

# Agenda

## County of Inyo Board of Supervisors

Board of Supervisors Room  
County Administrative Center  
224 North Edwards  
Independence, California

All members of the public are encouraged to participate in the discussion of any items on the Agenda. Anyone wishing to speak, please obtain a card from the Board Clerk and indicate each item you would like to discuss. Return the completed card to the Board Clerk before the Board considers the item (s) upon which you wish to speak. You will be allowed to speak about each item before the Board takes action on it.

Any member of the public may also make comments during the scheduled "Public Comment" period on this agenda concerning any subject related to the Board of Supervisors or County Government. No card needs to be submitted in order to speak during the "Public Comment" period.

**Public Notices:** (1) In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at (760) 878-0373. (28 CFR 35.102-35.104 ADA Title II). Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Clerk of the Board 72 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format. (Government Code Section 54954.2). (2) If a writing, that is a public record relating to an agenda item for an open session of a regular meeting of the Board of Supervisors, is distributed less than 72 hours prior to the meeting, the writing shall be available for public inspection at the Office of the Clerk of the Board of Supervisors, 224 N. Edwards, Independence, California and is available per Government Code § 54957.5(b)(1).

**Note:** Historically the Board does break for lunch, the timing of a lunch break is made at the discretion of the Chairperson and at the Board's convenience.

### December 10, 2013

8:30 a.m. 1. **PUBLIC COMMENT**

#### CLOSED SESSION

2. **CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6].** Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Elected Officials Assistant Association (EOAA) - Negotiators: Information Services Director Brandon Shults and Labor Relations Administrator Sue Dishon.
3. **CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6]** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Inyo County Probation Peace Officers Association (ICPPOA) - Negotiators: Information Services Director Brandon Shults, Chief Probation Officer Jeff Thomson, and Labor Relations Administrator Sue Dishon.
4. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [Pursuant to Government Code §54956.9(a)]** - *Robert Raymond v. Kammi Foote*, United States District Court Eastern District of California, Case No. 1:12-CV-01407-AWI-JLT.
5. **REPORT ON CLOSED SESSION AS REQUIRED BY LAW.**

#### OPEN SESSION

10:00 a.m. **PLEDGE OF ALLEGIANCE**

6. **PUBLIC COMMENT**
7. **COUNTY DEPARTMENT REPORTS** (Reports limited to two minutes)

**CONSENT AGENDA** (Approval recommended by the County Administrator)

#### COUNTY ADMINISTRATOR

8. Request approval of Amendment No. 3 to the Contract between the County of Inyo and Allan D. Kotin & Associates, extending the term of the Contract to June 30, 2014, increasing the amount of the Contract by \$10,000 to a total amount not to exceed \$70,000, amending the Schedule of Fees (Attachment B to the Contract) to update contractor/consultant staff whom continue to work at a Board approved rate of no more than \$150/hour; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained.

9. **Personnel** – Request approval of the Memorandum of Understanding between the County of Inyo and the Law Enforcement Administrators Associations (LEAA) for the period of December 10, 2013 through December 31, 2014; and authorize the Chairperson to sign.

**CORONER**

10. Request approval of the Contracts between the County of Inyo and the following for autopsy services for the period of January 1, 2014 through December 31, 2015, and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained: A) Eva S. Wasef, M.D., in an amount not to exceed \$46,000; and B) Milton R. Jones, M.D., in an amount not to exceed \$43,200.

**PLANNING**

11. Request approval of Amendment No. 4 to the Contract between the County of Inyo and PCR Services Corporation, for production of an EIR for the Crystal Geyser Roxane Cabin Bar Ranch Water Bottling Plant Project, extending the Contract from an ending date of December 31, 2013 to June 30, 2014; and authorize the Chairperson to sign.

**PLANNING & WATER DEPARTMENT**

12. Request approval of Amendment No. 6 to the Contract between the County of Inyo and Daniel B. Stephens & Associates, Inc., for provisions of hydrologic analysis services, extending the ending date of the Contract to March 31, 2014; and authorize the Chairperson to sign.

**PUBLIC WORKS**

13. Request approval of Amendment No. 5 to the Contract between the County of Inyo and Quincy Engineering for continued engineering services for the Sabrina Bridge Replacement Project, extending the term of the Contract to June 30, 2014; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained.

