Drainage systems would be installed beneath Managed Vegetation fields and/or on the margins of Shallow Flood areas. New drainage laterals to be installed would be perforated plastic pipes (heavy duty corrugated polyethylene) in **4-18** covered trenches placed 5 to 9 feet below the ground surface." CSLC staff requests that more detail be provided regarding how the trenches would be covered, and what measures would be implemented during construction to avoid entrapment of species in the trenches.

Cultural Resources

15. Jurisdiction: CSLC staff acknowledges the Section 106 responsibilities of federal agencies, and at this time we are not aware of any conflict between federal and state law regarding cultural resources. Nevertheless, because of the position taken by the Bureau of Land Management that the entire Phase 9/10 Project is considered a federal undertaking (referenced on p. 4.4-3) and the Project footprint includes State lands under the jurisdiction of the CSLC, we wish to clarify that the CSLC retains jurisdiction over cultural resources on State property and that State law applies on **4-19** these lands. CSLC staff previously requested to receive information about the Section 106 process so that we might coordinate more efficiently with the State Historic Preservation Officer (SHPO) if consultation by the CSLC is required.

Eligibility Determinations to the California Register of Historical Resources/National Register of Historic Places (CRHR/NRHP): CSLC staff requests that cultural resources be fully evaluated for eligibility under all the criteria of the CRHR/NRHP and for all property types. CSLC staff is unaware of any requirement "to certify the

4-19 recommendation" as discussed at the bottom of p. 4.4-36. CSLC staff notes that the SHPO specifically recommended that Owens Lake archaeological sites "be evaluated in the context as possible contributors to an archaeological district, Traditional Cultural Property, and potential cultural landscape," in consultation with tribes. Information in the Draft EIR indicates that tribal representatives have made clear they believe Owens Lake is a Traditional Cultural Property (see discussion at the top of p. 4.4-46 and long paragraph on p. 4.4-48).

Mitigation Measures:

4-20
- **CR-3**: Please remove the provision for the CSLC to approve project archaeologists. The requirement for the archaeologist(s) to meet the Secretary of the Interior's Professional Qualification Standards for Archaeology is sufficient.
- **CR -5**: Please remove the provision for the CSLC to approve project paleontologists. A qualified paleontologist as defined is sufficient.
- Please add to the appropriate mitigation measures a statement that the CSLC must approve the disposition of cultural resource artifacts and paleontological specimens collected from lands under the jurisdiction of the CSLC.

4-21
- **CR-2**, Cultural Resources on Private Parcels (p. 4.4-49): Under this mitigation measure, the Draft EIR states:

  As of January 2015, all of the private parcels included in the Phase 9/10 Project have been surveyed for cultural resources. Due to the time delay resulting from securing permissions to survey the sites, evaluations of the significance of observed cultural resources are pending. Prior to construction on private lands, a qualified archaeologist shall conduct evaluative testing (Phase II investigation), if recommended by the Project archaeologist.

  The determination whether the resources are historical resources is mandatory under CEQA and "must be made sometime before the final EIR is certified" (*Madera*, *supra*, 199 Cal.App.4th at page 53) to avoid the improper deferral of evaluation of these sites. Although it is understood that this may have delayed the release of the document, these sites should have been evaluated and the results presented in this Draft EIR.

Land Use and Planning

4-22 16. 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.

CSLC staff has expressed its concerns about the use of gravel on the Owens lake bed for over 20 years. It continues to be the CSLC's position that placement of Gravel Cover on the lake bed does not protect or promote the Public Trust uses and values of Owens Lake (Tenth Amendment of Lease No. PRC 8079.9, section 2(k), 2011); moreover, it precludes future enhancement of public trust values on sovereign lands more permanently than other BACM. As LADWP acknowledged in prior lease agreements with CSLC, there is no assurance that future use of Gravel Cover will be allowed (see e.g., Tenth Amendment of Lease No. PRC 8079.9, section 2(k)) and Fourteenth Amendment of Lease No. PRC 8079.9, section 2(h)(i).

In addition to the aesthetic impacts discussed above, CSLC staff has repeatedly commented that gravel has "...little or no value in restoring or protecting wildlife habitat..." and "...would eliminate wildlife habitat." (CSLC Letter to Great Basin Unified Air Pollution Control District, dated September 20, 1994; Calendar Item 50, 12/10/10 CSLC meeting, respectively). Gravel Cover also does not facilitate public access and use for public trust purposes.

4-22

The CSLC allowed the placement of 2.03 square miles of Gravel Cover in Phase 8 conditioned on mitigation to offset the loss of public trust enhancement opportunities in the Phase 8 area by depositing funds in the Kapiloff Land Bank Fund to be used "for the acquisition, management, maintenance and improvement of real property located adjacent or within the bed of Owens Lake for the Public Trust purposes of ecological preservation, open space, wildlife habitat and public access" (Calendar Item 50, 12/10/10 CSLC Meeting). The use of Gravel Cover in Phase 7a (1.47 square miles of Gravel Cover) was also subject to a similar evaluation by CSLC, taking into account all relevant factors, including other components of the Project that may enhance Public Trust uses and values.

While CSLC staff readily acknowledge that reduction in air pollutant emissions from implementation of dust controls will result in an improvement to public health and safety, staff cautions LADWP against asserting that the use of Gravel Cover as a dust control measure should be considered consistent with the Public Trust Doctrine (Draft EIR Section 4.5-8), as only the CSLC can make this determination.

Alternatives Analysis

17. Avoidance Alternative: Under the Avoidance Alternative, "Evaluation of Additional Dust Control Methods," the Draft EIR (p. 5-25) states that LADWP is conducting a soil binder study to determine the efficacy of the method and to investigate unknown effects such as impacts to surface cultural materials and biological resources. CSLC staff asks that in addition to the study components described in the Draft EIR, LADWP also evaluate the feasibility of a partial-coverage soil binder alternative, in which soil binders are sprayed on the avoidance areas only from existing roads, which would likely control more than the Avoidance Alternative, without the secondary impacts from construction of new access roads. Moreover, assuming the borders of the avoidance area were designed with a buffer between construction activities and cultural resource sites, there would be a reduced likelihood of the binder chemicals contacting and impacting the resources directly. CSLC staff continues to be open to

4-23

4-23 further discussion and investigation into the use of soil binders on the lakebed as an alternative to gravel; even a more limited soil binder alternative may provide valuable data on the effectiveness and impacts of soil binders, which in turn may inform future proposals for use of soil binders. If such an alternative were found feasible, it could provide the impact avoidance advantages of the Avoidance Alternative while better attaining the Project objective to meet regulatory dust requirements.

4-24 18. Transition of T18S: As stated in Comment 13 above, CSLC staff is concerned that LADWP did not include as an alternative the transition of DCAs other than T18S, or the transition of T18S to TWB2, to achieve the Project's targeted water savings. CSLC staff believes that this alternative would feasibly accomplish the project objectives while reducing an identified significant impact (biological resources/ habitat), and as such, should have been analyzed. Without such an analysis, CSLC staff disagrees that such an alternative is infeasible, and further, if the alternative was shown to be both feasible and environmentally superior to the proposed Project, CEQA requires that alternative to be adopted by the lead agency, LADWP.

Thank you for the opportunity to comment on the Draft EIR for the Project. As a responsible and trustee agency, we request that you address our comments in the Final EIR.

4-25 Please send copies of future Project-related documents, including electronic copies of the Final EIR, Mitigation Monitoring and Reporting Program (MMRP), Notice of Determination (NOD), CEQA Findings and, if applicable, Statement of Overriding Considerations, when they become available, and refer questions concerning environmental review to Cynthia Herzog, Senior Environmental Scientist, at (916) 574-1310 or via e-mail at Cynthia.Herzog@slc.ca.gov. For questions concerning CSLC leasing jurisdiction, please contact Drew Simpkin, Public Land Management Specialist, at (916) 574-2257, or via email at Drew.Simpkin@slc.ca.gov.

Sincerely,

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

Enclosure

cc: Office of Planning and Research
D. Simpkin, CSLC
C. Herzog, CSLC
J. DeLeon, CSLC
P. Griggs, CSLC

Comment Letter #4
California State Lands Commission
Mr. Cy R. Oggins, Chief
Division of Environmental Planning
100 Howe Street, Suite 100-South
Sacramento, California 95825-8202

4-1 CSLC jurisdiction is noted; a description of CLSC jurisdiction is provided in Draft EIR Section 2.2.3.

4-2 LADWP is compiling the requested information necessary to complete the lease application for the Phase 9/10 Project and will be submitting this information to CSLC.

4-3 As noted by the commenter, the NOP of an EIR identified the project as the Owens Lake 2011 SCRD and 2012 SCRD Dust Control Measures Projects, in reference to the GBUAPCD nomenclature of "Supplemental Control Requirements Determination". In an effort to be consistent with previous dust control projects on Owens Lake, the project has been more simply named as the Phase 9/10 Project.

4-4 A detailed project description for the Phase 9/10 Project is included as Section 3 of the Draft EIR.

4-5 CSLC comments on the NOP for the Project (Draft EIR Appendix B) were reviewed during preparation of the Draft EIR, and have been addressed to the extent necessary to address the physical environmental effects of the Project under CEQA.

As described in Draft EIR Section 3.1.3.2, depending on site conditions, conveyors may be used internally within individual DCAs or to move gravel from the stockpiles. The construction contractor may or may not elect to use electric-powered conveyors during construction in Gravel Cover areas. Note that conveyors were not employed during construction of the Phase 7a Project. The description of the construction vehicles provided in the Draft EIR (Appendix C) is based on a worst-case assumption that no conveyors would be used. Use of conveyors would have the benefit of reducing air pollutant emissions from vehicle exhaust. The impact assessment considered complete disturbance of project DCAs and since conveyors would be located internally within the DCAs, they would not result in adverse environmental effects.

4-6 The Initial Study prepared for the proposed Project described impacts related to drainage (Draft EIR Appendix A Section 2.3.9). Construction of new DCAs would result in localized changes to drainage patterns in the vicinity of the Phase 9/10 Project DCAs. Construction of the raised berms / access roadways around the DCAs would alter the existing stormwater drainage pattern in the immediate area of each affected DCA. Berm heights would vary from 3 to 5 ft or less above existing ground surface. Stormwater intercepted by the roadways would be routed toward existing channels through culverts to minimize changes to downstream flow patterns. In response to the comment, please see **Figure 2-3** included in Final EIR Section 2 for the locations of new culverts proposed as

part to the Phase 9/10 Project. Note that there are three culverts proposed for T10-3-L1, a Gravel Cover DCA located adjacent to the active Rio Tinto mining operations. Drainage is designed to maintain current drainage patterns and not interrupt them. Similar to existing DCA design, stormwater would continue to flow toward the brine pool. Experience with this design has shown that modifications in the drainage pattern resulting from the Project would not result in substantial erosion, siltation, or flooding. Similarly, the Project is not expected to add a substantial source of polluted runoff. Because the drainage pattern from the Project sites flows in the same direction as existing conditions and eventually to the brine pool, the impact on drainage pattern and stormwater drainage would be similar to baseline and less than significant. Since impacts on drainage were found to be less than significant in the Initial Study, additional analysis was not presented in the Draft EIR.

LADWP has coordinated its activities frequently with U.S. Borax (parent company Rio Tinto Mining). Current collaborations are related to investigation of a Brine Shallow Flooding method to develop a salt crust. Past coordination resulted in re-routing of Lake Minerals Road (near T1A-4) during the Phase 7a Project. Rio Tinto has written in support of the Project as proposed in the Draft EIR (see comment letter 3).

