

US EPA ARCHIVE DOCUMENT

## Response to Comments

EPA received five comment letters from residents of Joshua Tree, CA in response to EPA's Environmental Assessment (EA) for the Joshua Basin Water District Recharge System.

### Comments from J. and J. O'Niel (JJON)

**JJON #1      The comment states that the proposed project would cause inappropriate and detrimental growth.**

Response      The potential for the proposed project to induce growth is discussed in Chapter 5 of the EA. EPA assessed the potential for the proposed project to cause growth and concluded the proposed project would accommodate anticipated growth in the community, but would not induce growth.

The proposed project is unlikely to induce growth because, as the EA notes, increased water availability alone does not ensure growth; the availability of additional infrastructure—such as roadways, electricity and sewage treatment capacity—as well as prevailing economic conditions also affect the likelihood of future development. The economic recession, for example, has likely constrained growth within the community of Joshua Tree. For example, while the Joshua Tree Community Plan projected the population to reach 9,467 by 2010, the San Bernardino County planning office estimated the 2010 population of Joshua Tree to be only 7,414.

Assuming the economy rebounds and growth occurs as projected, the proposed project would accommodate the planned growth outlined in the San Bernardino County General Plan and Joshua Tree Community Plan. In other words, any additional water (water used for a purpose other than recharge) would only support projected and anticipated population increases.

While the San Bernardino County General Plan EIR identified significant and unavoidable impacts as a result of its implementation, all projects adhering to the general plan will not result in significant and unavoidable impacts. The purpose of a general plan EIR is to generally identify potential impacts and mitigation measures associated with broad agency actions. The impact assessment of a general plan identifies the broad, regional effects that **may** occur with its implementation. Because it is a programmatic document, a general plan EIR does not assess site-specific impacts of a particular project—such projects are subject to individual, site-specific environmental review. While all future projects within San Bernardino County must adhere to the General Plan, they are subject to the requirements under the California Environmental Quality Act (CEQA) and/or the National Environmental Policy Act (NEPA). The site-specific EA for the proposed project examined the impacts of the project. The EA identified that all significant impacts would be made less than significant with the implementation of mitigation measures.

In regard to growth-induced indirect impacts, EPA additionally specifically evaluated how the proposed project could impact the following: the character of the existing community, local ambient air quality, and national natural landmarks, i.e. Joshua Tree National Park.

#### *Character of the Existing Community*

According to EPA's analysis, the proposed project could accommodate existing growth plans as outlined in the San Bernardino County General Plan and the Joshua Tree Community Plan. The Joshua Tree Community Plan identifies various goals and policies to preserve the town's rural character and protect the area's natural resources. Provisions in the Plan could prohibit large development projects on the basis of engineering, environmental or aesthetic policy grounds.

In short, while the proposed project could accommodate planned growth, potential population increases would adhere to the community plan and would be subject to local policies aimed at retaining “the existing rural desert character of the community.” EPA concluded that growth induced by the proposed project is unlikely to significantly alter the character of the community.

*Local ambient air quality in the Community of Joshua Tree and in Joshua Tree National Park*

EPA further concluded that accommodating planned growth would not have a significantly adverse affect on local ambient air quality in the community of Joshua Tree or in Joshua Tree National Park.

The proposed project would take place in a moderate nonattainment area for ozone. However, monitoring data trends and air quality modeling indicate that ozone as well as ozone precursor pollutant levels {e.g. for Volatile Organic Compounds (VOCs) and Nitrogen Oxides (NO<sub>x</sub>)} in this area are primarily driven by transport from the South Coast extreme nonattainment area. Maximum increases in population as described in the Joshua Tree Community Plan and the San Bernardino County Plan are unlikely to result in measurable increases in ambient ozone levels. Pollutant transport from South Coast would overwhelm these increases.

According to California's Regional Haze Plan, on the haziest days, visibility impairment in Joshua Tree National Park is caused primarily by nitrates and sulfates. The nitrates arise from NO<sub>x</sub> emissions upwind of the park. The sulfates are formed from Sulfur Oxide (SO<sub>x</sub>) emissions, which are principally from Pacific offshore sources. Population growth near the park would provide for a relatively small increase in NO<sub>x</sub> emissions. As with ozone levels, this increase in NO<sub>x</sub> emissions would be very small compared to the emissions transported from the South Coast nonattainment area. Growth induced impacts on ambient air quality are therefore unlikely to result in a measurable decrease in visibility at Joshua Tree National Park.

