

US EPA ARCHIVE DOCUMENT

FAX COVER

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FROM

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TO EPA

ATTENTION Charlotte Ely

U.S. Environmental Protection Agency
 Region IX
 75 Hawthorne St.
 San Francisco, Ca 94105

March 29, 2011

Re: Environmental Assessment for the Joshua Basin Water District.

Attention: Charlotte Ely

My name is Michael Luhrs and my occupation is biological consulting. I am also a board member of the Joshua Basin Water District.

This project started a few years ago because a developer named Steven Katz wanted to build 2,650 houses on Section 33 here in Joshua Tree. This project would have almost doubled the population of the town, thereby destroying our infrastructure, roads, schools and the very reason most of us live here.

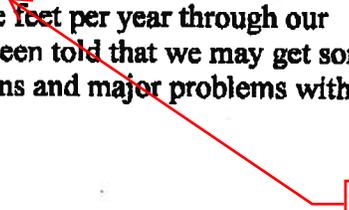
This developer and other real estate interests spent tens of thousands of dollars in 2008 to elect the three board members who are backing this project.

This developer has since gone under and lost the property that he was going to build on.

In 2010, Gary Wilson and I won election to the Joshua Basin Water District Board. Our stated reason for running was not only to stop this project but also (if the district has begun construction) to remove everything put into the ground.

In 2012, all three board members who support this project will be up for reelection and if we get even one more seat then we intend to follow through on our campaign promises.

There are a number of reasons to reject this project:

1. The project is not needed. Using the district's own figures, we have at least 325 years of water in the ground now. 
2. Because this project is being built only to induce growth, the EIR is inadequate on its face because it does not address growth, the pollution that will be caused by that growth, the need for more schools, and the need for a sewer system to handle the growth. Our neighbor 10 miles to the West, Yucca Valley, refused to take any of this into account and now must spend about \$125,000,000 on a sewer system and their population is about double ours at a little over 20,000. Please see my response to the district's EIR and their answer to my response. 
3. There will be little to no water available from the state water project. Even though the district has the ability to receive up to 1,900 acre feet per year through our pipeline from the Mojave Water Agency, we have been told that we may get some water in some years but because of climate conditions and major problems with the 

MILU #1

MILU #2

MILU #3

State Water Project this is not something we (the Joshua Basin Water District) should count on.

4. In the late 1800s, and the early 1900s, the people promoting water projects had a saying, "The rain will follow the plow," meaning that if they built a project and plowed the ground then they could count on more rain to fill their projects. The Joshua Basin Water District Manager and three of the five board members who are promoting this project seem to believe that if you build something, someone will find the water. Even if there were some good points to this project, which there is not, it would still be a colossal waste of taxpayer money. MILU #4
5. Because we are in slight overdraft, large developers will not be able to get permits to build but it doesn't stop someone from building a house on their property. If this project is built then developers will be able to claim that there's more than enough water being imported to handle their projects. MILU #5
6. Everything about this project has been hidden from the public as much as possible. Even at the scoping meeting for the EIR, the engineer for ESA was disappointed in the public turnout. All of this was by design by the promoters and the Joshua Basin Water District. Any meeting held about this project, the public was discouraged from voicing any opinion contrary to the District's point of view. Anyone who wanted to speak against it was strictly limited to 3 minutes. It would be impossible to discuss anything having to do with this project in only 3 minutes.
7. The secrecy continues to this day. As an elected Board member I only found out about this posting by reading it in the local newspaper and was only notified by the Water District days later. After the February 16 board meeting Director Gary Wilson and I were informed that the March 2 board meeting was cancelled because the General Manager and the Board President were going to Washington D. C. to attend a Water Industries meeting. In fact they lied to both of us and we only found out the real reason for the trip at the March 16 board meeting. The real reason for their trip was to meet with California's Congressional Representative to request an earmark for their project. From start to finish it's been Lies and Deceit. MILU #6
8. At this point there is so much wrong with this project that it just need to be stopped. I have also made a long and detailed complaint to the San Bernardino County Grand Jury. I have included copies of some of the pertinent pages.