4-7 Climate Change under CEQA differs from most other types of impacts in that, by definition, significant impacts arise not from the greenhouse gas (GHG) emissions from individual projects, but rather from emissions generated globally on a cumulative basis. The relevant air district for the Project area, GBUAPCD, has not established thresholds of significance for GHGs for individual construction projects. Therefore, thresholds developed by other agencies are referenced. Absent such thresholds, the CEQA lead agency must make such significance determinations on a case-by case basis. Numeric bright line thresholds are specific numeric thresholds above the baseline operations that, if exceeded for a particular project, would produce a significant cumulative impact. Multiple agencies have applied bright line thresholds. For example, the South Coast Air Quality Management District (SCAQMD), the Bay Area Air Quality Management District (BAAQMD), and the San Luis Obispo Air Pollution Control District (SLOAPCD) have established a 10,000 MTCO2E per year CEQA significance threshold for stationary sources. This bright-line threshold is based on a goal of a 90 percent emission capture rate that is low enough to capture a substantial fraction of future stationary source projects while setting the threshold high enough to exclude small projects that will in aggregate contribute a relatively small fraction of the cumulative statewide GHG emissions. These emission thresholds consider the emission levels for which an individual project's emissions would be cumulatively considerable. If an individual project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in potentially significant adverse air quality impacts. Because GHG gas analysis is by its nature a cumulative impact assessment, the method does not call for addition of predicted emissions from other projects for comparison to the thresholds. Therefore, additional analysis to assess cumulative impacts is not necessary.

As noted by the commenter, GHG emissions from construction have been estimated and disclosed for the Phase 8 Project (LADWP, 2012), the Phase 7a Project (LADWP, 2013),

and the proposed Phase 9/10 Project. Construction of Phase 8 Project is complete and construction of Phase 7a will be complete prior to the start of the Phase 9/10 Project. Those are separate projects, each of which was found to have less than cumulatively considerable GHG emissions from project construction. As cumulative projects, the Phase 7a and 8 projects are already contemplated under the bright-line thresholds adopted by various agencies and applied here.

Please also note that, although unquantified, GHG sequestration is anticipated to occur in the areas of Managed Vegetation proposed under the Project.

4-8 The Brine Shallow Flood approved as BACM by the GBUAPCD Governing Board in Board Order 130916-01 (September 16, 2013) must meet the requirements for saturated soils as described for Shallow Flood (Draft EIR Section 3.1.1). Therefore, Brine Shallow Flood included in the proposed Project would meet the saturated soils requirement. Development of a Brine Shallow Flood method that relies on the creation of salt crust to suppress dust emissions is an on-going effort between GBUAPCD and LADWP, in collaboration with Rio Tinto. In the future, if this method is approved by GBUAPCD as BACM, LADWP may propose to implement Brine Shallow Flood with salt crust development.

In response to your comment, additional information regarding the U.S. Borax mineral lease and the potential for a quitclaim for a portion of that lease has been added to Section 2 of the Final EIR.

4-9 As described in the Initial Study (Draft EIR Appendix A), in the Owens Lake area, U.S. 395, SR 136, and SR 190 all operate at a level of service of LOS A, which is well within capacity for these roadway segments (Caltrans, 2013). Per the Highway Capacity Manual, the capacity of a two lane-highway is 3,200 pc/h for both directions of travel combined. In 2013, average annual daily traffic (AADT - total traffic volume for the year divided by 365 days) for SR 136 ranged between 540 vehicles at the junction of U.S. 395 and approximately 430 vehicles at the junction with SR 190, well within the 1,600 pc/hr capacity for each direction of travel. The AADT on SR 190 at SR 136 was 240 to 540 in 2013 (Caltrans, 2013). The temporary addition of an estimated 100 roundtrip gravel haul trips per day would not substantially degrade the level of service on these roadways and project-related impacts on traffic would be less than significant. Note that the Inyo County General Plan Circulation Element Policy RH-1.4 is: Maintain a minimum level of service (LOS) "C" on all roadways and highways in the County (Inyo County, 2001). Since the proposed Project would not degrade the LOS on any roadway below C, additional analysis is not warranted. Additionally, since gravel is currently being hauled for the Phase 7a Project, gravel hauling for the Phase 9/10 Project would result in similar traffic conditions as existing conditions.

4-10 The Phase 9/10 Project was designed to follow the Master Project concepts for meeting ambient air quality standards while maintaining habitat values on Owens Lake and conserving water. In order to mitigate dust emissions and logistically implement the Master Project, each step would balance habitat values. Every portion of the dust

mitigation project that LADWP has implemented has been required to maintain or enhance habitat values, and those goals have been achieved in the course of implementing past projects. While CEQA does not compel LADWP to improve the physical environment above baseline conditions, LADWP has undertaken this approach to meet ambient air quality standards ordered by GBUAPCD in the 2011 and 2012 SCRDs and subsequently memorialized in the 2014 Stipulated Judgment. Given the success of past project-by-project activities and use of the HSM approach for maintaining or enhancing habitat values, there is no evidence that an alternative approach is warranted at this time.

4-11 In response to your comment, please see new **Figure 2-3**, included in Section 2 of the Final EIR. To protect cultural resources, areas with significant cultural resources excluded from the dust control project are not indicated.

4-12 CSLC's future review of Gravel Cover for consistency with Public Trust principles, values and needs is noted. LADWP has determined that Gravel Cover, a designated BACM by GBUAPCD, will not impede public access, will not create a significant aesthetic impact, and will improve air quality. Under the Project, public access to T18S will be enhanced with a new visitor overlook area. As a whole, construction of the Phase 9/10 Project is predicted to maintain or enhance habitat value for all six wildlife guilds considered. LADWP has not identified any impacts of the Phase 9/10 Project that are inconsistent with public trust values. Per LADWP's analysis, the Project would achieve the public interest goals of meeting air quality objectives, maintaining habitat values, maintaining access, and conserving water. Review of the Phase 8 Project (2.03 square mile of Gravel Cover) and Phase 7a Project (1.5 square miles of Gravel Cover), determined that these OLDMP Phases were consistent with the Public Trust. Similarly, LADWP has concluded that the Phase 9/10 Project is consistent with Public Trust principles, values and needs; although LADWP understands that the CSLC is the agency that will determine the consistency of the Phase 9/10 Project with the Public Trust Doctrine.

4-13 The Dust Control Plan for the Phase 9/10 Project would be prepared by the Construction Contractor and submitted to GBUAPCD for its review and approval. In accordance with GBUAPCD Rule 401 – Fugitive Dust, the Contractor is required to take reasonable precautions to prevent visible particulate matter from becoming airborne. In the past, implementation of the Dust Control Plan has been considered by GBUAPCD to demonstrate that reasonable precautions are being taken. Based on the Rule 401 standards, the Construction Contractor is responsible to determine when high wind conditions necessitate the cessation of construction activity.

It is assumed that the Dust Control Plan for the Phase 9/10 Project would be similar to the Plan recently approved and currently being implemented for the Phase 7a Project. The Dust Control Plan will detail control measures from the following construction areas/activities:

- Road shoulders and parking areas – dust control measures to be implemented at the termination of the project

- Diesel engine idling – Limits diesel engine idling (for vehicles with a gross vehicle weight over 10,000 pounds) to less than 5 minutes as practicable
- Main access roads – speed controls, watering
- Soil stockpiles – blending of wet and dry soils
- Excavation and pipe installation – blending of upper dry and excavated damp soils
- Specific work areas – sand fence installation for specific DCAs as detailed in the construction specifications

In addition, temporary tillage may be used, as directed by the LADWP Engineer, in combination with sand fences and interior berms to minimize dust emissions in all DCAs. Temporary tillage is used where soil conditions are suitable and temporary dust control is needed. Temporary tillage is typically oriented perpendicular to the direction of predominant winds, and therefore reduces the likelihood that particulate matter will become airborne.

As described in Draft EIR Section 3.1.5, sand fences may be temporarily installed during construction in order to limit the movement of sand from construction zones to adjacent areas of the lakebed. Sand fences were previously used during construction for Phase 7 and 7a Projects. Since biological and cultural resources assessments were conducted on each project DCA plus a buffer area, temporary installation of sand fences or temporary tillage to control construction dust would not have additional impacts beyond those described in the Draft EIR. Wildlife presence in active construction zones is not anticipated; therefore significant impacts to wildlife movement are not anticipated. Sand fences have been in place permanently in T1A-1 since 2010 and tillage has been implemented in multiple areas. Monitoring has not shown any impacts to movement of wildlife in these areas. Under the Avoidance Alternative, sand fencing would not be installed within the boundaries of, or the buffer area associated with, significant cultural resources. Under the originally proposed project, Phase III Data Recovery would be conducted prior to construction activity (including installation of sand fences) in areas with significant cultural resources. As discussed in Draft EIR Section 4.1.4.1, temporary construction activity over 5.43 square miles of the lake would not significantly alter views of the site, and the visual impacts of temporary tillage and temporary sand fences would be less than significant.

4-14 Permanent impacts to virtually all of the existing natural wetlands and about half of the created wetland areas located in the Phase 9/10 Project footprint will be avoided by design. The proposed Managed Vegetation DCAs would be managed for successful dust control, and, as demonstrated in T30-1, approximately 125 acres of hydrophytic vegetation is projected to meet the minimum needed for dust control standards. Further, the diverse suite of native wetland species that would be seeded in the Project area would enhance the species diversity of the alkali meadow habitat. With project irrigation, the Managed Vegetation areas would have increased productivity and habitat value in the entire emissive area compared to current conditions of small areas of wetland that receive sand infiltration and salt deposition during wind storms from adjacent emissive playa. After construction of irrigation systems and seeding are complete, it is anticipated that

vegetation would be established in the Managed Vegetation DCAs within 36 months. Given the relative quality in the functions and values of Managed Vegetation areas to be created, impacts to the small areas of existing fragmented wetland areas would therefore be temporary and less than significant. A wetland delineation and analysis specific to the proposed Project are summarized in the Draft EIR and detailed in the biological resources report for the project. A copy of this report will be provided to CSLC.

4-15 Details regarding the HSM analysis are available in the report entitled *Supplemental Control Requirements Determination 2011 and 2012 Dust Control Measures Projected Habitat Value* (LADWP, 2014a). This report was referenced in the EIR and a copy will be provided to CSLC. Results from the habitat suitability modeling conducted for the Phase 9/10 Project are presented in Draft EIR Section 4.3.5.2.

4-16 Observed bird use will be used to inform the habitat model and management of the DCAs. Use of habitat created by the dust control project by highly mobile migratory wildlife depends on numerous factors outside the control of LADWP. Some of the factors that can affect wildlife use of a particular area at any given time include changes in migration patterns, land management, drought, harsh winters, severe storms, pesticide use changes, and hunting in breeding and wintering areas. Local weather variability in the Owens Valley area can also influence when the birds arrive and what areas they choose to use while they are here. A severe storm can cause birds to fly south earlier than expected or shelter in a different area and therefore they may not be observed during a specific survey period. These confounding factors make bird counts a poor and possibly misleading performance metric.

However, multiple bird counts sustained below the historical range of variability could give an indication that habitat values for a given wildlife guild are declining. If this occurs, an analysis will be performed based on monitoring data to relate low wildlife counts to potential changes in habitat values for each wildlife guild. Confounding factors will also be part of the analysis, and any declines in habitat use due to changes in habitat will be managed accordingly through adaptive management.

