United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Bishop Field Office
351 Pacu Lane, Suite 100
Bishop, California 93514
www.blm.gov/ca/bishop

FINDING OF NO SIGNIFICANT IMPACT

Los Angeles Department of Water and Power
Owens Lake Dust Mitigation Program Phase 9/10
Project Right-of-Way (ROW) CACA 055470
Inyo County, California
(DOI-BLM-CA-C070-2016-0014-EA)

Background

In June 2014, the City of Los Angeles Department of Water and Power (LADWP) applied for a right-of-way (ROW) for the construction, operation, maintenance, and termination of dust control measures on public lands administered by the Bureau of Land Management (BLM) Bishop Field Office within the larger Phase 9 and 10 project areas delineated by the Great Basin Unified Air Pollution Control District (GBUAPCD) as part of the Owens Lake Dust Mitigation Program in Inyo County, California. Since that time, the LADWP has completed and certified an Environmental Impact Report (EIR) for the proposed Phase 9/10 Project pursuant to the California Environmental Quality Act (CEQA). Based on the environmental analyses presented in the EIR and the public, agency, and tribal comments received, the LADWP adopted the Avoidance Alternative for the proposed project in June 2015.

The Avoidance Alternative for the proposed Phase 9/10 Project excluded approximately 350 acres from the project footprint as initially proposed to avoid adverse impacts to sensitive resources. With the removal of these areas from the original project proposal, the portion of the project proposed for implementation on public land totals 92.6 acres in two separate dust control areas (DCAs) located along the southwestern shoreline of Owens Lake: Duck Pond L-1 and Duck Pond L-2. The Environmental Assessment (EA) prepared for the proposed project pursuant to the National Environmental Policy Act (NEPA) considered two alternatives: Alternative A.1., the Phase 9/10 Project Avoidance Alternative - Proposed Action, and; Alternative A.2., the No Action Alternative.

One of the primary purposes for preparing an EA is to determine whether or not a proposed action will have a significant impact on the human environment and therefore require the preparation of an Environmental Impact Statement (EIS). As defined in 40 CFR 1508.13, a Finding of No Significant Impact (FONSI) is a document that briefly presents the reasons why a federal agency action will not have a significant effect on the human environment and for which an EIS will therefore not be prepared. The regulations specify that both the context and intensity of effects be considered when determining significance (40 CFR 1508.27).

This document presents the findings of the BLM Bishop Field Manager concerning the selected

alternative (Alternative A.1., the Phase 9/10 Project Avoidance Alternative - Proposed Action with Stipulations) for implementation of the proposed Owens Lake Dust Mitigation Program Phase 9/10 Project by the LADWP on the public land portions of the Duck Pond L-1 and Duck Pond L-2 DCAs in Inyo County, California, as described, analyzed, and disclosed in EA DOI-BLM-CA-C070-2016-0014-EA.

Finding of No Significant Impact and Land Use Plan Conformance Determination

I have reviewed EA DOI-BLM-CA-C070-2016-0014-EA which includes the identification, explanation, and resolution of any potentially significant effects on the human environment that would result from implementation of my selected alternative (Alternative A.1., the Phase 9/10 Project Avoidance Alternative - Proposed Action with Stipulations) for the construction, operation, maintenance, and termination of the Owens Lake Dust Mitigation Program Phase 9/10 Project on public lands in Inyo County, California. Based on my review and consideration of the environmental analyses and other supporting documents incorporated by reference; public, agency, and tribal comments received during preparation of the EIR for the overall project; and recommendations from staff, I have determined that implementation of the selected alternative, when implemented according to the applicable project design features, best management practices, and mitigation measures described in the EIR and EA as supplemented by recommendations from BLM staff (Stipulations), <u>does not</u> constitute a major federal action that would significantly affect the quality of the human environment. None of the effects identified, including the direct, indirect, and cumulative effects, in the environmental analyses meet the definition of significance either in context or intensity as outlined in 40 CFR 1508.27. Therefore, an EIS is not required and will not be prepared.

I have also reviewed the *Bishop Resource Management Plan Record of Decision* (Bishop RMP), as amended, and determined that the selected alternative, when implemented according to the applicable project design features, best management practices, and mitigation measures described in the EIR and EA as supplemented by recommendations from BLM staff (Stipulations), <u>does conform</u> to the terms and conditions of the applicable land use plan as defined at 43 CFR 1601.0-5(b and c) and as required by 43 CFR 1610.5-3(a).

