

US EPA ARCHIVE DOCUMENT

29 March 2011

Charlotte Ely  
U.S. E.P.A.  
75 Hawthorne Street  
San Francisco, California 94105

Regarding: Finding of No Significant Impact  
Joshua Basin Water District Proposed Water Recharge Project

Dear Charlotte Ely:

Thank you for your time and your courtesy.

This EIR was triggered by a \$300,000 campaign era earmark by Congressman Jerry Lewis, long a pro-growth advocate for the deserts, which will amount to about \$291,000, far short of the cost of this project, for the Joshua Basin Water District.

Joshua Basin Water District's Manager and the three pro-growth directors who support this project have spent a disproportionate amount of the district's discretionary income pursuing this pittance while our genuine priority is repair of the district's decaying pipeline distribution infrastructure. Our Federal government could spend this money much more wisely in destitute Joshua Tree than enabling ambitious individuals to pad their resumes with a project that is neither required nor desired by this pro-conservation community at this time. This project is low priority, although its substantial costs to date have been inappropriately borne entirely by Joshua Basin Water District ratepayers because its proponents have held the privilege of spending down our water reserves.

As we discussed in our telephone conversation in February 2011, please refer to your copies of ESA's Draft EIR commissioned by the Joshua Basin Water District and the district's (we think non-responsive) Final EIR for my and everyone else's negative comments on it, and please incorporate by this reference all of them as background to the following:

IOCH #1

**YOUR PROPOSED FINDING OF NO SIGNIFICANT IMPACT IS PREMATURE BECAUSE THE PUBLIC REVIEW PROCESS HAS BEEN FAR FROM TRANSPARENT AND ONLY THE BARE MINIMUM LEGAL NOTICE OF THIS EIR WAS PROVIDED TO STAKEHOLDERS**

IOCH #2

The Joshua Basin Water District Manager and the three members of this board who support this project have failed to provide adequate public review of, and opportunity for public comments regarding their activities in support of this controversial project since 2009. They failed to place on any agenda for public discussion their specific activities, and the cost they incurred, seeking funding for this project. They know this project is controversial and they did not want to give opponents an opportunity to protest or to

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present their point of view to the legislators from whom they were seeking government funding - as we have done in the past.

In particular, the JBWD manager and one or more of the pro-project directors have been traveling to Washington, D.C. and other areas regularly without the publicly discussed Board approval required by the JBWD Administration Code - while passing these trips off as "water industry conferences!" The most recent instance was in early 2011 and the particulars of this misrepresentation are contained in DVDs of the meetings of the Board in February and March 2011. Their lobbying and travel expenses are disproportionate for a district of some 3,500 customers.

The two directors who overwhelmingly won election and reelection to the board in 2012 on a platform of opposition to this project (and other incentives for inappropriate development discouraged by our Joshua Tree Community Plan), and who have been sitting on the board since December, were left to discover the comment period for this EIR in the legal notices of the local newspaper. Minimum legal notice is never appropriate, particularly not for controversial projects. You informed me that you had been told by the district that this was a controversial project so I feel that EPA should bear some of the blame for failing to provide adequate notice.

**THE EIR IS INADEQUATE IN THAT IT FAILS TO ADDRESS GROWTH WHICH WILL BE INDUCED BY THIS PROJECT. (EPA EIR 5.2.1, et seq., page 5-9.)**

IOCH #3

The State of California requires that projects of this nature must take into account the effects of the growth which can be reasonably anticipated from them, and neither this EIR nor the district's EIR adequately address the negative predictable impact of this project on the community's infrastructure. See comments to the district's Draft EIR and the non-comments contained in the district's Final EIR.

**YOUR FINDING OF NO SIGNIFICANT IMPACT IS INACCURATE AND SHOULD BE ABANDONED. THIS EIR ACCURATELY STATES THAT CHANGES TO THE ENVIRONMENT OF JOSHUA TREE WILL BE IRREVERSIBLE AND/OR IRRETRIEVABLE IF THIS PROJECT IS ALLOWED. (EPA EIR 4.31, pp. 4-62 to 4-64.)**

IOCH #4

Your EIR correctly states that there will be irreversible changes in the area of this project that cannot be mitigated if the project is allowed to go forward. The district's contentions that there can be, or will be, mitigation are therefore erroneous and should be discounted. See our comments to the district's Draft EIR concerning specific reasonably predictable damages.

**THE EIR IS INADEQUATE BECAUSE IT DOES NOT ENSURE APPROPRIATE ENVIRONMENTAL STUDIES WHILE THE DISTRICT HAS ALREADY VIOLATED REQUIREMENTS FOR ENVIRONMENTAL STUDIES AND FINDINGS PRIOR TO CONSTRUCTION. (EPA EIR, 3.3-2a, et seq. beginning at p. 4-15; 3.3-3a, et seq., beginning at p. 4-32)**

IOCH #5

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During the comment period for the Draft EIR prepared by ESA for the Joshua Basin Water District, opponents of this project were assured that all appropriate environmental studies would be conducted before any construction activity whatsoever would take place on the property of the proposed project, including monitoring wells. Opponents of the project were assured by both ESA and various government agencies that this would happen.

This turned out to be a misrepresentation. One day, with no notice or environmental studies or findings, the Joshua Basin Water District was discovered drilling monitoring wells on the property. When questioned about the lack of studies or findings prior to this activity, a Federal agent told me that it was common practice to waive surveys and studies for these large projects because they "trusted" the people hired by the district to watch out for biological resources. This team included a licensed biological monitor who should have known better.

Is the EPA going to do anything about this?

**THE PROJECT IS COMPROMISED BY INADEQUATE DISCLOSURE OF ALL BENEFICIARIES OF THE PURCHASE OF THE PROPERTY BECAUSE OF THE UNUSUAL PREFERRED SITING OF THE PROJECT**

The property for the preferred recharge site was purchased from a "private trust" whose beneficiaries were never disclosed. The impropriety of this was first questioned at a public meeting by a realtor who was later appointed to the board by the three directors who have supported this project. The realtor was appropriately concerned, wanting reassurances as a ratepayer that his water district had not incurred liability resulting from a potentially improper real estate transaction in which it might later be discovered that individuals responsible for facilitating the project stood to gain from it. To date, there has been no investigation, clarification or full disclosure.

IOCH #6

This is questionable because the logical placement for any necessary recharge facility is at the opposite, western, end of the district closer to the State Water Project tie-in instead of Joshua Basin Water District tearing up the main highway and our small business district to place recharge ponds next to the community center, adjacent to a critical habitat corridor in a residentially zoned neighborhood.

Is the EPA going to insist on disclosure?

**THE EIR IS INADEQUATE BECAUSE THE PROJECTS CITED AT EPA EIR 5-4 ARE NEITHER APPROVED BY SAN BERNARDINO COUNTY PLANNING NOR ARE THEY SHOVEL-READY.**

The only construction or rehab occurring in Joshua Tree is single family residential infill.

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THE EIR IS INADEQUATE BECAUSE THERE IS NO CONSERVATION-  
COMPENSATION LAND AVAILABLE TO OFFSET DESTRUCTION OF OPEN SPACE:  
SAN BERNARDINO COUNTY HAS NO HABITAT CONSERVATION PLAN.

IOCH #8

This speaks for itself. It will be many years before San Bernardino County can recover any of the planning and construction momentum it briefly enjoyed at the turn of this century.

For all of the foregoing reasons, please adopt the NO PROJECT alternative.

Respectfully submitted,



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