As noted by the commenter, concepts developed as part of the Master Project process were used to design Phase 9/10 Project features with the goal of maintaining overall habitat value. However, to meet the requirements of CEQA, a site-specific impact assessment of the Phase 9/10 Project was conducted for biological resources, and this EIR does not rely on a future Master Project process. Based on the inclusion of areas of Managed Vegetation, Shallow Flooding and design of four ponds in Transition Area T18S, habitat suitability modeling projects that habitat values will be maintained or enhanced under the proposed Project. As described in Draft EIR Section 4.3.5.3 Habitat Value Monitoring, an adaptive management framework has been established to ensure a long-term benefit to wildlife over existing conditions. The monitoring program and review of the HSM are included as part of the proposed Project; additional mitigation measures are not warranted.

4-17 Since T18S is one of the largest DCAs, overall bird use compared to other DCAs is high. However, on a per acre basis, T18S is moderate in bird use. T18S ranks between 7 and 24

of all DCAs, depending on which wildlife guild is considered (see Final EIR Section 2). Transition of a series of smaller Shallow Flood DCAs could impact cells with greater per-acre bird use. Additionally, transition of a series of smaller Shallow Flood DCAs to Gravel Cover with ponds may not be constructable (i.e., feasible) within the timeframes mandated by GBUAPCD and is therefore not proposed. Please also see response to comment 5-9.

The concept for the Master Project included Tillage in T18S with two ponds totaling approximately 290 acres. The proposed Phase 9/10 Project includes transition of T18S to Gravel Cover with four ponds totaling 651 acres. While not identical to the conceptual land cover plan for the Master Project, the Phase 9/10 project would provide more than double the acreage of ponds with a larger number of habitat islands and greater variability of water depth. Since significant unmitigable impacts to biological resources were not identified for the proposed Project with transition of T18S, alternative transition areas were not considered. TwB2 in lieu of the Gravel Cover areas in T18S is not proposed since this could increase the water demand for the project.

4-18 The construction steps for lateral pipeline installation include:

- Excavate a trench to an approximate depth of 4 feet. Place the spoil pile next to the trench. Trench lengths will be limited to the amount of pipe that can be installed and backfilled each day.
- Dewater the trench as necessary.
- Fuse 50 ft sticks of HDPE pipe at a stationary location.
- Drag 200 ft lengths of fused pipe and place next to the open trench.
- Field fuse the 200 ft lengths with other 200 ft lengths and push into the trench.
- Backfill and compact soil above the pipe.

The trenches would be backfilled with native soil on a daily basis. Since wildlife movement in active construction zones is not anticipated, animal entrapment in trenches is not expected.

4-19 CSLC jurisdiction regarding cultural resources on State property is noted. Regarding updates to the federal Section 106 process, CSLC is encouraged to coordinate directly with the BLM.

Consistent with State and federal requirements, the cultural resources identified on the project areas were evaluated and eligibility recommendations were made after review of NRHP and CRHR criteria. The criteria for eligibility for the CRHR are based upon NRHP criteria, and they are nearly identical. All of the evaluated archaeological sites were analyzed under all four NRHP criteria and all four CRHR criteria, as discussed on a site-by-site basis in Section 12.2 of the Owens Lake Dust Mitigation Program 2011 Supplemental Control Requirements Determination Phase II Archaeological Testing and Evaluation Report and Section 10.2 of the Owens Lake Dust Mitigation Program 2012 Supplemental Control Requirements Determination Phase II Archaeological Testing and Evaluation Report. Site evaluations in Table 4.4-6 of the Draft EIR summarize the

criteria under which each site was found eligible, but not the criteria that were not applicable to that site. An evaluation of each of the Phase 9 resources recommended eligible for listing under the CRHR indicates that each is recommended as significant as a historic property under the NRHP.

The methods used for identification, evaluation, and classification of cultural resources within the Phase 9/10 Project area are, by design, consistent with those used in earlier phases of the dust mitigation program. These methods include the classification of archaeological deposits as discrete entities rather than as a continuous cultural landscape or district. It is agreed that cultural resources on Owens Lake share a common cultural heritage, and the contribution that each site might make to the overall understanding of prehistoric lifeways at Owens Lake was considered during the evaluation of CRHR eligibility. The current analysis assumes that maintaining the current research and evaluation methodology, which has remained consistent over past phases, will allow the successful integration of Phase 9/10 Project cultural resources with our current understanding of Owens Lake history. Therefore, the methodology used for the Phase 9/10 Project cultural resources evaluations is as suitable as an evaluation of resources within the context of an archaeological district, cultural landscape, or Traditional Cultural Property.

In response to the CSLC comment, the paragraph in Draft EIR Section 4.4.7.5 at the bottom of page 4.4-36 has been modified to delete the statement that state/federal agency certification of historic districts would be required (see Final EIR Section 2).

4-20 In response to the comments, cultural resources mitigation measures CR-3 and CR-5 have been revised (see Final EIR Section 2).

4-21 Since cultural resources review of private parcels contained in the Phase 9/10 Project area has been completed, Mitigation Measure CR-2 has been deleted (see Final EIR Section 2).

4-22 As stated in Draft EIR Section 4.5.4.1, LADWP acknowledges that CSLC is charged with managing and protecting lands subject to the public trust, and has the authority to balance public trust values. However, since the proposed Project would accomplish air pollution mitigation, protect and enhance biological resources, maintain public access, and protect the state's scare water resources, LADWP has concluded that the physical impact of the Phase 9/10 Project on land use and planning is consistent with the common law public trust doctrine and less than significant under CEQA. Further, with implementation of dust control since 2000, vegetation has increased in areas of Owens Lake that were formally barren playa, Shallow Flooding has supported invertebrate populations, and large numbers of birds have been attracted to the lake.

4-23 As noted, LADWP is currently investigating the efficacy of soil binders for dust control on Owens Lake. Since study of potential binders is on-going, and since acceptance of soil binders as BACM by GBUAPCD has not occurred, soil binders are not included in the proposed Phase 9/10 Project. After additional study and coordination with applicable

regulatory agencies, application of soil binders on DCAs, environmentally sensitive areas, and/or the buffers around those areas may be proposed. To date, however, the efficacy of soil binders as a meaningful alternative is speculative, and thus it is unclear whether it would avoid any possible impacts and still achieve project objectives.

4-24 The biological resources mitigation measures identified in the Draft EIR are focused on construction-related effects, not Project design, because habitat values of the Project areas are anticipated to be maintained or enhanced. With incorporation of mitigation measures for construction impacts, unmitigated significant impacts on biological resources are not identified for the proposed Phase 9/10 Project. Therefore, an alternative focused on reducing impacts to biological resources was not defined; any alternative except for No Project would require biological resources mitigation measures during construction. Please also see response to comment 4-17. Regarding the reasons for selection of T18S as the transition area, please see response to comment 5-9.

4-25 Electronic copies of future Project-related documents will be distributed as requested.

[CSLC NOP correspondence attached; available in Draft EIR Appendix B.]

State of California – Natural Resources Agency
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EDWARD G. BROWN, JR., Governor
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March 30, 2015

Mr. David Porter
Los Angeles Department of Water and Power
Environmental Planning and Assessment
111 North Hope Street, Room 1050
Los Angeles, CA 90012

Comment #5

Via mail and email: David.Porter2@ladwp.com

Comments on the Draft Environmental Impact Report (DEIR) for the Owens Lake Dust Mitigation Program - Phase 9/10 Project

Dear Mr. Porter:

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft Environmental Impact Report (DEIR) for the Owens Lake Dust Mitigation Program – Phase 9/10 Project, Inyo County, California (State Clearinghouse Number: 2014071057), hereinafter referred to as the "Project". The City of Los Angeles Department of Water and Power (LADWP) is conducting environmental review of the previously proposed 2011 SCRD and 2012 SCRD projects on Owens Lake, now referred to as the Owens Lake Dust Mitigation Program – Phase 9/10 Project. CDFW appreciates this opportunity to comment on the DEIR for the Project.

CDFW is responding to the DEIR as a Trustee Agency for fish and wildlife resources (California Fish and Game Code Sections 711.7 and 1802, and the California Environmental Quality Act [CEQA] Guidelines Section 15386), and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines Section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (California Fish and Game Code Sections 1600 et seq.) and/or a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (California Fish and Game Code Sections 2080 and 2080.1).

The proposed Project is to install best available control measures (BACM) to control PM_{10} dust emissions on 17 Dust Control Areas (DCAs) as follows: Duck Pond-L1, Duck Pond-L2, C2-L1, T10-1-L1, T10-3-L1, T17-2-L1, T21-L1, T21-L2, T21-L3, T21-L4, T32-1-L1, T35-2-L1, T37-1-L1, T37-2-L1, T37-2-L2, T37-2-L3, and T37-2-L4; totaling 2,313 acres of Owens Lake. BACM would include Gravel Cover, Shallow Flooding, and Managed Vegetation. Additionally, the project would include transition of 1,166 acres of existing shallow flood in DCA T18S to approximately 516 acres of Gravel Cover and 650 acres of Shallow Flooding.

CDFW Comments on the Project DEIR

5-1 Many of CDFW concerns discussed in detail here regarding the Project DEIR were first expressed in our August 18, 2014 Comment Letter on the Notice of Preparation for the "Owens Lake 2011 SCRD and 2012 SCRD Dust Control Measures." Between the NOP and the DEIR, the project name changed to Owens Lake Dust Mitigation Program - Phase 9/10 Project. For clarity, CDFW recommends that project names remain consistent through the CEQA process.

Inadequate assessment of impact to biological resources

More information and evaluation is needed to determine the finding of no significant impact to biological resources. LADWP has conducted more than five years of biological monitoring on Owens Lake, and this extensive dataset needs to be comprehensively included in any evaluation of impacts to biological resources on Owens Lake.

The following data should be included in the evaluation of this project and fully disclosed and described in the Project DEIR:

5-2 - All LADWP Owens Lake Biological Monitoring Reports (2010-2014) should be included in the literature cited and the review of biological impacts.

5-3 - The results of all LADWP's surveys for each dust control area of the proposed project should be considered in the evaluation of biological impacts. This includes the species present, the abundance of each species, and general locations within the dust control areas. This also includes all observed nesting birds and maps showing the locations of the nests by species. CDFW understands that many of the 'new' dust control areas may only have limited survey information, but any transition areas, such as T18S, should have extensive data for at least five years. This information could be added to Table 4.3-3 or to Appendix D.

5-4 - The results of all LADWP's surveys for each dust control area ADJACENT to the proposed project (as requested in August 14, 2014 CDFW comment letter). This includes the species present, the abundance of each species, and general locations within the dust control areas. This also includes all observed nesting birds and maps showing the locations of the nests by species. This data will help inform the cumulative impacts of the project and could be added to Table 4.3-3 or to Appendix D.

5-5 - Any additional opportunistic observations by LADWP staff or reported to LADWP staff of wildlife within or adjacent to the project area.

Furthermore, as described in the CDFW 2014 NOP Comment Letter, mitigation based on the collaboratively developed Habitat Suitability Models (HSM) is problematic when applied in a piecemeal fashion to projects instead of using a well-developed lake-wide approach. The Habitat Value Acreage (HVA) approach requires rigorous monitoring and a specific adaptive management process, which ideally, will include review by a third party with proven quantitative capacity to evaluate these habitat suitability models. Until a lake-wide plan, including these components is in place, habitat value and use by birds should be maintained within transition dust control areas.