The proposed action conforms to the Bishop RMP, even though it is not specifically provided for, because it is clearly consistent with the overall policy and direction provided by the RMP. Bishop RMP Policies, Standard Operating Procedures, and Decisions that support implementation of the proposed action include:

- General Policies, Page 8, No.1; “Management will be on the basis of multiple use and sustained yield” as per Section 102(a)(7) of the FLPMA.

Under the concept of multiple-use and sustained yield, the BLM is authorized, under FLPMA Section 501(a)(1-7), to grant ROWs, amendments, and temporary use permits for such uses as pipelines, roads, power lines, wells, and other facilities on the public lands for the public good.

The BLM can authorize ROWs as described herein under the FLPMA and the 43 CFR 2800 regulations.

- General Policies, Page 8, No.4; "Public lands will be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resources, and archaeological values; that, where appropriate, will preserve and protect certain public lands in their natural conditions; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use [FLPMA Section 102(a)(8)]."

The proposed project would enhance the air quality of the Owens Lake area for the public good. In addition, existing habitat at Duck Pond-L1 would be increased and enhanced thereby improving ecological and environmental values in the area.

- General Policies, Page 8, No. 7; "The Bureau will weigh long-term benefits to the public against short-term benefits [FLPMA Section 202(c)(7)]."

Any short-term benefit associated with not authorizing the project and thereby avoiding any surface disturbance would be surpassed by the long-term benefit of reducing PM_{10} dust emissions from public land and the overall positive impact of improving air quality within the Owens Lake basin and the valley.

- General Policies, Page 8, No. 8; "Management of public lands will consider: a, Safety of the public and Bureau personnel."

The proposed project would reduce PM_{10} dust emissions from public land and adjacent state lands. It is expected that the action would result in an overall positive impact of improving air quality within the Owens Lake basin and the valley. This would enhance the safety of the public and Bureau personnel regarding air quality.

- General Policies, Page 9, No. 12; "BLM will comply with the provisions of Sections 106 and 110 of the Historic Preservation Act including consultation with the State Historic Preservation Officer and the Advisory Council on Historic Preservation for actions which may affect prehistoric and historic properties."

The proposed action alternative was designed to avoid any adverse impacts to cultural resources.

- General Policies, Page 9, No. 13; "The Bureau will consult with local Indian communities to identify their concerns when projects might affect them. These concerns will be considered in the decision making process."

The concerns raised during tribal consultation have been reviewed and taken into consideration during this environmental review. The proposed action could result in adverse impacts to cultural resources during construction where unidentified subsurface cultural resources are encountered.

Mitigation measures have been recommended and incorporated into the proposed action to avoid inadvertent adverse impacts to cultural resources and to address tribal concerns in conformance with the Bishop RMP.

- Standard Operating Procedures, Wildlife, Page 12, No. 3; "Manage candidate species, sensitive species and other species of management concern in a manner to avoid the need for listing as state or federal endangered or threatened species."

- Area-Wide Decisions, Page 17, Column 2; "Protect and enhance unique or important vegetation communities and wildlife habitats."

    - Yearlong Protection of endangered, threatened, candidate, and sensitive plant and animal habitats.

The proposed action could result in adverse impacts to wildlife, specifically Snowy Plover and the nests of other avian species. Mitigation measures have been recommended and incorporated into the proposed action to avoid potential adverse impacts to unique and important wildlife habitats in conformance with the Bishop RMP.

- Area-Wide Decisions, Page 17, Column 2, Paragraph 1; "Manage all activities to conform with Visual Resource Management (VRM) standards. VRM standards will be applied according to Visual Standard Operating Procedures."

- Owens Lake Management Area Decisions, Page 50, Paragraph 2; "The proposed project is within a Class III VRM standard area."

A VRM Contrast Rating Evaluation was conducted for the proposed action. Based on the Contrast Rating Evaluation, the proposed action would meet VRM Class III standards.

- Area-Wide Decisions, Page 22, Column 1, Paragraph 1; "Manage all activities to assure no net loss of wetlands or riparian habitats. Allow mitigation for impacts to wetlands or riparian habitats to occur outside of the resource area."

Although 9.4 acres of alkali meadow in the Duck Pond-L1 DCA would be temporarily impacted by construction, the project would result in the establishment of 75.4 acres of managed vegetation that would increase plant species richness and structural diversity. There would be no net loss of wetland vegetation or habitat.

In addition, the proposed action, with proposed mitigation measures and standard ROW stipulations, would not violate any terms and conditions of the Bishop RMP including those specific to the Owens Lake Management Area.

