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**AGENDA ITEM NO.:** 7 (Action Item – Public Hearing)

**PLANNING COMMISSION MEETING DATE:** January 24, 2024

**SUBJECT:** Conditional Use Permit (CUP) 2023-01/BPCSD

### **EXECUTIVE SUMMARY**

The applicant has applied for a CUP that would allow the applicant to construct a new rapid infiltration basin as an extension to the existing Big Pine Wastewater Treatment Facility. The existing wastewater treatment facility is approximately 10.3 acres and the new rapid infiltration basin would add approximately 5 acres. The project site is located on a parcel owned by Los Angeles Department of Water and Power (LADWP) which the applicant is leasing a portion of for the existing wastewater treatment plant and the proposed expansion. The location of the Project site and existing facility are located adjacent to Highway 168 just east of the town of Big Pine at 6000 East Hwy. 168.

### **PROJECT INFORMATION.**

**Supervisory District:** 4

**Project Applicant:** Big Pine Community Service District, 180 N. Main Street, Suite D, Big Pine, CA 93513

**Property Owner:** City of Los Angeles – LADWP, 300 Manditch Street, Bishop, CA 93514-3449

**Site Address:** 6000 East Hwy. 168, Big Pine, CA 93513

**Community:** Big Pine

**A.P.N.:** 018-090-19

**General Plan:** Natural Resources (NR)

**Zoning:** Open Space – 40 (OS-40)

**Size of Parcel:** 304.15 acres – The Project site composes about 5 acres of the parcel.

**Surrounding Land Use:**

<b>Location:</b>	<b>Use:</b>	<b>Gen. Plan Designation</b>	<b>Zoning</b>
Site	Vacant / LADWP	Natural Resources (NR)	Open Space with a 40-acre minimum (OS-40)
North	Vacant / LADWP	Natural Resources (NR)	Open Space with a 40-acre minimum (OS-40)
East	Vacant / LADWP	Natural Resources (NR)	Open Space with a 40-acre minimum (OS-40)
South	Developed	Public Service Facility (PF)	Open Space with a 40-acre minimum (OS-40)
West	Vacant / LADWP	Agriculture (A)	Open Space with a 40-acre minimum (OS-40)

**Staff Recommended Action:**                    **1.) Approve the Conditional Use Permit (CUP) 2023-01/BPCSD; and certify the project is a Mitigated Negative Declaration under CEQA.**

**Alternatives:**                                    1.) Deny the CUP.  
2.) Approve the CUP with additional Conditions of Approval.  
3.) Continue the public hearing to a future date and provide specific direction to staff regarding what additional information and analysis is needed.

**Project Planner:**                                Danielle Visuaño, Associate Planner

**STAFF ANALYSIS**

Background and Overview

In 1972 the current Big Pine Wastewater Treatment Facility and the sewer collection system were completed and went into operation. In 1982 the Big Pine Community Services District (BPCSD) began operating and maintaining the wastewater facility under a 10-year lease/purchase option with the Los Angeles Department of Water and Power. BPCSD subsequently acquired ownership of the facility. The location of the Project site, which is an extension of the existing wastewater treatment facility, is 6000 East Hwy 168 and is in a rural, undeveloped area surrounded by LADWP owned open grazing areas.

The applicant has applied for a CUP with the Inyo County Planning Department to expand the existing Big Pine Wastewater Treatment Facility. The expansion will increase the capability of the wastewater facility by adding a rapid infiltration basin at a higher elevation in the expanded 5-acre lease area. The existing wastewater disposal

facility has proven insufficient in years when the groundwater is elevated in the area. This occurred in 2017 and 2019 which were record snow and runoff years. This higher elevation of the new rapid infiltration basin will provide the needed separation from the groundwater, which will provide the proper treatment and hydraulic head to allow for infiltration of the treated effluent into the groundwater when groundwater is elevated. The additional basin will also allow for continued compliance with the waste discharge requirements of BPCSD's permit with the Lahontan Water Quality Control Board.

The Project site is on the floor of the Owens Valley, is highly disturbed, and slopes from west to east towards the Owens River. The land surrounding the existing wastewater treatment facility and the new requested expansion area are vacant. The closest residence is about a half mile southwest from the Project site. The new rapid infiltration basin will be surrounded by approximately 5 foot berms for containment. These berms will also prevent view of the interior of the basin.