5-6 The CDFW 2014 comment letter on the NOP states:

> *For example, DCA cell T18S was previously designated for Shallow Flood and has observed significant use by Snowy Plover, American Avocets, and California Gulls, with other waterbirds and waterfowl also being documented in previous year's monitoring reports. Transitioning over 75% of this cell to Gravel Cover may significantly impact bird use for this cell and possibly Owens Lake. Objectives for the cell should include, at minimum, maintaining baseline use by all birds, including waterbirds and waterfowl, and not just "maintaining existing habitat value"; e.g. the EIR should document the specific habitat locations serving to mitigate this conversion in both acreage and value."*

Although recommended in detail in our comment letter, the DEIR still fails to, *"...include a jurisdictional delineation that includes wetlands identification pursuant to the U. S. Fish and Wildlife Service wetland definition[1] as adopted by CDFW[2]."* CDFW

5-7 review of cell T18S clearly indicates the cell would be classified as state wetlands if the appropriate jurisdictional delineation were completed. Also as has been explained in detail regarding use of the HSM prior to an approved lake-wide approach, compensatory mitigation could be required for Project impacts which result in a direct loss of state wetlands beyond just HVA. Although the percentage of gravel cover on T18S has been reduced in consideration of the HSM in the DEIR, LADWP is still responsible for maintaining, at minimum, baseline use by all birds. If bird use were not to return to baseline in T18S, the DEIR should propose a traditional wetland mitigation

5-8 location at the ratio of 1:5 based on the high use by birds of T18S.

Based on the inadequate evaluation and inadequate mitigation described above, CDFW does not concur with LADWP's finding that the Project will have no significant impact to biological resources.

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[1] Cowardin, Lewis M., et al. 1979. Classification of Wetlands and Deepwater Habitats of the United States. U.S. Department of the Interior, Fish and Wildlife Service.

[2] California Fish and Game Commission Policies: Wetlands Resources Policy; Wetland Definition, Mitigation Strategies, and Habitat Value Assessment Strategy; Amended 1994

Inadequate consideration of biological alternatives

The transition of T18S is not required by Great Basin Air Quality Control District to manage dust emission; it has been selected for transition by LADWP for water savings. Between 2001 and 2014, LADWP has found 29 Snowy Plover nests and documented the highest overall bird diversity and abundance at T18S compared to any other dust control area. Due to the high bird use observed at T18S, alternative sites for water savings and transition should be considered. One of the main benefits of the Habitat Value Acreage approach to mitigation on Owens Lake is that it provides LADWP considerable flexibility in how they might increase or maintain habitat value acreage across Owens Lake. However, the DEIR provides no alternative for water saving except the transition of T18S. At many of the Owens Lake meetings, LADWP specified
5-9 they would be targeting areas of low bird use and low habitat value for transition. However, dust control area T18S has the highest ranked bird diversity and bird abundance of any dust control area (LADWP 2014 Owens Lake Biological Monitoring Report Figure 19). Some possible alternative dust control areas to target for transition that have shown lower bird use and diversity include: T2-2, T2-3, T2-5, T3SE, T3SW, T3NE, T23SE, T23NE, T36-3E, T36-3E, T36-3W as well as many others. In fact any other dust control area on Owens Lake would have lower bird abundance and diversity. Also, several of the cells above are already identified for water saving in LADWP's TwB2 project. The water saving from these cells, along with the entire TwB2 project, will significantly exceed the water demand for the new DCAs of the Phase 9/10 Project. This exceedance in water savings should be disclosed in the DEIR, and the DEIR alternative analysis should include an alternative project which could fully address dust mitigation requirements for all new DCA's in Phase 9/10 without any need to transition T18S.

In addition, CDFW recommends LADWP provide an alternative to gravel to control dust at T21-L2. This dust control area had a snowy plover nest in 2012 and several other nests found in the area in 2001 in 2007. Given the flexibility of the Habitat
5-10 Value Acreage approach, LADWP should be able to provide at least three biological alternatives that will provide the same water savings and habitat value acreage as the current project.

Additional Comments and Questions

- Provide numerical support for the statement that salinity in T18S has been increasing in recent years as well as logistical evidence that the salinity cannot
5-11 be managed in the current configuration (p. 4.3-39). How would infrastructure, management, and water distribution have to be altered to allow LADWP to maintain the salinity T18S? Can bird use be correlated with the change in salinity to date?

5-12 - Provide specific data on water costs and water savings associated with all dust control areas. How many acres feet per year per acre is required to maintain T18S as it is? How many acres feet per year per acre will be needed to maintain T18S after transition?

5-13 - Include all specific Habitat Suitability Model equations and categorical parameter values (e.g. water depth of 0.8m has a value of 1 for the diving waterbird guild).

Thank you for this opportunity to comment on the DEIR. Questions regarding this letter and further coordination on these issues should be directed to Ms. Lacey Greene, Environmental Scientist, at (760) 872-1128 or by electronic mail at Lacey.Greene@wildlife.ca.gov.

Sincerely,

for Curt Taucher
Environmental Program Manager II

cc: State Clearinghouse, Sacramento
H. Calvert, CDFW
B. Kinney, CDFW
L. Greene, CDFW
J. DeLeon, SLC
J. Zimmerman, LRWQCB

Comment Letter #5

California Department of Fish and Wildlife
Mr. Curt Taucher
Environmental Program Manager II
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
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5-1 As noted by the commenter, the NOP of an EIR identified the project as the Owens Lake 2011 SCRD and 2012 SCRD Dust Control Measures Projects, in reference to the GBUAPCD nomenclature of "Supplemental Control Requirements Determination". In an effort to be consistent with previous dust control projects on Owens Lake, the project has been more simply named as the Phase 9/10 Project.

5-2 The 2011 and 2012 reports are included in the references section of the Draft EIR (Section 8.1). Please see revisions to Draft EIR Section 8.1 to include the 2010, 2013 and 2014 Owens Lake Biological Monitoring Reports (Final EIR Section 2). Data included in these reports were considered as part of impact assessment for the Phase 9/10 Project.

5-3 Each of the DCAs included in the Phase 9/10 Project were surveyed for biological resources; the results of these recent, as well as previous, surveys were considered as part of biological resources evaluations. Bird count data were evaluated for the most recent survey period (2014) and assessments of nesting using all current data were performed. In response to CDFW comments, Draft EIR Section 4.3.3.4 (Avian Use of Project Vicinity) has been revised (see Final EIR Section 2). Mitigation measures to protect nesting birds are described in Draft EIR Section 4.3.6.

5-4 In response to your comments, Draft EIR Section 4.3.3.4 (Avian Use of Project Vicinity) has been revised (see Final EIR Section 2). Where Phase 9/10 Project DCAs share a border with an adjacent DCA, survey data for the adjacent areas are provided. The DCAs are separated by wide roadway berms currently used by operations vehicles; therefore no direct impacts from construction on adjacent parcels are anticipated. Many of the Phase 9/10 Project DCAs are adjacent to areas of barren playa, where few biological resources are present. Mitigation measures to reduce temporary impacts from construction activity are defined in Draft EIR Section 4.3.6. Note that no other sensitive species habitat is present within areas adjacent to Project areas.

5-5 Wildlife observations are reported in Draft EIR Table 4.3-3. Special status species seen during any of the project surveys are listed in Table 4.3-4, 4.3-5 and 4.3-6. Additional data that were considered as part of the impact assessment have been summarized and included in Section 2 of the Final EIR.

5-6 The Phase 9/10 Project was designed to follow the Master Project concepts for maintaining and enhancing habitat value while meeting water conservation goals. In order to maintain dust control and logistically implement the Master Project, each phase

or step would balance habitat value within a subset of DCAs. Every portion of the dust control project that LADWP has implemented has been required to maintain or enhance habitat values. When habitat values are enhanced (as has been the case for past program activities), a new baseline is established that is maintained by LADWP. In this respect, phased dust control has been effective at achieving CDFW's wildlife goals. Further, this approach is required to meet the time commitments included in the 2014 Stipulated Judgment.

Note that the concept for the Master Project included Tillage in T18S with two ponds totaling approximately 290 acres. The proposed Phase 9/10 Project includes transition of T18S to Gravel Cover with four ponds totaling 651 acres. While not identical to the conceptual land cover plan for the Master Project, the Phase 9/10 project would provide more than double the acreage of ponds with a larger number of habitat islands and greater variability of water depth. As described in the Draft EIR Section 4.3.5.3, habitat values in the Phase 9/10 Project area would be enhanced with transition of T18S.

As described in Draft EIR Section 4.3.5.3, rigorous monitoring and an adaptive management process is defined for the Phase 9/10 Project. LADWP will conduct a Habitat Value Acre (HVA) review to confirm predicted habitat impacts. After several years of Project operation, the assessment of 2013 HVA will be compared with actual HVA for each guild. The HVA review will incorporate the results of the HSM validation to be conducted for the Phase 7a Project. The validation is being conducted to determine if the identified parameters are effectively providing habitat for target guilds. Modifications in the HSM identified during the Phase 7a validation will be incorporated into future HVA reviews for the Phase 9/10 Project.

5-7 A wetland delineation using the Wetland Delineation Manual (USACE, 1987) revised by the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0) (USACE, 2008) using hydrophytic status of plant species from a recently revised plant list (Lichvar, 2013) has determined that 0.1 acres of T18S are created jurisdictional wetlands, but USACE has declined to assert jurisdiction over this project (Allen, pers. comm. 2015). Further, even projects with federal approvals and potential take of federally-listed species are not required to conduct an independent wetland delineation under the U.S. Fish and Wildlife Service definition. And as noted by the California Fish and Game Commission Miscellaneous Policies (1994), the California Fish and Game Wetlands Resources Policy was never intended to have enforceable regulatory effect. Regardless, the physical functions and values of the wetted areas within the Project area have been described and evaluated in the Draft EIR. Virtually all of the habitat value in T18S was created by LADWP's dust control project. If LADWP was not implementing dust control in these areas, there would be virtually no habitat value and essentially no use by wildlife. The Project provides for the infrastructure and commitment by LADWP to maintain what has been created by designing, constructing and managing for sustained habitat value. The Phase 9/10 Project fully mitigates any potential impacts to biological resources and commits to maintain habitat values into the future.

LADWP will avoid 19.1 acres of wetland with this project. All of the wetland in C2-L1 (7.1 acres), Duck Pond-L1 (10.9 acres), and T10-1 L1 (1.1 acres) will be avoided.

5-8 Observed bird use will be used to inform the habitat model and management of the DCAs. LADWP has no control over whether birds use the habitat created by the dust control project. Many factors can affect wildlife use of a particular area at any given time including changes in migration patterns, land management, drought, harsh winters, severe storms, pesticide use changes, and hunting in breeding and wintering areas. Local weather variability in the Owens Valley area can also influence when the birds arrive and what areas they choose to use while they are here. A severe storm can cause birds to fly south earlier than expected or shelter in a different area and therefore they may not be observed during a specific survey period. Additionally, changing weather conditions during bird surveys can change where birds are observed throughout the day. These confounding factors make bird counts a poor performance metric.

The Phase 9/10 Project has been designed to install new areas of dust control while maintaining overall habitat value, and conserving water. The assessment of biological resources included all Project DCAs, including transition area T18S. Designing the dust phases to maintain bird use of each specific DCA would be inconsistent with a lakewide approach. However, over the long-term, decreased bird use of T18S is not predicted. With over 650 acres of ponds graded to important foraging depths, many habitat islands, more diverse topography, increased nesting area, and increased shoreline length, the transition of T18S is specifically focused on the habitat needs of the Owens Lake Wildlife Guilds.

5-9 While other areas may exist that may have less bird use than T18S, any area would similarly have to be designed to maintain habitat value and be managed accordingly. In order to meet mandated Project deadlines, achieve water conservation goals, and maintain habitat value, T18S was the best choice for a transition area for the Phase 9/10 Project.