**JJON#2      The comment questions the need for the proposed project and suggests repairing and improving the existing water delivery system instead of importing water from the State Water Project.**

Response      The EPA was directed by the U.S. Congress through a 2009 Special Appropriation Project to award funding to the Joshua Basin Water District specifically for the “water district recharge system.” Funding provided through this particular appropriation could not be used to repair and improve the existing system. Moreover, in 2010, JBWD produced 1560 acre feet of water. Of that, 11.5% (179 acre feet or 58,328,940 gallons) was unaccounted for. Most states have regulatory policies that set acceptable losses from water distribution systems at a maximum of between 10 and 15 percent of the water produced. The JBWD anticipates the State Water Project would deliver 1,175 acre feet of water (about 382,873,750 gallons), or over six times the amount of unaccounted for water. Therefore, it seems unlikely that a project to repair and improve the existing system would result in a decrease in water consumption equivalent to the amount to be recharged by the proposed project.

**Comments from G. H. Wilson (GAHW)**

**GAHW#1      The comment questions the nitrate levels from the apartment complex adjacent to the recharge site.**

Response      On page 4-21, the EA discusses mitigation measures which would reduce impacts from existing and future septic systems to a less than significant level.

**GAHW#2      The comment questions the necessity of the proposed project.**

Response      The need for the proposed project is discussed in Chapter 1 of the EA. Additional water is necessary to alleviate the overdraft condition, replenish the groundwater basin to offset historic over-drafting, and increase water supply reliability for the region. Furthermore, the EPA was directed by the U.S. Congress through a 2009 Special Appropriation Project to award funding to Joshua Basin Water District specifically for the “water district recharge system.”

**Comments from I. Chelette (IOCH)****IOCH#1      The commenter requests EPA to incorporate her public comments from the EIR.**

Response      EPA was not responsible for issuing the Environmental Impact Report (EIR). As such, EPA cannot respond to the comments you submitted on the EIR. However, pursuant to your request of March 2011, EPA is incorporating the comments you made on the EIR and the responses to those comments prepared by Environmental Science Associates (ESA) on behalf of the Joshua Basin Water District (JBWD).

**IOCH#2      The comment describes the public review process as opaque.**

Response      EPA followed its public participation procedures set forth in 40 CFR 6.203, which are intended to ensure that the public review process is transparent.

**IOCH#3      The comment states that the proposed project would lead to growth and that the EA fails to address growth.**

Response      See JJON#1 Response.

**IOCH#4      The comment asserts that changes caused by the project will be irreversible and cannot be mitigated.**

Response      The Environmental Assessment evaluated the impacts of the proposed project and identified mitigation measures on pages 4-1 through 4-64.

**IOCH#5      The comment asserts that the Joshua Basin Water District constructed monitoring wells prior to completion of unspecified studies, contrary to assurances given by the District during the EIR process, and asks if EPA is going to do anything about this.**

Response      EPA was not involved with the preparation of the EIR. EPA is unaware of any assurances made by the District as part of this process, other than what is written in the EIR. The District prepared the EIR in accordance with CEQA and EPA’s responsibility is to ensure compliance with NEPA, not CEQA. Regarding monitoring, it is EPA’s understanding that the Joshua Basin Water District contracted the United States Geological Survey (USGS) to evaluate recharge feasibility. The monitoring wells were drilled as part of the study. USGS drilled four wells for the study. Three of the wells required permits because USGS drilled to the water table. USGS acquired those permits. One of the wells was not drilled all the way to the water table and so did not require a permit. USGS research regarding groundwater flow in the Joshua Basin can be accessed at the following site: <http://pubs.usgs.gov/sir/2004/5267/>.

**IOCH#6      The comment refers to “a potentially improper real estate transaction.”**

Response Disclosure of the details of real estate transactions is not a part of EPA's NEPA analysis, which is focused on examining the environmental impacts of a project not business transactions.