The Project would provide the same amount of treated effluent as the existing wastewater treatment facility for infiltration and percolation into the groundwater. The BPCSD provides wastewater services to 348 residences and 16 businesses in Big Pine. The residences are mainly single-family homes with some small multifamily structures. The businesses consist of restaurants, gas stations, motels, public laundry and markets.

#### General Plan Consistency

The goal of this Project is to allow for expansion of the existing wastewater treatment facility to allow for needed separation from groundwater levels. The Project is consistent with the General Plan designation of Natural Resources (NR) as it still provides for land and water areas that are essentially unimproved and provides for the managed production of resources (*Policy LU-5.4*). Furthermore, this Project is an expansion of an existing wastewater treatment plant located in Public Service Facilities (PF) designation. The Project is consistent with the General Plan designation of PF as it provides for areas owned by public agencies such as local districts, that serve as significant public facilities (*Policy LU-5.2*). The NR General Plan designation is also compatible with the existing OS zoning designation.

#### Zoning Ordinance Consistency

The proposed Project is a CUP to allow for the extension of an existing wastewater treatment facility. The Project site, Open Space (OS) zone, allows for public refuse disposal with a CUP. The OS zone, within its purpose statement, states in part: "*It is also the intent of this chapter to preserve agricultural areas open space around the more intensive urban areas of the county, while providing for compatible multiple use of nonagricultural lands which are principally held by federal and other public agencies.*" This wastewater treatment facility extension project will provide for a public service use in nonagricultural lands, which is owned by LADWP, while still preserving the agricultural open space since the surrounding area is still open to grazing as permitted by LADWP.

## **ENVIRONMENTAL REVIEW**

Staff prepared a Draft Mitigated Negative Declaration and Initial Study for CUP 2023-01/BPCSD and circulated it for a 30-day review and comment period. The review period closed on December 9, 2023. The Initial Study identified two potential impacts (Rufous Hummingbird nesting and Hoary Bat roosting) under Biological Resources that will be less than significant with mitigation and mitigations have been added under the Conditions of Approval #4. No comments were received.

## **TRIBAL CONSULTATION**

In compliance with AB 52, and Public Resource Code Section 21080.3.1(b), Tribes identified as being local to Inyo County, were notified via a certified letter on May 8, 2023 about the project and the opportunity for consultation on this project. The Tribes notified were as follows: the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Bishop Paiute Tribe, Cabazon Band of the Mission Indians, the Fort Independence Paiute Tribe, Lone Pine Paiute-Shoshone Tribe, the Timbisha Shoshone Tribe, and the Torres Martinez Desert Cahuilla Indians.

In an email dated May 8, 2023, the Big Pine Paiute Tribe of the Owens Valley stated they would be requesting formal consultation through a formal response. A formal response was never received by Inyo County. However, there have been conversations outside of tribal consultation. As a result of these conversations, the Project is being conditioned, in Conditions of Approval #3, with the presence of a Tribal Monitor during the time of grading and construction. The Tribe did not request further consultation.

## **NOTICING & REVIEW**

The application for CUP 2023-01/BPCSD has been reviewed by the following County departments: Public Works, Building and Safety, and Environmental Health.

Prior to the CEQA document publication, letters were sent to Caltrans, Big Pine Fire Protection District, Lahotan Water Quality Control Board and the Great Basin Unified Air Pollution Control District requesting feedback regarding the proposed Project. Public review of the CEQA document was noticed in the Inyo Register on November 9, 2023 and submitted to the CEQA Clearinghouse on November 8, 2023. Tribal notifications were sent on May 8, 2023.

Prior to the CEQA document publication, the Great Basin Unified Air Pollution Control District provided comment that a secondary source permit would be required along with the requirement that District Rule 401 be followed for dust control. However, subsequent to the comments received, the applicant presented plans to the Great Basin Unified Air Pollution Control District and was informed a secondary permit would not be required due to the grading nature of the project. In consideration of the comments received from Great Basin Unified Air Pollution Control District they have been incorporated into the Conditions of Approval #5 for this CUP.

No other comments were received from any other agencies or departments.