Since T18S is one very large management unit (1,167 acres), it will be logistically easier to shut-down and construct the Phase 9/10 Project elements within the mandated time-frame. The selection of alternative transition areas would require construction in more locations, increased time for design and planning, and overall longer construction.

Since T18S is one of the largest DCAs, overall bird use compared to other DCAs is high. However, on a per acre basis, T18S is moderate in bird use. T18S ranks between 7 and 24 of all DCAs, depending on which wildlife guild is considered. Since abundance is highly correlated to diversity (i.e., when there are more birds there are often more species), this acreage relationship is also true of diversity.

Given the size of T18S and the capacity constraints of the water delivery system, this DCA is also the best transition area to obtain Project water conservation goals. Under existing conditions, water delivery to T18S starts in August. Since this creates more

evaporation and loss, this DCA provides a greater opportunity for water conservation than other cells.

Several alternative transition DCAs recommended in the comment letter are part of the TwB2 project (T2-2, T2-3, T3SE, T3SW, T3NE). Other DCAs are part of mitigation from previous streambed alteration agreements and are required to be maintained as Shallow Flood (T-23SE, T-23NE). Lastly, the DCAs in T36-3 (T36-3E, T36-3W) have brine that would be difficult to dry out to accommodate construction; these DCAs are also needed for the upgradient (and higher habitat value) Managed Vegetation area created as part of the Phase 7a Project (T36-1-b). Further, it is not clear that transition of any of these areas would provide any significant environmental advantages over T18S.

Since the Phase 9/10 Project would maintain or enhance habitat values for the six wildlife guilds considered, impacts on avian use of the sites were found to be less than significant, as were impacts to other biological resources. The biological resources mitigation measures identified in the Draft EIR are focused on construction-related effects, not Project design. With incorporation of these mitigation measures, significant impacts on biological resources are not identified for the proposed Phase 9/10 Project. Habitat values of the Project areas are anticipated to be maintained or enhanced. Therefore, an alternative focused on reducing impacts to biological resources was not defined.

Water demand for the Project is described in Draft EIR Section 3.1.4. The anticipated water savings of 283 acre-feet per year is a small step towards overall water conservation on Owens Lake. Water savings anticipated with the TWB2 Project, approximately 8,620 acre-feet per year, are described in Draft EIR Section 6.1.1.3. In the context of California's current historic drought conditions, this level of water conservation is not considered an exceedance of water savings.

5-10 Snowy Plover may nest anywhere within 0.5 miles of water. Mitigation measures have been proposed to reduce potential impacts to nesting birds during project construction. Because T21-L2 is emissive, any Snowy Plover currently nesting in this area would be subject to blowing sand that could cause nest abandonment or destruction. Placement of Gravel Cover in this area will decrease this blowing sand and provide additional microtopography that plovers often nest within, including Project berms, staging areas and roads. For example, of the 29 Plover nests seen in T18S, only two were on playa, the rest were on perimeter berms with some amount of gravel protection (see Final EIR Section 2 Figure 4.3-8).

5-11 In response to your comment, a table showing salinity measurements in T18S has been added to Final EIR Section 2. Values have been variable, however, two of the three highest salinity measurements in spring have occurred in the most recent years. The infrastructure for the proposed Project will allow for salinity management along with the commitment to monitor and maintain this salinity into the future. In general, ponds with salinity beyond the preferred range have both lower habitat value and habitat use by waterfowl and shorebirds (LADWP, 2015). Given that T18S is a lower elevation pond, physics dictate that water carrying salt will tend to accumulate in T18S from upgradient

Shallow Flood areas when occasional spillover occurs; a process that increases salinity over time. Flushing the existing large T18S DCA would take a much larger amount of water than the multiple smaller ponds included in the transition area design for the Phase 9/10 Project.

5-12 Draft EIR Section 3.1.4 provides an estimate of water demand for the Phase 9/10 Project. With approximately 4 feet per acre per year of water demand, transition area T18S currently requires approximately 4,664 acre-feet of water per year. With implementation of the Phase 9/10 Project, the proposed 651 acres of ponds in T18S would require approximately 2,604 acre-feet of water per year.

5-13 The Project Habitat Value report (2014a) and the Biological Resources Survey Report (LADWP, 2015) for the Phase 9/10 Project will be provided to CDFW.

STATE OF CALIFORNIA – THE NATURAL RESOURCES AGENCY
EDMUND G. BROWN, JR., *Governor*

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Comment #6

March 30, 2015

David Porter
Environmental Planning and Assessment
Los Angeles Department of Water and Power
111 North Hope Street, Room 1050
Los Angeles, CA 90012
Sent via Fax to LADWP (213) 367-4710 on 3/30/2015 at 1:00 p.m.

Dear Mr. Porter,

RE: **OWENS LAKE DUST MITIGATION PROGRAM PHASE 9/10 PROJECT**

Thank you for including the California Office of Historic Preservation (OHP) in the environmental review process for the proposed Owens Lake Dust Mitigation Program Phase 9/10 Project (proposed project). Pursuant to the National Historic Preservation Act and the California Public Resources Code, the State Historic Preservation Officer (SHPO) and the OHP have a broad responsibility for the implementation of federal and state historic preservation programs in California. Our comments are offered with the intent of protecting historic and cultural resources, while allowing the Los Angeles Department of Water and Power (Lead Agency) to meet its program needs. The following comments are based on the information included in the Draft Environmental Impact Report (DEIR).

The proposed project includes the installation of dust control mitigation measures that may include shallow flooding, gravel cover, and managed vegetation. Under the proposed project, these systems require the creation of berms, installation of irrigation piping, and spreading of gravel using heavy machinery. All of these proposed actions have potential to cause irreparable damage to non-renewable, irreplaceable cultural and historical resources.

DESCRIPITION AND EVALUTION OF CULTURAL RESOURCES

6-1 The DEIR states that "...cultural resources associated with the lake are not individual discrete resources, but rather, the lake in its entirety is considered a culturally significant place....Recognizing portions of the Owens Lake as a Cultural Landscape would help clarify the inter-relationships between archeological resources and other aspects of the landscape that are important to local tribal communities."

6-1 Despite this statement, the DEIR proceeds to identify and analyze the archaeological resources within the Phase 9/10 Project Area as individual discrete artifact deposits devoid of any physical, contextual, or temporal relationship with each other or among the whole. These artifact deposits are also treated without regard to their larger relationship to a lakeshore cultural landscape identified in earlier phases of the dust mitigation program. Although the dust mitigation is a phased project, the cultural resources of the lakeshore share a common cultural heritage which bears on the meaning and significance of archaeological and historical sites that cannot be artificially segmented.

6-2 The research design employed to evaluate cultural resources in the project area relies on dated archaeological investigations while ignoring more recent and relevant work on prehistoric cultural chronologies that have since been modernized and revised, and it relies on questionable and unsound methodologies that reveal a general unfamiliarity with the archaeology of the Owens Valley.

6-3 The SHPO finds that the identification and analysis of the phase 9/10 sites fails to analyze the potential for an archaeological district, a cultural landscape and/or a Traditional Cultural Property and, despite Native American consultation, does not appropriately take into consideration native values that may be attached to the identified archaeological sites. It also fails to address whether the potentially eligible Area 9/10 sites contribute to a larger and more comprehensive cultural landscape that can be identified outside the immediate phased project boundaries. I reiterate the recommendation from correspondence in my previous letter from August 6, 2014 to the effect that archaeological sites should be evaluated as contributors to an archaeological district, Traditional Cultural Property, and potential cultural landscape.

6-4 Further, archeological sites must be evaluated under all four National and California Register Criteria of Eligibility (A/1-4/D). Two historic sites are evaluated under Criterion A/1 for their association with the Owens Lake Indian War Period. The nine archeological sites associated with Native American occupation of the Phase 9/10 project area are evaluated only under Criterion D for their potential to contribute to scientific knowledge. Mitigation under Criterion D/4 generally requires extensive and invasive testing and/or excavation and recovery of artifacts. The SHPO considers such treatment destructive of the intact site(s) and a significant impact on the cultural resource in and of itself. It should be used only in situations where avoidance or non-destructive treatments are infeasible.

6-5 The proposed project as described in the DEIR included several previous phased projects (including the Phase 7 Project, the Phase 7a Project, the Phase 8 Project, etc.). However, pursuant to CEQA Guidelines § 15378, a "'Project' means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change..." When taken together, phases 7, 7a, 8 and 9/10 will involve installation of dust control measures on approximately 48.6 square miles. The impacts on the cultural and historical resources in the Phase 9/10 project, if not mitigated below a level of significance will cumulatively

6-5 contribute to a substantial loss of historical resources and to the archaeological, cultural landscape, and Traditional Cultural Property of the larger Owens Lake area.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

6-6 The State Office of Historic Preservation strongly urges the lead agency to adopt the environmentally superior alternative presented in the DEIR. It offers the best opportunity to avoid impacts to significant archaeologically and historically sensitive resources while reasonably achieving the goals of the project. To implement this alternative the lead agency needs to prepare a detailed treatment plan that both addresses the deficiencies of the existing significance evaluations and outlines best practices for protection and avoidance of the resources. The proposal to hire a second peer reviewer archaeologist is an appropriate step to this end. Continued consultation with the Office of Historic Preservation, the Cultural Advisory group, and Native Americans can assist in developing best practices.

6-7 We would note that as the Owens Lake Dust Mitigation Program (OLDMP) requires a Federal permit to be issued from the Bureau of Land Management (BLM), pursuant to 36 CFR § 800, the regulations that implement Section 106 of the National Historic Preservation Act (NHPA) of 1966, the OLDMP meets the criteria to be considered an Undertaking as defined in 36 CFR § 800.16(y) and is therefore subject to NHPA

If you have questions, please contact Brendon Greenaway of the Archaeology and Environmental Compliance Unit at (916) 445-7036 or at Brendon.Greenaway@parks.ca.gov or Sean deCourcy of the Local Government and Environmental Compliance Unit, at (916) 445-7042 or at Sean.deCourcy@parks.ca.gov.

Sincerely,

Carol Roland-Nawi, Ph.D.

Carol Roland-Nawi, Ph.D.
State Historic Preservation Officer

Comment Letter #6

Dr. Carol Roland-Nawi, State Historic Preservation Officer
State Office of Historic Preservation
1726 23rd Street, Suite 100
Sacramento, California 95816-7100

6-1 The methods used for identification, evaluation, and classification of cultural resources within the Phase 9/10 Project area are, by design, consistent with those used in earlier phases of the dust mitigation program. These methods include the classification of archaeological deposits as discrete entities rather than as a continuous cultural landscape or district. It is agreed that cultural resources on Owens Lake share a common cultural heritage, and the contribution that each site might make to the overall understanding of prehistoric lifeways at Owens Lake was considered during the evaluation of CRHR eligibility. Therefore, the methodology used for the Phase 9/10 Project cultural resources evaluations is as suitable and appropriate as an evaluation of resources within the context of an archaeological district, cultural landscape, or Traditional Cultural Property. The current analysis assumes that maintaining the current research and evaluation methodology, which has remained consistent over past phases, will allow the successful integration of Phase 9/10 Project cultural resources with our current understanding of Owens Lake history.