**IOCH#7 The comment concerns the loss of open space.**

Response NEPA does not require that open space lost to development be replaced by the purchase or creation of additional open space elsewhere.

**Comments from M. Luhrs (MILU)**

**MILU#1 The comment questions the necessity of the proposed project.**

Response See response to GAHW comment #2.

**MILU #2 The comment states that the proposed project would lead to growth.**

Response See response to JJON comment #1.

**MILU#3 The comment states that the State Water Project is not 'something...the Joshua basin Water District...should count on.'**

Response Note taken.

**MILU#4 The comment states the project would be a 'colossal waste of tax payer money.'**

Response Note taken.

**MILU#5 The comment states the proposed project will allow developers—previously refused permits because of the aquifer's overdrafted condition—to build more houses.**

Response See response to JJON #1.

**MILU#6 The comment describes the public review process as opaque.**

Response See response to IOCH comment #1.

**Comments from an anonymous community member (ANYM)**

**ANYM#1 The comment questions the feasibility of mitigating the impacts of the proposed project with regard to biology, air quality, water quality, athletics and growth.**

Response *In regard to biological impacts:* A floristic inventory and focused surveys for rare, endangered, and threatened species, including desert tortoise, were conducted within the proposed 30-acre± recharge basin and 4.5-mile± water pipeline alignment area in April 2010 by authorized biologists from Circle Mountain Biological Consultants. Based on these surveys, a Biological Assessment was prepared and submitted to the US Fish and Wildlife Service (USFWS) and a 2081 Permit was prepared and submitted to the California Department of Fish and Game (CDFG). Based on an independent evaluation of project effects, the USFWS prepared a *Biological Opinion (BO) on the Joshua Basin Water District, Water Recharge Basin and Pipeline, San Bernardino County,*

*California.* The USFWS BO evaluated a variety of reports provided by the District, including the Final EIR (Joshua Basin Water District 2009a), the Biological Assessment (CMBC 2010a), the mitigation monitoring and reporting program for the Recharge Basin and Pipeline Project report (Joshua Basin Water District 2009b), and USFWS files. To minimize adverse effects to the desert tortoise, the Joshua Basin Water District will implement a number of protective measures during construction, operation, and maintenance of the pipeline and recharge basin. Based on the protective measures and reasonable and prudent measures that will be followed by the District during construction, operation, and maintenance of the pipeline and recharge basin, the BO concludes that the loss of habitat and disturbance associated with the proposed project comprise an inconsequential reduction in the distribution of the desert tortoise because of its small area and because the project would be located in an already urbanized area not considered important for the long-term recovery of the desert tortoise. After reviewing the tortoise's status, the environmental baseline for the action area, the effects of the proposed action, and the cumulative effects, it is the biological opinion of the USFWS that the proposed action is not likely to jeopardize the continued existence of the desert tortoise.

A similar independent review of the project was conducted by CDFG. In order to minimize and/or compensate for impacts to species that are covered under the California Endangered Species Act (CESA), the District is required to abide by the terms listed in the 2081 Permit that was issued in March 2011 (CDFG 2011). The proposed Project has complied with all environmental regulations and permit requirements of the local, state, and federal permitting authorities.

*In regard to air quality impacts,* see response to comment ANYM # 2 and JJON#1.

*In regard to water quality impacts,* see response to comment ANYM #5.

*In regard to aesthetics impacts,* see response to ANYM #3.

*In regard to growth-related impacts,* see response to JJON #1.

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| ANYM#2   | <b>The commenter requests EPA to incorporate public comments from the EIR.</b>   |
| Response | See response to IOCH #1.   |
| ANYM#3   | <b>The comment states that the project “will lead to an unacceptable amount of air pollution to the area.”</b>   |
| Response | Air quality impacts of the proposed project are addressed in Section 4.7 of the EA. As explained in the EA, the Mojave Desert Air quality Management District indicated during their review of the Draft Environmental Impact Report (EIR) that the proposed Project would need to comply with Rule 403.2, Fugitive Dust. The proposed project would comply with all local, state and federal laws and regulations governing air quality emissions. Mitigation measures identified in the EA on pages 4-8 through 4-10 would be implemented during construction to minimize air pollution. |
| ANYM #4  | <b>The comment concerns the proposed project’s impacts to the view from State Route 62, a county scenic highway.</b>   |