Thank you,


Michael Luhrs
P.O. Box 1632
Joshua Tree, Ca 92252

GRAND JURY

COUNTY OF SAN BERNARDINO

351 North Arrowhead Avenue, Room 200, Courthouse
San Bernardino, CA 92415-0243 • (909) 387-3820
Fax (909) 387-4170

August 13, 2010

Mr. Michael Luhrs
P.O. Box 1632
Joshua Tree, CA

Dear Mr. Luhrs:

The 2010-2011 San Bernardino County Grand Jury is in receipt of your complaint dated July 8, 2010. Please be advised that the matter has been referred for further review.

It is possible that no further correspondence will be sent to you by this Grand Jury. By law, the Grand Jury cannot communicate the results of investigations to you personally. Any reports of Grand Jury investigations are available to the public when our final report is published on or about July 1 of each year.

Thank you for your interest in good government.

Sincerely,



Bob Dunlap, Foreman
2010-2011 Grand Jury

BD/mav

It soon progressed to 4 to 15 people drinking and making rude comments to anyone who visited me. When I complained to the sheriff's department nothing was done and the harassment level went up. They soon started racing motorcycles and 4 wheelers around their two houses for hours, in fact one day they did this for over 10 hours only stopping to refuel and drink more. I called the sheriff's department more times than I could count. I called County Code Enforcement 20 or 30 times. Most of the time they would show up but never tried to stop it and in fact I over heard a female sheriff tell them they could continue racing because the Department wasn't going to stop them.

It got to the point that everywhere I went one or more of them would be there and either flip me off or mutter crude threats at me. My yard was vandalized many times. I would come home and find trash thrown around my yard. I came home one day to find beer bottle caps lined up across my driveway in front of my garage door, another time I went to town for lunch and came back in less than an hour only to find live 9mm hand gun ammunition thrown in my driveway. I woke up one night with two 4-wheel motorcycles spinning circles in my front yard.

I made reports on all this but nothing was ever done. I contacted the Real-estate Company that rented the houses only to be told there was nothing they could do. (A quick point that should be known is; the four directors who ended up winning were all supported by Real-estate Companies and Developers and these companies spent around \$30,000 to get them elected.)

As soon as the election was over and my running mate and I had lost by a few votes the people moved out and I never saw them again. It's also interesting that when one of the PAC's sent out some really ugly campaign flyers that they had information in them that could only come from the sheriff's department.

A few months ago Director Gary Wilson asked for copies of all credit card slips for the last couple of years and in it he found a charge for a lunch right after the 2008 election with Sheriff Miller and the President of the Joshua Basin Water District Board Bill long names on it.

In 2008 the JBWD bought a parcel of land to build a recharge basin. In 2005 it shows that it was owned by one of the real estate people in the area and its value was \$26,496.00 and in 2007 it showed it was owned by The Brown Family Trust and as of 2009 its value had increased to \$63,780.00 yet the JBWD paid \$195,000.00 for it the same year. We can't find out if any of the real estate people who supported the 4 Directors just elected were involved or why the JBWD paid almost 3 times the 2009 value of the land when the real estate market was in a free fall in our area. When they were looking for sites to build on they listed 3 different sites but quickly dropped the other 2 of them. If you look at the location of the property you will see it probably un-buildable for houses because its next to a floor control channel and in a flood plain and on an earthquake fault. When Director Wilson brought this up at a Board meeting they moved the vote to table it but then brought it back up later in the meeting and voted for it.

Part of Letter to San Bernardino
Grand Jury 1B

Joe Bocanegra was hired as the JBWD Chief of Operations @ \$9400 a month with out it being advertised. Bocanegra was a friend of Joe Guzzetta the District's General Manager. Director Wilson objected but was voted down. Since then he has resigned his position but was retained on a part time consulting bases @ \$100 per hour. Under JBWD rules any consultant works for the Board not the Manager and there has never been any projects approved by the Board for Mr. Bocanegra and yet he has been billing the District for around \$10,000 a month ever since.