6-2 The consultant team that conducted the cultural resources evaluations for the Phase 9/10 Project has extensive experience on Owens Lake, having worked on the Phases 7, 7a and 8 Projects in addition to the proposed Phase 9/10 Project. As discussed in the response to comment 6-1, emphasis has been placed on maintaining a consistent research and evaluation methodology over time in order to ensure that current findings are consistent and comparable to findings from earlier phases. Note that the research design and testing plan used to evaluate resources in the Phase 9/10 Project areas was reviewed and approved by the land owner (CSLC); permits for archaeological investigations were issued without objection. Nevertheless, it is understood that scientific knowledge develops over time, and future research must evolve in a way that integrates updated cultural chronologies, recent findings from the surrounding region, and advances in archaeological theory. In response to your comments, Mitigation Measure CR-3 is revised to clarify that the CSLC would be consulted regarding future research design and testing protocols for cultural sites on state lands (see also Final EIR Section 2):

The Cultural Resource Construction Monitoring Program shall include:

- An Unanticipated Discovery Evaluation Protocol shall be developed by the qualified archaeologist. Prior to the evaluation of any newly discovered resources on state lands, the CSLC shall be afforded an opportunity to comment on the research design, including research questions and evaluation methodologies, included in the Unanticipated Discovery Evaluation Protocol.

6-3 Please see response to comment 6-1. In addition, ongoing archaeological research in the Owens Lake area, including unanticipated discoveries and site evaluations associated with various phases of the dust mitigation program, continue to provide additional information about the spatial and temporal distribution of resources on the lake bed. Because of this, the boundaries and Period of Significance of a proposed archaeological district, Traditional Cultural Property, or cultural landscape cannot currently be accurately defined. These resources would be more effectively addressed as a group in the future, once research associated with dust mitigation nears completion and the nature and distribution of sites on the lake are better understood. At present, however, those specific sites satisfying eligibility criteria have been delineated and addressed.

6-4 All of the evaluated archaeological sites were analyzed under all four CRHR criteria, as discussed on a site-by-site basis in Section 12.2 of the Owens Lake Dust Mitigation Program 2011 Supplemental Control Requirements Determination Phase II Archaeological Testing and Evaluation Report and Section 10.2 of the Owens Lake Dust Mitigation Program 2012 Supplemental Control Requirements Determination Phase II Archaeological Testing and Evaluation Report. Site evaluations in Table 4.4-6 of the Draft EIR summarize the criteria under which each site was found eligible, but not the criteria that were not applicable to that site.

Note that excavation and recovery of artifacts have not been proposed as mitigation for significant impacts to cultural resources. Under the Avoidance Alternative to the proposed Project, significant cultural sites and an appropriate buffer would be excluded from the dust control area and protected from disturbance during construction in surrounding areas. Please also see Section 1 of this Final EIR regarding removal of the significant cultural sites, and buffers, from the area ordered for dust mitigation by GBUAPCD.

6-5 As identified in Section 6.2.4 of the Draft EIR, implementation of the Phase 9/10 Project as proposed would have cumulatively considerable impacts on cultural resources. However, implementation of the Avoidance Alternative and the mitigation measures outlined in Section 4.4 of the Draft EIR, and mitigation as applicable by future related projects would reduce significant impacts on cultural resources to below a level of significance. The combined impact of the Avoidance Alternative and related projects would be less than cumulatively considerable. Further, while the Phases 7, 7a, 8, and 9/10 are related, each has independent utility and are being pursued as independent projects. Thus, these four phases are not considered a single project for purposes of CEQA review. Again, however, because they are considered together for cumulative impact purposes, the EIR has not avoided evaluation of possible adverse effects when these projects are considered together.

6-6 The Draft EIR, comments received on the Draft EIR, and responses to comments will be presented to the LADWP Board of Water and Power Commissioners for their consideration. Prior to adoption of the Phase 9/10 Project, the Board of Water and Power Commissioners will consider which project most effectively balances and protects the competing interests of protecting air quality while ensuring the protection and preservation of cultural resources. The Commissioners may adopt the originally proposed

Phase 9/10 Project or an alternative to the proposed Project. The State Office of Historic Preservation's support for the Avoidance Alternative is noted and will be considered by the Commissioners. Please also see Section 1 of this Final EIR regarding removal of the significant cultural sites, and buffers, from the area ordered for dust mitigation by GBUAPCD.

Since the cultural resources evaluations conducted for the Phase 9/10 Project were consistent with past evaluations, and the research design plan was reviewed and approved by the land owner (CSLC), the evaluations were appropriate to determine site significance under the CRHR. Therefore, development of a detailed treatment plan to revisit the significance evaluations is not proposed. However, as noted in response to comment 6-2, the CSLC and BLM, as relevant, will be afforded an opportunity to comment on future research design, including research questions and evaluation methodologies, as part of the Unanticipated Discovery Evaluation Protocol. Additionally, as noted in Final EIR Section 1, LADWP has received comments from BLM on the Phase II cultural resources report for the Project. Additional consideration of existing data, cultural report revisions and/or additional field investigations may therefore be conducted for select sites in collaboration with tribal representatives and State and/or federal agencies.

6-7 As described in Draft EIR Sections 2.3, 2.9, 4.1.1.3 and 4.5.1.3, a right-of-way from BLM is required prior to installation of dust control on federal lands included in the Phase 9/10 Project; LADWP submitted an application for right-of-way to BLM in June 2014. BLM has indicated (letter dated August 7, 2014, included in Appendix B of the Draft EIR) that the proposed action is subject to land use conformance and other requirements under the Federal Land Policy and Management Act (FLPMA), environmental review requirements under the National Environmental Policy Act (NEPA), and federal regulations and requirements related to the protection of cultural resources pursuant to Section 106 of the National Historic Preservation Act (NHPA). This initial correspondence from BLM indicated that FLPMA and NEPA compliance requirements may be limited to consideration of the project footprint on federal land, but NHPA requirements could extend over the entire project footprint regardless of jurisdiction. Coordination with BLM has been on-going since submittal of the right-of-way application. The decision to issue or deny a right-of-way for installation of dust control measures on federal lands will be made by BLM.

California Water Boards

Edmund G. Brown Jr., Governor
Matthew Rodriguez, Secretary for Environmental Protection

Lahontan Regional Water Quality Control Board

March 26, 2015

File: Environmental Doc Review
Inyo County

David Porter
Los Angeles Department of Water and Power
Environmental Planning and Assessment
111 North Hope Street, Room 1050
Los Angeles, CA 90012
Fax: (213) 367-4710

Comment #7

COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED OWENS LAKE DUST MITIGATION PROGRAM PHASE 9/10 PROJECT, INYO COUNTY, STATE CLEARINGHOUSE NO. 2014071057

California Regional Water Quality Control Board, Lahontan Region (Water Board) staff received the Draft Environmental Impact Report (DEIR) for the above-referenced (Project) on February 17, 2015. The DEIR 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 DEIR, we have determined that: (1) the environmental document has not adequately evaluated the Projects potential impacts to water quality; (2) construction and operation of Phase 9/10 will require amending Board Order No. R6V-2006-0036 issued to LADWP for the Owens Lake Dust Mitigation Program; and (3) it appears that there may be considerably more wetland acres on the Project site and consequently more wetland impacts than what was reported and identified in the DEIR. Our comments on the DEIR and Project are outlined below.

PROJECT DESCRIPTION

LADWP is currently implementing the Owens Lake Dust Mitigation Program to reduce dust emissions. Since 2006, LADWP has constructed and currently manages dust control measures on approximately 45 square miles in and around the lake bed. The proposed dust control measures for the Phase 9/10 Project are similar to that being used in other areas around the lake and include shallow flooding, managed vegetation, and gravel cover. The Phase 9/10 Project will increase the total area of dust control by an additional 3.61 square miles.

WATER BOARD'S AUTHORITY

All groundwater and surface waters are considered waters of the State. Surface waters include streams, lakes, ponds, and wetlands, and may be ephemeral, intermittent, or perennial. All waters of the State are protected under California law. State law assigns responsibility for protection of water quality in the Lahontan Region to the Lahontan Water Board. Some waters of the State are also waters of the U.S. The Federal Clean Water Act (CWA) provides additional protection for those waters of the State that are also waters of the U.S.

The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains policies that the Water Board uses with other laws and regulations to protect the quality of waters of the State within the Lahontan Region. The Basin Plan sets forth water quality standards for surface water and groundwater of the Region, which include designated beneficial uses as well as narrative and numerical objectives which must be maintained or attained to protect those uses. The Basin Plan can be accessed via the Water Board's web site at http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/references.shtml.

COMMENTS ON PROPOSED PROJECT

Our specific comments on the Project and DEIR are outlined below.

7-1

1. The existing Owens Lake Dust Mitigation Program utilizes recycled return water from the irrigation areas and reverse osmosis water treatment brine as source waters for dust control measures. In addition, chemicals are added to these source waters to control algae growth and scale formation. Recycled return water, brine wastes, and chemical additives can contain constituents at concentrations that have the potential to degrade the quality of groundwater beneath the Project site as well as pose a threat to wildlife. These source waters were not identified in the DEIR, and the potential impacts to water quality as a result of these discharges were not identified in the environmental review. All potential water quality impacts need to be evaluated in the DEIR and adequate mitigation must be identified to reduce the potential impacts to a less than significant level. Obtaining a permit and conducting monitoring does not constitute adequate mitigation. Development and implementation of acceptable mitigation is required.

7-2

2. Combined, the dust mitigation phases cover a significant portion of Owens Dry Lake, and the cumulative impacts of these phases on water quality and hydrology over time have not been fully evaluated. **We urge LADWP to provide a more thorough analysis of cumulative impacts in the environmental document.** The analysis should consider the point impacts of phases planned and constructed and evaluate, at minimum, the potential impacts to groundwater recharge due to compacted soils, changes in the hydrology of the respective watershed(s) and potential flooding implications, cumulative changes in groundwater quality and chemistry, and habitat connectivity. The cumulative

7-2 impacts analysis should identify both regional and project-specific mitigation measures that, when implemented, will reduce potential impacts to a less than significant level.

7-3 3. The Water Board currently regulates discharges from the Owens Lake Dust Mitigation Program under Waste Discharge Requirements, Board Order No. R6V-2006-0036 (Board Order). The proposed Project is an expansion of the activities currently regulated by the Water Board; therefore, we anticipate that construction and operation of Phase 9/10 will require amending the Board Order to ensure that Project activities continue to be protective of wildlife and water quality.

7-4 4. Section 4.3.5.6 of the DEIR provides a discussion of existing wetland resources within the Project area and potential Project impacts. A wetland delineation report prepared for the Project in 2014 identified approximately 22 acres of wetland within the 3,500 acre Project site. However, the National Wetland Inventory mapping indicates that approximately 2,700 acres of wetlands occur within the Project area, which is several orders of magnitude greater than what is reported in the 2014 wetland delineation report. Please address the apparent inconsistency between the acreage of wetlands reported in the 2014 wetland delineation report and those reported by the National Wetland Inventory.

7-5 5. Construction of Phase 9/10 will require Water Board authorization either under CWA, section 401 water quality certification (401 WQC) for impacts to federal waters (waters of the U.S.), or dredge and fill waste discharge requirements for impacts to non-federal waters. We request that LADWP consult with the United States Army Corps of Engineers (USACE) and obtain the necessary determination to verify presence or absence of federal waters within the Project site.

7-6 6. The Water Board requires that impacts to water resources be **avoided** where feasible and **minimized** to the extent practical. Compensatory mitigation will be required for all unavoidable permanent impacts to surface water resources. Water Board staff coordinate all mitigation requirements with staff from other federal and state regulatory agencies, including the USACE and the California Department of Fish and Wildlife. In determining appropriate mitigation ratios for impacts to waters of the State, Water Board staff considers Basin Plan requirements (minimum 1.5:1 mitigation ratio for impacts to wetlands) and utilizes *12501-SPD Regulatory Program Standard Operating Procedure for Determination of Mitigation Ratios*, published December 2012 by the USACE, South Pacific Division.