The public hearing date for this Project was noticed on January 13, 2024 in the Inyo Register. No mailings to property owners, as required by the Inyo County Code, was necessary as there are no property owners within 300-feet of the Project location and the LADWP is notified by default as they have given the BPCSD permission to conduct the project on their land as part of a lease agreement.

### **RECOMMENDATION**

Planning Department staff recommends the approval of Conditional Use Permit (CUP) 2023-01/BPCSD, with the following Findings and Conditions of Approval:

### **FINDINGS**

1. The proposed CUP is a Mitigated Negative Declaration under CEQA guidelines and the provisions of the California Environmental Quality Act have been satisfied.

*[Evidence: An Initial Study and Draft Negative Declaration of Environmental Impact were prepared and circulated for public review and comment pursuant to the provisions of the California Environmental Quality Act. The 30-day public comment period ended on December 9, 2023 and no comments were received. The Initial Study identified two potential impacts (Rufous Hummingbird nesting and Hoary Bat roosting) under Biological Resources that will be less than significant with mitigation. Mitigations are built into the Project as Conditions of Approval #4.]*

2. The proposed CUP is consistent with the Inyo County General Plan Land Use designation of Natural Resources (NR).

*[Evidence: The goal of this Project is to allow for the expansion of an existing wastewater treatment facility in Big Pine, California. The Project is consistent with the General Plan designation of NR as it still provides for land and water areas that are essentially unimproved and provides for the managed production of resources (Policy LU-5.4). Furthermore, this Project is an expansion of an existing wastewater treatment plant located in the Public Service Facilities (PF) designation. The Project is consistent with the General Plan designation of PF as it provides for areas owned by public agencies such as local districts, that serve as significant public facilities (Policy LU-5.2). The applicant is proposing the Project to provide for treated wastewater effluent with use of the existing wastewater treatment facility, a significant public facility, prior to percolation into groundwater system.]*

3. The proposed CUP is consistent with the Inyo County Zoning Ordinance, which permits public refuse disposal, as a conditional use, in the Open Space (OS) zone.

*[Evidence: The proposed Project is a CUP to allow for the extension of an existing wastewater treatment facility. The OS zone allows for public refuse disposal with a CUP. The OS zone, within its purpose statement, states in part: "It is also the intent of this chapter to preserve agricultural areas open space around the more intensive urban areas of the county, while providing for*

*compatible multiple use of nonagricultural lands which are principally held by federal and other public agencies". This wastewater treatment facility extension project will provide for a public service use in nonagricultural lands which is held by a LADWP while still preserving the agricultural open space since the surrounding area is still open to grazing as permitted by LADWP.]*

4. The proposed CUP is necessary or desirable.  
*[Evidence: The General Plan's Land Use Element's Goal LU-5 states: "Provide adequate public facilities and services for the existing and/or future needs of communities and their surrounding environs, and to conserve natural and manage resources." The applicant is proposing to expand an existing wastewater treatment facility to continue to process and dispose of treated effluent when encountering high groundwater elevations near the wastewater treatment facility. This activity is consistent with Goal LU-5 as the Project will provide the needed expansion of a public facility/service for current and future needs of the Big Pine community and the conservation of unaffected groundwater in the surrounding environs.]*
5. The proposed CUP is properly related to other uses and transportation and service facilities in the vicinity.  
*[Evidence: The proposed CUP is for a public service type of use. The wastewater treatment facility expansion would allow for continued wastewater effluent treatment in a manner that prevents untreated effluent interaction with groundwater. It is related to the rural, open space, nature of the area and will not cause impacts on transportation or service facilities in the vicinity.]*
6. The proposed CUP would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.  
*[Evidence: The proposed CUP is to allow for the expansion of a wastewater treatment facility. This public service land use will not change or increase the current level or general type of allowed uses in the Big Pine area. A security gate is planned for the entrance on the north side of the Project site to prevent unauthorized access. The Project is also required to comply with the Lahontan Regional Water Quality Control Board regulations regarding waste handling from the facility operations. Therefore, it will not create impacts on the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.]*
7. Operating requirements necessitate the CUP for the site.  
*[Evidence: Public refuse dispose sites require a CUP per Inyo County Code Section 18.12.040(H) and is therefore necessary for the operation of Big Pine Wastewater Treatment Facility Expansion.]*

## **CONDITIONS OF APPROVAL**

### **1. Hold Harmless**

The owner/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning CUP 2023-01/BPCSD. The County reserves the right to prepare its own defense.