Board members take friends to lunch and charge the District and none of it is District related business.

The JBWD issued a Draft EIR on their Recharge Basin and Pipeline Project in May of 2009. Numerous private citizens and Government agencies responded to it and were for the most part very critical of it as shown in the Final EIR dated September of 2009.

I will not go into all the double speak used in it to address the concerns of everyone but I will show mine, please see ex— # — Letter 9 Responses, Michael Luhrs.

9B Requests the level of selenium and pesticides at the Hesperia turnout where the pipeline connects and that the reports be included in the EIR

With no data shown they instead conclude that the water is of sufficient quality to be used for drinking water.

9C Requests data on how the JBWD will mitigate for the dumping of large amounts of water down an earthquake fault and if the JBWD will assume liability, because the recharge ponds will be directly on the fault.

They instead answer with double speak and cite no reports or studies nor do they really answer the question.

9E Requests that mitigation measures be stated, but again Double Speak and they don't answer the question.

9F Requests an explanation why protocol surveys were not done for rare and endangered plants and wildlife and again Double Speak and in fact they still haven't done the protocol surveys and yet they have already begun working on the site.

Part of Letter to San Bernardino
Grand Jury
1C

9I The sewage treatment authorization that the JBWD sought and got from LAFCO (With the help of then SB County Supervisor Dennis Hansberger who was on LAFCO at the time) and the Groundwater Recharge project this EIR is for, is only being sought because of the two large projects from a couple of developers who helped the 4 Directors who get elected in 2008. These two projects will almost double the population of Joshua Tree. Because of that I asked that the EIR cover what will happen to our community and in fact what would happen to the entire Morongo Basin. Just one of these projects will add an estimated 7,265 plus people and 5,800 extra cars a day to our already crowded roads. We already have inadequate natural gas lines and electrical lines into the Morongo Basin. Cal Trans has admitted Highway 62 is undersized for the traffic we have now, plus the smog from all the extra cars would be overwhelming. The effect on almost every government institutions (schools, fire etc.) would be profound.

Their answer is that the project will be growth inducing but they refuse to show what the effects will be. Since there is no enforcement regulations for CEQA (California Environmental Quality Act) they are basically telling the community to sue us to get the answers.

9J Their entire answer is double-speak at its best. They have also started construction with test wells and roads into the site all without protocol surveys for rare plants or tortoises, which is required by both State and Federal Law. Please read my entire letter and their response.

The JBWD is required under CEQA to show all negative aspects of a projects in it EIR not just what it wants to show. If you read the questions by all the respondents to their EIR and their answers you will see a pattern of double-speak and in their final they didn't include any of the government agencies responses.

Part of Letter to San Bernardino
Grand Jury

Groundwater Management Plan Update: Revising the Groundwater Management Plan is not relevant for analysis of the project.

Statistics of Meter Application, Connections, Reconnections, and Disconnections from SB County Building Permit: JBWD does not receive County Building Permit statistics. As a general count, 4,500 active and 1,000 inactive meters have been used due to numbers changing weekly based on foreclosures, etc. Currently there are 4,567 active and 895 inactive meters for a total of 5,462 meters.

Other studies: JBWD would be responsible for complying with applicable regulations.

Comment 8III

The comment states that the proposed project is not a priority and could depend on whether funding can be obtained.

Response 8III

The need for the project is provided on page 2-4.

Comment 8JJJJ

The comment states that the only reasonable alternative would be for JBWD to limit the number of will-serve letters issued because of lack of water availability and not to import water to promote planned developments.

Response 8JJJJ

Alternatives to the project are evaluated in Chapter 6. The No Project Alternative would eliminate significant impacts of the project but would not meet any of the project objectives.

Comment 8KKKK

The comment states that the proposed project should be considered in the future when there is grant funding available, water available, and when the County has adopted developer impact fees.