7-7 7. Land disturbance of more than 1 acre may require a CWA, section 402(p) storm water permit, including a National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit, Water Quality Order (WQO) 2009-0009-DWQ, obtained from the State Water Board, or individual storm water permit obtained from the Lahontan Water Board.

7-8

8. Water diversion and/or dewatering activities during construction may be subject to discharge and monitoring requirements under either NPDES General Permit, Limited Threat Discharges to Surface Waters, Board Order R6T-2008-0023, or General Waste Discharge Requirements for Discharges to Land with a Low Threat to Water Quality, WQO-2003-0003, both issued by the Lahontan Water Board.

REQUEST FOR REVISED REPORT OF WASTE DISCHARGE

The California Water Code (CWC) requires the Water Board to regulate discharges of waste to land or waters of the State to protect the designated beneficial uses. Any person discharging waste or proposing to discharge waste that could affect the quality of waters of the State must file a ROWD with the Water Board (CWC, section 13260). The ROWD must fully describe the proposed discharge and be filed with the Water Board at least 140 days before the discharge occurs (CWC, section 13264). Failure to file a complete ROWD before discharging, or discharging without regulatory authorization, may result in substantial civil or criminal penalties (CWC, section 13261).

7-9

Water Board staff has determined that the proposed Project is an expansion of the activities currently regulated by the Water Board under the Board Order and requests that LADWP submit a revised Report of Waste Discharge (ROWD) providing information necessary to revise the WDRs for the Owens Lake Dust Mitigation Program. The revised ROWD must contain complete information on all proposed and existing activities that may affect water quality. Be sure to include information required for compliance with any applicable region-wide or state-wide general permits that are currently active or those in which you intend to seek coverage under. Specifically, the following information must be submitted with the revised ROWD for the Owens Lake Dust Mitigation Program.

1. Complete Form 200 (see Enclosure). The person legally responsible for the Facility, such as the General Manager, must sign the Form 200 and not the engineer, architect, consultant, or other delegated person. An electronic copy of Form 200 can be accessed online at http://www.waterboards.ca.gov/lahontan/publications_forms/forms/index.shtml.

2. Government Code section 84308(c) requires all applicants for WDRs to include a statement disclosing any contributions made by the applicant to any Water Board member, if the contribution(s) amounted to $250 or more. For your information, the current Water Board members are: Amy Horn, Keith Dyas, Eric Sandel, Peter Pumphrey, Don Jardine, and Kimberly Cox.

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

Patrice J. Copeland, P.G.
Senior Engineering Geologist

Enc.: Form 200

cc: State Clearinghouse (SCH 2014071057) (state.clearinghouse@opr.ca.gov)
Heidi Calvert, CA Dept. of Fish and Wildlife (Heidi.Calvert@wildlife.ca.gov)
Katherine Rubin, LADWP (Katherine.Rubin@LADWP.com)
Erin Hanlon, USACE (Erin.M.Hanlon@usace.army.mil)

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Comment Letter #7

Lahontan Regional Water Quality Control Board
Ms. Patrice J. Copeland, PG
Senior Engineering Geologist
14440 Civic Drive, Suite 200
Victorville, California 92392

7-1 Although mentioned in the original permit for the project, reverse osmosis water treatment brine is not used on Owens Lake as part of the dust mitigation program. The Waste Discharge Requirements (WDRs) explain that recycled return water from Managed Vegetation does go into "Operation Ponds." This occurs primarily when the irrigation lines are flushed in the spring and fall, and underground collection lines take brine from beneath the Managed Vegetation areas and transfer the brine to T8-West. The removal of underground brine improves conditions in the Managed Vegetation areas by providing more tolerable salt levels for the salt grass, thus allowing the salt grass to grow. Draft EIR Section 3.1.1.1 references the use of fresh and/or recycled water in Shallow Flood DCAs.

Originally, chemical addition in the T5-T8 Managed Vegetation DCAs included fertilizers, chemicals (chlorine, chloramines, bromine) to prevent fouling of drip irrigation systems, and polyphosphonate to prevent scale buildup. Monitoring has not detected any adverse effects from chemical use, and use in the existing Managed Vegetation areas has reduced as operation has continued. Note that these areas are not part of the Phase 9/10 Project.

The proposed Phase 9/10 Project does not include any drip irrigation systems, therefore chemical use related to those systems is not proposed.

Draft EIR Section 4.3.3.5 summarizes the ongoing ecological monitoring at the lake in compliance with the Regional Board's Amended Monitoring and Reporting Program (AMRP).

Groundwater quality degradation is not anticipated to result from Project operations; please see response to comment 7-2, below.

7-2 As described in the Initial Study for the proposed Project (Draft EIR Appendix A), construction of new areas of Shallow Flood may result in localized changes to shallow groundwater flow patterns. As part of the Owens Lake Groundwater Evaluation Project (OLGEP), MWH conducted an analysis of the effects of dust control on the hydrologic regime of the Owens Lake (MWH, 2011b). MWH reviewed historical groundwater level data from GPUAPCD shallow piezometers and other deeper monitoring wells before and after implementation of dust control. A review of hydrographs suggests that DCAs influence groundwater levels only immediately adjacent to the DCAs, and only in the very shallow piezometers on the lakebed. Comparison of water levels in shallow and deep monitoring wells generally indicates a consistent upward groundwater gradient,

which implies that groundwater is flowing toward the ground surface, where it is ultimately consumed by evaporation.

The effect of dust control on groundwater appears to be limited to thin sand layers on the surface of the lake, because DCAs have no apparent effect on deeper aquifer zones. The presence of strong upward vertical gradients and relatively impermeable lakebed clays prohibits water from DCAs migrating downward into deeper aquifers. A review of groundwater level measurements before and after construction of dust control suggests that water from DCAs is not affecting flow directions or the amount of groundwater in storage in deeper aquifers. This is consistent with the fact that the DCAs are underlain by a large thickness of relatively impermeable clays which effectively isolate them from the deeper groundwater system (MWH, 2011b). Monitoring data show that the groundwater quality has not been affected over time (LADWP, 2014b). For these reasons, impacts on groundwater would be less than significant. Similarly, these conditions would limit cumulative impacts on groundwater; cumulatively considerable impacts to groundwater quality or quantity are not predicted. Additionally, ecological monitoring will continue on Owens Lake, although, threats to wildlife from dust control source waters have not been documented.

Regarding flooding, as described in the Initial Study for the proposed Project (Draft EIR Appendix A), a 100-year floodplain has been delineated on the Owens River and most of Owens Lake below the shoreline (Federal Emergency Management Agency [FEMA], 1986). Therefore, most of the Phase 9/10 Project DCAs are located within the mapped 100-year floodplain. However, the redirection of flood flows would not risk habitable structures since none are present on the lake. No levees or dams are present on the project sites and no off-site levees or dams would be modified as part of project implementation. The project would have no direct or cumulative impacts on flooding related to housing or habitable structures.

Cumulative impacts on biological resources are discussed in Draft EIR Section 6.2.3. Cumulatively, the Phase 7a Project, TwB2 and the Phase 9/10 Project are all predicted to maintain or enhance habitat values. Therefore, continued use of the HSM together with monitoring of the habitat values of the dust control areas is anticipated to maintain or enhance habitat values over existing conditions. Please note that the Owens Lake Habitat Management Plan has been developed to avoid direct and cumulative impacts to native wildlife communities that may result from the Dust Control Program. The Phase 9/10 Project, when considered in conjunction with past, present, and reasonably foreseeable future projects, is not expected to have any cumulatively considerable impacts on biological resources.

7-3 LADWP is aware that the original WDRs were developed during a time when the Lahontan Regional Board staff was primarily concerned with the effects of pollutants such as fertilizers, pesticides, herbicides, solvents, fuels, etc., on surface waters and ground waters. For this reason Lahontan chose to permit only the Southern Zones of the Lakebed. Subsequently Lahontan allowed other regions of the lakebed to be developed without a WDR because no fertilizer usage or other chemical addition was proposed in

the other areas. As noted in Draft EIR Section 2.9, it is anticipated that construction and operation of the Phase 9/10 Project would also be done in conformance with the existing Board Order.

7-4 The National Wetland Inventory (NWI) parcels are barren types (e.g. Lacustrine, littoral, unconsolidated shore, seasonally flooded). Hydrophytic vegetation is absent for areas with less than 5 percent total vegetation cover, regardless of species. Given the absence of hydrophytic vegetation, jurisdictional wetlands are absent. The 2,700 acres referenced in the NWI are typically barren playa.

The DEIR provides wetland mapping in Appendix D starting on p. D-16 using the Wetland Delineation Manual (USACE, 1987) and revised in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0) (USACE, 2008) using hydrophytic status of plant species from a recently revised plant list (Lichvar, 2013). The National Wetland inventory is a reconnaissance-level estimation of the location, type and size of wetland resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation used in the NWI depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted.

7-5 LADWP has received correspondence from USACE stating that it will not take jurisdiction over the Phase 9/10 Project area (Allen, pers. comm. 2015). LADWP is applying for a WDR from the Regional Board.

7-6 Implementation of the proposed Project is not anticipated to result in significant impacts on wetlands and the ability of the flood areas to promote beneficial uses will be maintained or enhanced. Thus, compensatory mitigation has not been required (Draft EIR Section 4.3.5.6). Design of the proposed Project will avoid 19.1 acres of wetland; all of the wetland in C2-L1 (7.1 acres), Duck Pond-L1 (10.9 acres), and T10-1 L1 (1.1 acres) will be avoided. Please see response to comment 5-7.

7-7 As noted in Draft EIR Section 2.9, construction of the Phase 9/10 Project would require a NPDES Construction Stormwater permit and implementation of BMPs as defined in a SWPPP. LADWP acknowledges that the project will require coverage under the General Construction Stormwater Permit, and will file a Notice of Intent.

7-8 Existing Shallow Flood DCA T18S would be drained prior to the start of construction activities in this DCA. However, no water diversions from surface waters are required for Project construction. LADWP intends to only discharge to land, not the brine pool, natural wetlands, or streams. Dewatering during construction would be conducted in conformance with Specifications Section 01563 Control of Water:

a. Discharge water into shallow flood basins or to the land surface within the work area limits shown on the drawings. Water discharged to the land surface may flow out of the work area limits onto the open playa to infiltrate and evaporate. Coordinate discharges to the land surface to avoid impacts to construction activities and existing dust control facilities.

b. Dewatering water shall not flow, be discharged, or be impounded within 500 feet of wetlands, snowy plover nests, or existing above-grade dust control facilities.

2. Implement best management practices (BMPs), such as retention basins in the dewatering discharge area, in accordance with the approved Regional Water Quality Control Board (RWQCB) National Pollutant Discharge Elimination System (NPDES) General Construction permit and its associated Storm Water Pollution Prevention Plan (SWPPP).

3. Comply with all procedures required by the RWQCB's National Pollutant Discharge Elimination System (NPDES) General Construction permit and its associated SWPPP, including sampling, inspections, training, BMPs maintenance, and corrective actions. Comply with the requirements of the Guidance Document for Storm Water Compliance water analysis and reporting. The Guidance Document for Storm Water Compliance is included in the SWPPP template. Water analysis shall be conducted by a certified laboratory as defined by the RWQCB.

4. Comply with procedures outlined in the RWQCB's "Lahontan Region (Basin Plan), Guidelines for Erosion Control".

7-9 LADWP will prepare the Report of Waste Discharge in order to amend the existing WDRs, and looks forward to working in a collaborative manner to develop the amended WDRs.