### **2. Compliance with County Code**

The owner/developer shall conform to all applicable provisions of Inyo County Code and State regulations, including the Lahontan Water Quality Control Board. Failure to comply may result in the revocation of CUP 2023-01/BPCSD. If the use provided by this CUP is not established within one year of the approval date it will become void.

### **3. Cultural Resources**

A Tribal Monitor is to be present during the time of construction and shall be provided with safety briefings and equipment in order to remain safely onsite. The Tribal Monitor shall be paid at a rate of \$50 per hour.

### **4. Preconstruction Surveys**

- The applicant shall complete a preconstruction survey to mitigate possible impacts to the Rufous Hummingbird by either: implementing construction outside the normal breeding season; or providing a pre-construction nesting bird survey if construction takes place during the nesting season (typically between January 1 through September 15 in the Owens Valley) and construction cannot be avoided. If a pre-construction nesting bird survey is required, it must be done prior to any grading or building activities for the Project.
- The applicant shall complete a preconstruction survey for the potential existence of any roosting Hoary Bats prior to removal of the one elm tree in the Project site area.

### **5. Air**

- The applicant shall consult with the Great Basin Unified Air Pollution Control District and obtain any permits determined to be necessary.
- The Project shall also follow District Rule 401 – Fugitive Dust and shall “take reasonable precautions to prevent visible particulate matter from being airborne, under normal wind conditions, beyond the property from which the emission originates.”

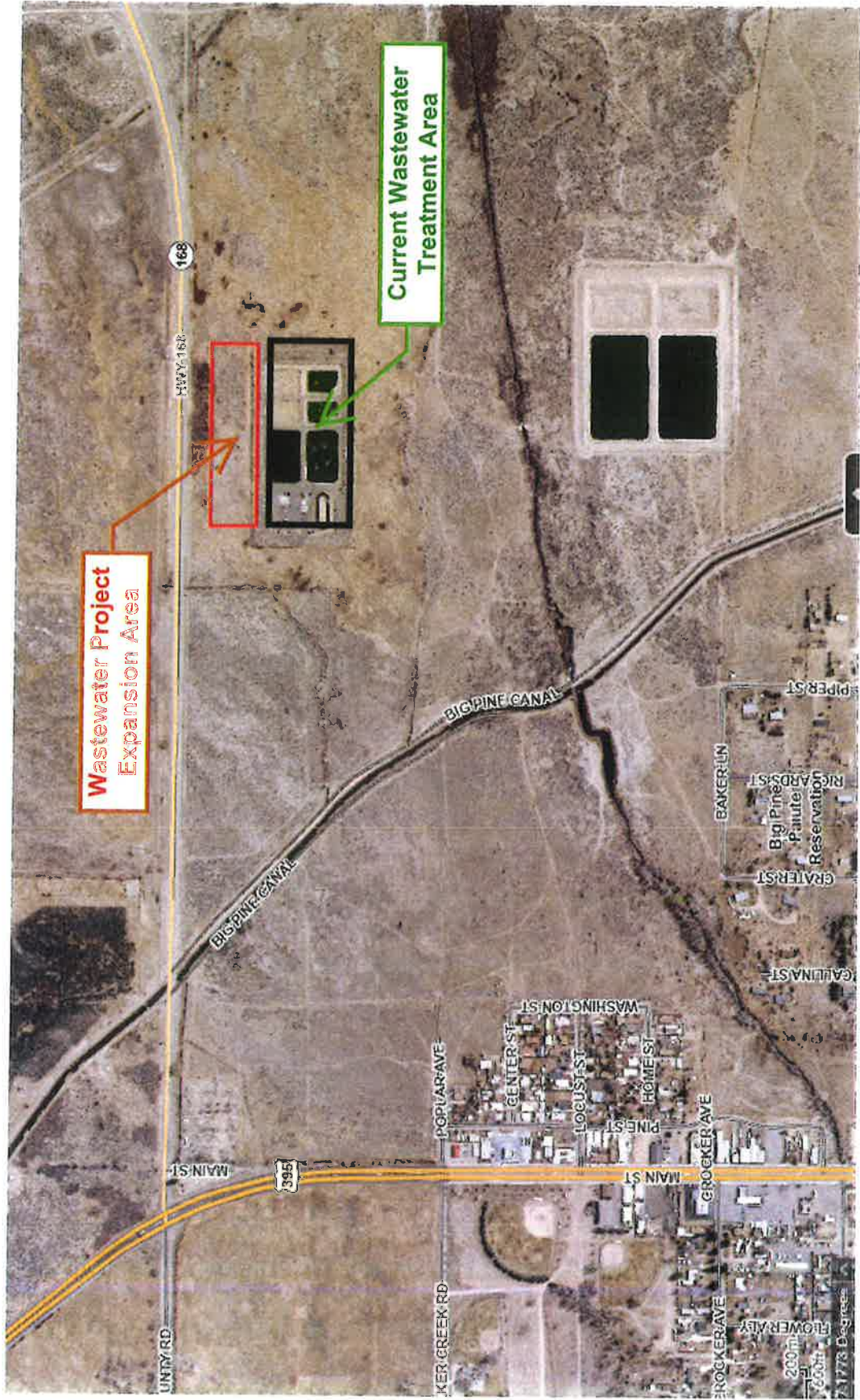
- The Project shall establish dust mitigation measures for any land clearing and grading that will apply to all Project construction periods involving the construction of different areas of the Project site and any future construction of the Project site.
- Water is to be applied to disturbed surfaces at a sufficient frequency and quantity for dust control purposes and all exposed soil surfaces shall be moistened as required to avoid nuisance conditions and inconveniences for local residents, businesses and travelers of nearby roadways.
- All mobile and portable equipment shall comply with the requirements of the State of California including all equipment being used during construction having the appropriate registrations.
- Lahontan Water Quality Control Board and Inyo County Environmental Health Department: The owner/developer shall obtain all necessary permits and water entitlements, and shall follow all necessary requirements per the Lahontan Water Quality Control Board. The applicant shall consult the Inyo County Environmental Health Department and the Lahontan Water Quality Control Board and provide evidence of their approval to the planning department prior to any groundbreaking and/or building activities to ensure the any new monitoring wells are compliant with all State and County codes.