Response 8KKKK

The comment does not concern the adequacy of the EIR. See response to comment 8WWW.

Letter 9 Responses, Michael Luhrs

Comment 9A

The comment requests an explanation of how JBWD will stay in compliance with the California Ground Water Law of 1987, when the water that will be exported to the basins will be of lower quality than the existing groundwater.

11. Response to Comments

Response 9A

The EIR acknowledges on page 3.7-11 that SWP water would increase salts and could introduce other constituents into the groundwater basin. The EIR notes on page 3.7-12 that an Anti-Degradation Analysis would be required for submittal to the RWQCB in order to comply with the RWQCB's Basin Plan.

Comment 9B

The comment requests the levels of selenium and pesticides at the Hesperia turnout and that the water quality testing reports for this location be shown in the EIR.

Response 9B

Levels of pesticide data for State Water Project related water can be found on the Department of Water Resources website, several pesticide constituents are measured and reported, including selenium. The following websites provide water quality data for SWP water. The EIR concludes that SWP water is of sufficient water quality to be used as a drinking water source.

http://www.water.ca.gov/swp/waterquality/OM_WQ_Pubs.cfm?display=topic&pub=120,382,8309 (check 41)

http://www.water.ca.gov/swp/waterquality/OM_WQ_Pubs.cfm?display=topic&pub=120,382,8314 (check 29)

Comment 9C

The comment requests an explanation of how JBWD plans to mitigate for increased seismic activity and strength of activity caused by the large amount of water that will be placed on an active fault. The comment states that it has been shown that lubricating a fault can cause such increases and questions whether JBWD is willing to assume liability for loss of life and property.

Response 9C

The Pinto Mountain Fault is a left-lateral strike-slip fault of over 73 kilometers (45 miles) in length. Fault movement is horizontal and results from deep large-scale stresses. The USGS reports that the Pinto Mountain Fault acts a barrier to groundwater flow, with groundwater elevations as much as 100 feet higher in the Joshua Tree subbasin than across the Fault in the Copper Mountain subbasin. Yucca Creek flows across the Pinto Mountain Fault zone. The proposed project will raise water levels to within historical ranges. The shallow fluctuation of groundwater levels has not been shown to affect the movement of faults.

Comment 9D

The comment requests that the EIR provide a checklist of all recommended procedures to stop the production of water-borne vermin and contact information for responsible agencies to which the public can report to when procedures are not followed.

Response 9D

The EIR on page 3.6-9 evaluates the potential for the recharge basins to promote vector generation. The EIR concludes that the limited time frame where standing water would be present would prevent vector generation. In addition, the basins would be graded periodically to prevent vegetation growth. The EIR concludes that vector generation would not be a significant effect of the project. See response to comment 8V.

Comment 9E

The comment requests that mitigation be included that prohibits JBWD from allowing the layer of silt to be blown around the area when the ponds are dry, due to its toxic nature. The comment also requests that a list of responsible agencies be made available who have jurisdiction over such actions and how to contact them and a guarantee that all operations will stop and there will be large penalties if the mitigation is not followed.

Response 9E

See response to comment 8V.

Comment 9F

The comment requests an explanation as to why plant and desert tortoise surveys were conducted outside of protocol. The comment also requests an explanation of a meandering transect and that plant and desert tortoise surveys be re-done within protocol requirements.

Response 9F

The EIR includes a Biological Resources Report that inventories all the potential biological resources that could be encountered at the three sites. The EIR then lists the protocol-level surveys required prior to implementation. If these surveys document presence of special-status species on the chosen alternative site, the EIR commits JBWD to measures necessary to lessen or avoid these impacts. These measures are compiled in Chapter 3 and will be included in a Mitigation Monitoring and Reporting Plan.

Comment 9G

The comment asks how JBWD plans to keep from having a nitrate problem similar to Yucca Valley due to Recharge Basin Alternative 3's close proximity to high volumes of waste from the apartment complex and senior center.