Earl Wilson
PO Box 830,
Lone Pine, CA
93545-0830

Comment #8

Los Angeles Department of Water and Power
Environmental Planning and Assessment
111 North Hope Street, Room 1050
Los Angeles, CA 90012

Attention: David Porter

Ref: Review and comments of Owens Lake "Draft EIR Phase 9/10 Project - Feb 2015"

Notes:
Headings w/document locations in ( ).
Bold/underlined = specific wording or topic in text.
n) = Question or comment in bold italics.

Section 1 – Summary

Figure 1-1 (pg 1-5)

8-1 ***#1) Suggest a separate Figure that shows the Phase 9/10 work areas in real life colors with crosshatch for one phase as opposed to the other i.e. Green for Vegetation, Blue for Flooding, Dark gray for Gravel and Brown for Tillage.***

Table 1-2 (pg 1-5)

8-2 ***#2) <u>Aesthetics:</u> Should add that "after construction is completed there will be no constant burn nighttime lighting on the lakebed and temporary nighttime lighting will only be used when a person is actively working at that location or during emergency repairs".***

8-3 ***#3) <u>Air Quality:</u> Release of methane from deep excavation and deep tillage is not addressed.***

8-4 ***#4) <u>BIO-4:</u> Lighting Best Management Practices. Same as #1.***

8-5 ***#5) <u>Cultural Resources:</u> The "Avoidance Alternative" should be approved to assure Less than Significant Impacts.***

8-6 ***#6) <u>Greenhouse Gas Emissions:</u> Same as #3.***

8-7 ***#7) <u>Transportation and Traffic:</u> Truck and employee traffic will also be impacting US 395.***

1.6
RELATED PROJECTS AND CUMULATIVE IMPACTS (pg 1-21, para 2)

8-8 **Aesthetics.** The proposed projects listed in Section 6.1 have the potential to alter aesthetics and views of the lake. The proposed Project plus the existing dust control and the Phase 7a Project (currently under construction), would total appr oximately 48.6 square m iles of DCAs on the lake. Under **<u>TwB2</u>** and the Owens Lake Master Pr oject, additional areas of Tillage and Gravel

#8) Tw2B not defined in: "ACRONYMS AND ABBREVIATIONS"

Section 3 – Project Description

Concrete Block Mat

8-9 ***#9) Even as used only as replacement for rip-rap this may be seen as an barrier by animals and birds such as a cattle guard. Additionally the gaps between the blocks could act as foot traps for animals trying to access the DCM areas i.e. coyote or fox etc.***

Section 4.1 – Aesthetics

8-10 ***#10) Section does not address "Light and Glare".***

Figure 4.1-4
8-11 **Dolomite Gravel and Playa Color Comparison** (Page 4.1- 7)

#11) Add a reference as to scale: elevation above surface i.e. 1000 ft. – 1 meter etc.

Section 4.2 – Air Quality

Table 4.2-3 (Page 4.2-8 & 9)

8-12 ***#12) There are 2 "Lone Pine Stations listed. Where is the other location and who operates it ??***

#13) Why are not ALL of the "Notes:" included here ??

#14) Why has the "Days above state standard (50 □g/m3)" data been removed/modified from this chart when credited to "Source: CARB, 2014" ??

Table 4.2-5 (Page 4.2-14, bullets 5 & 6)

Delivery trucks, support vehicles, and **worker vehicles** would travel 90 miles per day round trip to the site.

8-13 ***#15) After review of Appendix C – Table C-4, (Ref. Vehicle Class – "Passenger Vehicle") I am concerned that "Passenger vehicles" are not representative of the actual vehicles used by the majority of construction workers. Obviously no one has done an actual survey for this data which could have been done by a simple drive-by during current construction activities. This renders these calculations as being questionable.***

Average mileage per worker assumes 50 percent of workers are from Lone Pine (5 miles from Project site), 20 percent from Ridgecrest (48 miles from Project site), **20 percent from Bishop** (61 miles from Project site), and **10 percent from Los Angeles** (200 miles from Project site).

#16) After review of Appendix C – Table C-4. What type of vehicles do the Bishop operations workers drive from Bishop ??

#17) After review of Appendix C – Table C-4. Are the workers comminuting from LA using air transportation ??

Section 7 Additional CEQA Analyses

7.2.2 Biological Resources (pg 7-5)

BIO-4. Lighting Best Management Practices.

---(March 15 to August 15). **All lighting, in par ticular any permanent lighting, on newly built facilities shall be minimized to the greatest extent possible**, while still being in compliance with all applicable safety requirements. Required lighting shall be shielded so th at light is
8-14 directed downward and away from vegetation or playa areas.

#18) Should add that "after construction is completed there will be no constant burn nighttime lighting on the lakebed and temporary nighttime lighting will only be used when a person is actively working at that location or during emergency repairs".

Comment: The "greatest extent possible" is to turn off the light when no one is there !!

Conclusions: ***I am only referring this to the digital version of the document that I down loaded from the DWP web site - since I do not have easy access to the printed version. The editing in the document is atrocious throughout, with gaps and spaces between words that will give you a headache after about an hour of reading. See examples attached to next page. PDF Bookmarks do not***
8-15 ***work properly or not at all and either do not link as identified or just go to "blank" pages.***
DWP should be ashamed for releasing this DEIR to free range in the public domain. If I worked at the clearinghouse I would send it home for remedial adjustments !!

Thank you for the opportunity to make comments concerning this document,

Earl Wilson
Lone Pine - Resident

EXAMPLES:

2.1 LEAD AGENCY

LADWP is required to act as lead agency for the EIR , in accordance with State CEQA Guidelines Section 15367 (California Code of Regulations, 2011). LADWP is the largest municipal utility in th e nation. Established m ore than 100 years ago, LADWP's m ission is to deliver reliable, safe water and ele ctricity supplies to app roximately 4 m illion residents and businesses in Los Angeles. A five-m ember Board of W ater and Power Comm issioners establishes policy for LADWP. The Board m embers are appointed by the Mayor and confirm ed by the City Council for 5-year term s. The Board is the decision-m aking body for the consideration and adoption of the p roposed Project, EIR, Mitig ation Monitoring and Reporting Program (MMRP), and Findings of Fact.

6.1.3.2 Owens Lake Groundwater Evaluation Project

The OLDMP Shallow Flooding and Managed V egetation DCAs are supplied with Los Angeles Aqueduct and Lower Owens River water, conveyed via the Lower Owens River Project (LORP) pump station. With the goal of ensuring the future availability of water supply for the DCMs and protecting the environm ent of Owens Lake, LADWP is studying the potential of using groundwater for a portion of dus t suppression activities. Since March 2009, LADWP staff have partnered with the Inyo County Water Department (ICWD), GBUAPCD, and MWH to develop a conceptual and num erical hydrogeological m odel of the Owens Lake groundwater basin. T he Owens Lake Groundwater Evaluation Project (O LGEP) developed a data base of relevant groundwater information, formulated a conceptu al hydrogeological m odel, and im plemented a field monitoring program (including the dril ling of m onitoring wells) (MWH, 2012). The conceptual hydrogeological m odel was based on th e extensive previous studies of the Owens Lake groundwater basin and existing geol ogic and water quality inform ation. The conceptualization characterizes water budget, hydrostratigraphy, depositional history, water quality, aquifer parameters, structural geology, fa ulting, groundwater levels and flow gradients, springs and seeps, sensitive hab itats, and land subsidence. T he conceptual model also involves a 3D visualization of the groundwater basin th rough the importation of lithologic logs into a groundwater modeling system (GMS).

Comment Letter #8
Mr. Earl Wilson
PO Box 830
Lone Pine, CA 93545-0830

8-1 In response to your comment, please see **Figure 2-3** included in Section 2 of the Final EIR. To protect cultural resources, areas with significant cultural resources excluded from the dust control project are not indicated.

8-2 Table 1-2 provides an overall impact summary for each environmental topic. In response to the comment, text in Draft EIR Section 4.1.4.1 has been expanded (please see Final EIR Section 2). Please also note that light and glare related to the proposed Project were described in the Initial Study (Draft EIR Appendix A).

8-3 While methane releases from wetlands, leakage from natural gas systems and the raising of livestock have been documented to contribute to greenhouse gas emissions, substantial release of methane from excavation or tillage of playa soils has not been observed during construction of earlier phases of the OLDMP and is not anticipated for the Phase 9/10 Project.

8-4 Please see response to comment 8-2.

8-5 The Draft EIR, comments received on the Draft EIR, and responses to comments will be presented to the LADWP Board of Water and Power Commissioners for their consideration. Prior to adoption of the Phase 9/10 Project, the Board of Water and Power Commissioners will consider which project most effectively balances and protects the competing interests of protecting air quality while ensuring the protection and preservation of cultural resources. The Commissioners may adopt the originally proposed Phase 9/10 Project or an alternative to the proposed Project. Your support for the Avoidance Alternative is noted and will be considered by the Commissioners. Please also see Section 1 of this Final EIR regarding removal of the significant cultural sites, and buffers, from the area ordered for dust mitigation by GBUAPCD.

8-6 Please see response to comment 7-3.

8-7 As described in the Initial Study for the proposed Project (Draft EIR Appendix A), traffic related to the Project would have less than significant impacts on Highway 395.

8-8 TwB2 is the acronym for Tillage with Shallow Flooding BACM Backup. It is defined in Section 5.6.1 of the Draft EIR. In response to your comment, Section 8.3 of the Draft EIR has been updated to include this acronym (see Section 2 of the Final EIR).

8-9 As described in Draft EIR Section 4.3.5.4, the concrete blocks are small (6.5 inches x 6.5 inches x 2.25 inches) with 1.5-inch spacing between the blocks to give the mat flexibility and to allow contouring to the land. The blocks would be tapered to the gaps such that the 1.5-inch spacing between blocks would not impede or strand plover or other shorebird

chicks. Similarly, larger animals such as coyotes or fox would not be impeded or stranded by concrete block mat.

8-10 Light and glare are discussed in the Initial Study for the proposed Project (Appendix A of the Draft EIR). Impacts related to light or glare that could affect day or nighttime views of the project area would be less than significant. Mitigation for potential impacts to wildlife related to lighting is defined in Draft EIR Section 4.3.6 (Measure BIO-4 Lighting Best Management Practices).

8-11 Figure 4.1-4 is provided for color comparison of playa to dolomite gravel. All photographs were taken at ground level. The specific elevation of the locations was not noted at the time the photos were taken, but would not add additional information as to the color comparison.

8-12 Draft EIR Table 4.2-3 provides a summary of background air quality data for Owens Lake. In response to your comments, Table 4.2-3 has been revised to clarify footnotes and to delete a duplicate entry for the Lone Pine monitoring station (see Final EIR Section 2). Regarding the results for days above the state standard, according to CARB iADAM air quality statistics, there were insufficient (or no) data available to determine the values.

8-13 Regarding the mileage assumptions for construction workers, the percentages are based on an assumption that some workers may commute daily, or more likely weekly, to somewhat distant locations. An average of 90 vehicle miles traveled per day is a conservative assumption which results in greater estimated temporary vehicle emissions than an assumption of a local-only workforce. Please note that emission rates for passenger vehicles encompass cars, small pickup trucks and other vehicles below 8,500 pounds. Although LADWP staff from Bishop would occasionally visit the lake during construction of the Project (driving cars and trucks), these trips would be similar to existing conditions. Day-to-day management of the construction project would be performed by staff located in Keeler, and remotely from Los Angeles.

8-14 Please see response to comment 8-2.

8-15 LADWP regrets your experience with the electronic files of the Draft EIR and encourages you to reach out to LADWP staff with any technical issues concerning future electronic documents. The contact person for the Phase 9/10 Project environmental documents, as noted in the Notice of Availability, is David Porter.