Attachments:

- Vicinity Map
- Site Plans



# BIG PINE WASTEWATER TREATMENT PLANT EXPANSION PROJECT (VICINITY MAP)







**Danielle Visuano**

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**From:** Luke Eisenhardt <leisenhardt@gbuapcd.org>  
**Sent:** Thursday, April 6, 2023 2:01 PM  
**To:** Danielle Visuano  
**Cc:** Ann Logan; Tom Schaniel  
**Subject:** Re: Contact information request

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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You don't often get email from leisenhardt@gbuapcd.org. [Learn why this is important](#)

Danielle,

GBUAPCD offers the following comments on the Big Pine Community Service District Wastewater Treatment Plant Expansion Project:

**Permits Needed:** This project will require a secondary source permit from GBUAPCD. The responsible party must apply for this permit before construction begins. The permit will have conditions to limit emissions from dust and diesel engines during construction. In addition, if there will be any permanent sources installed which will emit pollutants (such as a backup diesel engine or other combustion equipment) additional permits may be needed.

**Dust Control:** This project will be required to follow District Rule 401 – Fugitive Dust and must “take reasonable precautions to prevent visible particulate matter from being airborne, under normal wind conditions, beyond the property from which the emission originates”. The project should include dust mitigation measures for any land clearing and grading, especially if there is an extended time between grading and earthwork and when the solar array is installed. There have been projects in the past in our area that have allowed cleared land to sit empty without any preventative measures that resulted in substantial dust emissions. GBUAPCD recommends minimizing the time between land clearing/grading and construction. GBUAPCD can provide a Dust Control Plan if needed, especially if grading begins before a secondary source permit is issued.

**California Requirements for Mobile/Portable Equipment:** Mobile or portable equipment such as portable engines, bulldozers, graders, construction equipment, etc. is subject to California rules beyond GBUAPCD requirements. All equipment used during construction must have appropriate registrations and meet the requirements of the State of California.

Thank you for reaching out to us at this stage in the project. We appreciate the opportunity to provide comments. Please let us know if you have any questions.

Best,

Luke Eisenhardt  
Air Quality Specialist  
Great Basin Unified Air Pollution Control District  
157 Short Street  
Bishop, California 93514