Therefore, I will issue a decision to grant a right-of-way (ROW)(CACA 055470) to the LADWP for the construction, operation, maintenance, and termination of the proposed Owens Lake Dust

Mitigation Program Phase 9/10 Project on the public land portions of the Duck Pond L-1 and Duck Pond L-2 DCAs in Inyo County, California, as described, analyzed, and disclosed in EA DOI-BLM-CA-C070-2016-0014-EA. All applicable project design features, best management practices, and mitigation measures identified in my selected alternative for the proposed project as supplemented by recommendations from BLM staff will be applied in total as Stipulations to the ROW grant.

Rationale for Finding of No Significant Impact

My finding is based on consideration of both the context (40 CFR 1508.27(a)) and intensity (40 CFR 1508.27(b)) of the effects identified in EA DOI-BLM-CA-C070-2016-0014-EA as summarized below:

Context

The proposed action is to issue a decision to grant a right-of-way (ROW)(CACA 055470) to the LADWP for the construction, operation, maintenance, and termination of the Owens Lake Dust Mitigation Program Phase 9/10 Project on public lands in Inyo County, California. The project area covers 92.6 acres of public land located along the southwestern shoreline of Owens Lake in two separate dust control areas (DCAs): Duck Pond L-1 and Duck Pond L-2. The alternative (Alternative A.1., the Phase 9/10 Project Avoidance Alternative - Proposed Action with Stipulations) selected for implementation includes design features, best management practices, and other minimizing measures including recommendations from BLM staff designed to avoid any significant impacts to biological, cultural, or other resources within or adjacent to the project area (Stipulations). These stipulations include, but are not limited to: a worker education and awareness program, a pre-construction archeological monitoring program, and the development and implementation of an inadvertent discovery plan for archeological resources and a comprehensive adaptive weed control plan, among others.

Overall, both the beneficial and adverse effects expected from implementation of the selected alternative for the Phase 9/10 Project are site specific and localized in scale, with the exception of predicted beneficial effects on air quality that may extend to the regional scale. None of the predicted effects associated with implementation of the project are considered measureable at the state-wide, national, or international scale.

Intensity

I have considered the intensity and severity of effects anticipated from the use of public land for the construction, operation, maintenance, and termination of the Owens Lake Dust Mitigation Program Phase 9/10 Project as described, analyzed, and disclosed for the selected alternative (Alternative A.1., the Phase 9/10 Project Avoidance Alternative - Proposed Action with Stipulations) in EA DOI-BLM-CA-C070-2016-0014-EA. My consideration of the ten “significance” criteria identified in 40 CFR 1508.27(b) is summarized below:

1) Impacts that may be both beneficial and adverse.

The EA provides a description of both beneficial and adverse effects expected from implementation of the selected alternative for the Owens Lake Dust Mitigation Program Phase 9/10 Project. Primary effects are briefly summarized below:

Beneficial Effects

The primary beneficial effect is the reduction of windblown dust that is causing and contributing to exceedances of both the National Ambient Air Quality Standards (NAAQS) and the California State standards for particulate matter (PM_{10}) air pollution. The primary goal of the project is to attain both the NAAQS and the California PM_{10} standards in the Duck Pond L-1 and Duck Pond L-2 DCAs. Overall, the magnitude of the predicted beneficial effects are limited and restricted to the local scale with some regional air quality benefits possible.

Adverse Effects

The primary adverse effects will incur from: 1) Short-term disturbance and displacement of wildlife in the immediate project vicinity as the result of noise and human activity associated with project construction and maintenance; 2) Removal of vegetation associated with the construction of access routes, construction of buried pipelines, land-leveling, installation of soil fabric and gravel cover, and subsequent restoration including de-compaction and broadcast seeding upon project completion; and 3) Temporary restriction of public access during project construction. These impacts will be short-term and no measureable long-term detrimental effects are expected. Overall, the magnitude of the predicted adverse effects are limited and restricted to the local scale.

Conclusion

The EA provided a description of both beneficial and adverse effects expected from implementation of the selected alternative for the proposed Owens Lake Dust Mitigation Program Phase 9/10 Project. The magnitude of both the predicted beneficial effects and the predicted adverse effects of the selected alternative are minimal and restricted to the local scale, with the exception of predicted beneficial effects on air quality that may extend to the regional scale. None of the direct, indirect, or cumulative effects associated with the selected alternative are considered significant, either individually or cumulatively, based on the analyses provided in the EA. In addition, none of the predicted adverse effects are considered significant, even when evaluated independent of the beneficial effects that will occur from implementation of the selected alternative.

2) The degree to which the proposed action affects public health or safety.