Response 9G

The groundwater beneath the recharge basin sites is over 300 feet below ground surface which is considerably deeper than groundwater depths in Yucca Valley. Mitigation Measure 3.7-1e commits JBWD to ceasing recharge operations if groundwater reached levels less than 50 feet below ground surface. However, USGS studies estimate that the recharge level would never approach levels of 50 feet below grade. The USGS used the calibrated groundwater flow model applying an average recharge of 2,000 afy at proposed Recharge Basin Alternative 3 over a 50-year simulation period. These studies indicate groundwater mounding of approximately

40 feet at the end of the simulation, which is in the historical range of groundwater levels. Since depth to groundwater is over 450 feet, this groundwater mounding is unlikely to lead to conditions which would intercept septage areas. It is unlikely that groundwater levels will approach the 50-foot threshold described in Mitigation Measure 3.7-1c.

Comment 9H

The comment asks who will be responsible for the damage and cost of fixing the ponds once they are constructed incorrectly, such as Yucca Valley has had to do.

Response 9H

JBWD will be responsible for retaining design and construction contractors.

Comment 9I

The comment states that the EIR goes out of its way to say that the project is not growth inducing and that in fact JBWD wants the project completed in order to allow for a 2,650 unit housing project. The comment states that if in fact this housing project is approved due to the new availability of water from the project that the growth impact would not be considered less than significant.

Response 9I

Chapter 5 acknowledges that water supply is needed for additional growth and therefore, providing new water supplies removes an obstacle to growth. CEQA considers this to be growth inducing. The EIR concludes that the secondary effects of growth would be significant and unavoidable. The JBWD will adopt a statement of overriding considerations when certifying the EIR, acknowledging that secondary effects of growth are significant and unavoidable. However, the EIR notes that other services are also required to accommodate growth. JBWD does not have authority over planned growth in the area either to limit or promote growth.

Comment 9J

The comment states that in the writer's opinion the EIR is unacceptable and inadequate, biological assessments cannot be conducted this year due to protocol requirements and that growth inducing effects of future housing projects have not been taken into account.

Response 9J

The EIR requires that JBWD conduct floristic surveys of the recharge property prior to construction. The EIR provides growth and water demand estimates in Chapter 5. The EIR concludes that the project would remove an obstacle to growth.

Comment 9K

The comment states that none of the alternatives presented in the EIR are acceptable, and they cannot be mitigated to a less than significant level. The comment states that the No Project Alternative is the best choice.

Response 9K

CEQA requires that an EIR evaluate alternatives to a project that would avoid significant impacts of the project. The EIR concludes that the environmentally superior project alternative would be Recharge Basin Alternative 2: the Existing Demand Recharge Capacity Alternative. This is an environmentally superior alternative to the proposed project because it would result in fewer adverse environmental impacts and would include the beneficial hydrology and water supply impacts.

Letter 10 Responses, Joshua Tree Resident**Comment 10A**

The comment states that the commenter is opposed to all three of the proposed recharge basin site and well as the entire project.

Response 10A

The need for the project is identified on page 2-4. Otherwise the comment is noted.

Comment 10B

The comment states that Recharge Basin Alternative 3 should not be considered as there are problems associated with the site. The comment also questions the reference to the site as being degraded.

Response 10B

The EIR notes on page 3.3-4 that Recharge Basin Alternative 3 is more disturbed when compared to the other two alternative sites. The EIR commits JBWD to the same list of mitigation measures for each alternative site.

Comment 10C

The comment states that there are at least 19 Joshua trees on Recharge Basin Alternative 3 while the biology report stated that there are less than 10. The comment also states that there are numerous acacias and willows along Joshua Creek, which touches the northern corners of the site.

Response 10C

The project would not impact Joshua Creek. See response to comment 8Z.

Comment 10D

The comment states that there should be mitigation for impacts to water quality of Yucca and Joshua Creeks resulting from construction activities. In addition, the responsibility for mitigation should not be left up to the contractors.