Response The proposed project, alternative three (3), was selected because it would result in fewer environmental impacts, including fewer impacts associated with aesthetic and biological resources. Recharge Basin Alternative 3 would not be visible from SR 62. The Recharge Basin Alternative 3 site is set back from SR 62 and views of this site from SR 62 would be obstructed by the existing MBTA building. Implementation of Recharge Basin Alternative 3 site would not impair short-range or long-range views from SR 62. The earthen berm surrounding the facility would obscure short-range views of the recharge basins (see Figure 3.1-7 of the EA). Impacts on scenic vistas associated with Recharge Basin Alternative 3 would be less than significant and no mitigation would be required.

**ANYM#5 The comment concerns the proposed project's immediate and long term impacts to air quality.**

Response See response to ANYM comment #2 and response to JJON comment #1.

**ANYM#6 The comment states the proposed project could impair water quality through the addition of salts, dissolved organic compounds, and pesticides.**

Response Sections 3.7, 3.8 and 4.11 of the EA discuss hydrology, groundwater, and water quality effects associated with the proposed project. The EA concludes that impacts would be less than significant with implementation of Mitigation Measures 3.7-1a through 3.7-1e and that the addition of salts to the basin would not significantly affect groundwater quality.

In order to weigh the project's benefits with the estimated decrease in water quality attributable to the project, the JBWD is required to provide an Anti-Degradation Analysis to the Regional Water Quality Control Board (RWQCB) prior to percolating State Water Project (SWP) water. Based on the comparison of the SWP water and groundwater qualities, the effect on local groundwater would be minor compared to the anticipated benefits of nitrate dilution and increased water supply. Overall, the project would benefit the groundwater basin by reducing overdraft. This would be consistent with the State Water Resource Control Board's (SWRCB) Anti-Degradation Policy requirements.

SWP water has a slightly higher Total Dissolved Salts (TDS) of 256 mg/L compared to the local groundwater's TDS of 180 mg/L. The higher TDS of the SWP water is mostly a function of the higher chloride content of the water. With implementation of the proposed project, importing 4,000 afy each year through 2022 is estimated to increase TDS by 16 percent and salt load by 44 percent. The estimated TDS concentration of 208 mg/l would be well below the secondary drinking water standards (500-1,000 mg/l). Therefore the proposed project would not impair water quality.

The potential for the proposed project to substantially increase Trihalomethane (THM) is considered to be low. THM-forming compounds in the recharge water would be diluted within the larger groundwater basin. The proposed project is unlikely to cause concentrations of THM-forming compounds to exceed EPA's maximum contaminant levels (MCLs). The proposed project would not significantly impair water quality. Nonetheless, the addition of THM-forming compounds will be part of the anti-degradation analysis.

Once operational, the recharge basin could hold water at varying depths for a few months or for most of the year. During periods when the basin is full, mosquitoes and other vectors (e.g.

midges) could arrive. This would create a hazard and nuisance in the local area. However, JBWD would maintain a wet-dry rotation cycle, ensuring that the recharge basin would generally not contain water for more than two weeks at a time. This would limit the ability for vectors to breed. If necessary, additional vector control measures—such as vegetation removal, the use of mosquito fish, or non-toxic pesticide applications—would be implemented. The impacts associated with these vector control measures would remain less than significant and no mitigation would be required.

**ANYM #7      The comment concerns how the proposed project could impact ephemeral waterways.**

Response      Sections 3.7 and 4.1 of the EA describe the proposed project’s potential impacts to ephemeral waterways. As the EA describes, a small un-named wash crosses the southeast corner of Recharge Basin Alternative 3 (see Figure 3.7-2 of the EA). Implementation of Mitigation Measures 3.3-5a, 3.3-5b and 3.3-5c (discussed on page 4-2 of the EA) would ensure impacts be reduced to a less-than-significant level for the proposed project.

**ANYM #8      The comment concerns the possibility of induced growth.**

Response      Please refer to the response to JJON comment #1.