I have determined that the selected alternative meets the intended purpose of the proposed project which is to reduce dust emissions from the Duck Pond L-1 and Duck Pond L-2 DCAs to

a level that meets both National Ambient Air Quality Standards (NAAQS) and California State standards for particulate matter (PM_{10}) air pollution. Implementation of the selected alternative will not have an adverse effect on public health or safety.

3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

The project area is not characterized by proximity to any park lands, prime farmlands, wild and scenic rivers, or ecologically critical areas. The Duck Pond L-1 and Duck Pond L-2 DCAs are known to have cultural resources nearby and mitigation measures have been recommended and incorporated into the selected alternative to avoid adverse impacts to both known and unknown cultural resources. The Duck Pond L-1 DCA includes 9.4 acres of alkali meadow habitat that would be temporarily impacted by construction activities; however, over the long-term project implementation would result in the establishment of 75.4 acres of managed vegetation that would increase plant species richness and structural diversity. Implementation of the selected alternative for the proposed Owens Lake Dust Mitigation Program Phase 9/10 Project will have no effect on any park lands, prime farmlands, wild and scenic rivers, or ecologically critical areas, nor will it have any adverse effect on historic or cultural resources or result in the loss of wetland habitat.

4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

No anticipated effects have been identified that are scientifically controversial. The effects of constructing and maintaining managed vegetation and gravel cover for dust control have been previously investigated and analyzed during the last 10 years and the same control methods have been successfully applied over large areas of the exposed Owens Lake bed. The results have shown that these methods have been successful in reducing PM_{10} emissions.

5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

There are no predicted effects on the human environment that are considered to be highly uncertain or involve unique or unknown risks. The effects of constructing and maintaining managed vegetation and gravel cover for dust control have been previously investigated and analyzed during the last 10 years and the same control methods have been successfully applied over large areas of the exposed Owens Lake bed. The results have shown that these methods have been successful in reducing PM_{10} emissions.

6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

Any similar action must be evaluated through an appropriate site-specific environmental review and decision making process consistent with applicable law, regulation, policy, and land use plan

guidance. Implementation of the selected alternative for the Owens Lake Dust Mitigation Program Phase 9/10 Project will not set a precedent for future actions that may have significant effects, nor does it represent a decision in principle about a future consideration.

7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

The Owens Lake Dust Mitigation Program Phase 9/10 Project was evaluated in the context of past, present, and reasonably foreseeable actions. No individually significant or cumulatively significant effects are identified in the EA. Implementation of the selected alternative for the Phase 9/10 Project will not contribute to significant cumulative effects on the human environment at either the local, regional, state-wide, national, or international scale.

8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

A Class III cultural resource inventory of the area of potential effect for the proposed project has been completed and tribal consultation for the project was also conducted. Additional pre-construction archeological monitoring efforts are required prior to implementation to ensure avoidance of previously unidentified cultural resources. Implementation of the selected alternative will not adversely affect any cultural properties currently listed in, or eligible for listing in, the National Register of Historic Places, nor will it cause loss or destruction of significant scientific, cultural, or historical resources.

9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

No threatened or endangered species are known or likely to occur within the Duck Pond L-1 or Duck Pond L-2 DCAs based on historical records, project specific biological surveys, and habitat suitability. In addition, there is no proposed or designated critical habitat for any listed species within or immediately adjacent to the project area. Implementation of the selected alternative for the Owens Lake Dust Mitigation Program Phase 9/10 Project will have no effect on any threatened or endangered species, nor will it have any effect on any proposed or designated critical habitat for any listed species.

10) Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.

The EA included consideration of applicable federal, state, and local laws and requirements imposed for the protection of the environment. Federal, state, local, and tribal interests were consulted and/or considered during the environmental review process and no potential violations or inconsistencies with existing laws or policies were identified or left unresolved. Implementation of the selected alternative for the Owens Lake Dust Mitigation Program Phase

9/10 Project does not threaten a violation of any known federal, state, or local law or requirements imposed for the protection of the environment.

Decision and Administrative Remedies

A separate Decision for the Owens Lake Dust Mitigation Program Phase 9/10 Project Right-of-Way (ROW)(CACA 055470) grant application will be issued based on EA DOI-BLM-CA-C070-2016-0014-EA and this FONSI. The Decision will include a description of Administrative Remedies that may be available to those that believe they may be adversely affected by implementation of the proposed action pursuant to the regulations at 43 CFR Part 4.

Authorized Official

/s/ Steven Nelson

Steven Nelson
Bishop Field Manager

Date: 09/08/2016