**DEPARTMENTAL** (To be considered at the Board's convenience)

14. **COUNTY ADMINISTRATOR** – Request Board, in accordance with the Inyo County Real Property Management Policy: A) designate the County-owned property, identified as Assessor's Parcel Number 003-210-02, located at 210 N. Main Street, Big Pine, CA, as surplus; B) dispose of APN 003-210-02 through a sale to a public entity; and C) retain all water and/or mineral rights the County currently has on the property.
15. **COUNTY ADMINISTRATOR – Library** - Request Board find that consistent with the adopted Authorized Position Review Policy: A) the availability of funding for the position of Library Specialist exists, as certified by the Library Director, and concurred with by the County Administrator and Auditor-Controller; B) whereas internal candidates meet the qualifications for the position, the position can be filled through a closed, County recruitment; and C) approve the hiring of two APAR Library Specialists I at Range 46A (\$12.90/per hr.).
16. **COUNTY COUNSEL – COUNTY ADMINISTRATOR – WATER DEPT.** – Request ratification and approval for payments to JAM ENDISPUTE of the County's portion of the arbitration costs as incurred for the Blackrock 94 Dispute Resolution in an amount not to exceed \$45,000 which includes \$11,929.97 already paid and \$9,181.02 currently due.
17. **WATER DEPARTMENT** – Request Board appoint two people to serve on Water Commission to complete four year terms beginning December 31, 2013 and ending December 31, 2017. (*Notice of vacancy resulted in requests for appointment being received from Mr. Craig Patten, Ms. Sally Manner, Ms. Daniel Pritchett, Ms. Charles Stewart and Ms. James Stroh.*)
18. **COUNTY ADMINISTRATOR – Emergency Services** – Request Board discuss and consider Staff's recommendation regarding continuation of the local emergency, The Death Valley Road eater Emergency, that resulted in flooding in the eastern portion of Inyo County during the month of August 2012, per Resolution #2012-32.
19. **COUNTY ADMINISTRATOR – Emergency Services** - Request Board discuss and consider staff's recommendation regarding continuation of the local emergency, The Gully Washer Emergency, that resulted in flooding in the central, south and southeastern portion of Inyo County during the month of July, 2013.

20. **COUNTY ADMINISTRATOR – Emergency Services** - Request Board discuss and consider staff's recommendation regarding continuation of the local emergency, The Canyon Crusher Emergency, that resulted in flooding in portions of Inyo County during the month of August, 2013.
21. **PLANNING** – Request Board review draft correspondence to the Sequoia-Kings National Park Services regarding the proposed Restoration of Native Species in High Elevation Aquatic Ecosystems Plan and Draft Environmental Impact statement (EIS); and authorize the Chairperson to sign.
22. **PLANNING** – Request Board review a proposed rule to designate critical habitat for the Bi-state Distinct Population Segment of Greater Sage-Grouse pursuant to the Federal Endangered Species Act, review draft correspondence in regards thereto, and authorize the Chairperson to sign.
23. **PLANNING** – Request Board review draft correspondence to the Forest Service Regarding the Draft Assessment for the Inyo National Forest Plan and provide input.
24. **CLERK OF THE BOARD** – Request approval of the minutes of the November 26, 2013 Board of Supervisors Meeting.

**TIMED ITEMS** (Items will not be considered before scheduled time)

- 11:00 a.m. 25. **HEALTH AND HUMAN SERVICES** – Request Board conduct a workshop on Jail Medical Services.
- 11:30 a.m. 26. **PUBLIC WORKS** – Request Board receive an update regarding the fundraising efforts of the ICARE organization for the construction of new animal shelter facilities and provide direction regarding timelines and bidding options for the proposed Inyo County Animal Shelter project.
- 1:30 p.m. 27. **ENVIRONMENTAL HEALTH** – Request Board enact an ordinance titled “An Ordinance of the Board of Supervisors of the County of Inyo, State of California, Amending Inyo County Code, Chapter 7.52, Sections 7.052.010, 7.52.020, and 7.52.040 and Adding Section 7.052.130, Relating to Service and Permit Fees of the Inyo County Department of Environmental Health Services” amending the fee schedule to waive the temporary food facility permit fees for Cottage Food Operators selling their products adjacent to, and during, certified farmers markets and adding “Organized Camps” annual permit fee of \$296 to the Recreational Safety section of the fee schedule.
28. **ROAD DEPARTMENT** – Request Board conduct a workshop to discuss avalanche areas and the impacts that avalanches have on County roads and the road crews that perform snow removal work, including safety concerns to residents that may live in or be visiting these areas during the winter months.
29. **WATER DEPARTMENT** – Request Board conduct a workshop on the Lower Owens River Project (LORP) Recreational Use Plan (RUP) to receive an overview of the RUP and an update on efforts to complete the Plan as it stands, and provide direction and ideas on how to proceed.
- 6:00 p.m. 30. **PLANNING** – Request Board take comment from the public regarding the draft Assessment for the Inyo National Forest Plan Update/Revision, review the draft correspondence to the Forest Service in regards thereto, and authorize the Chairperson to sign.

**CORRESPONDENCE - ACTION**

31. **WILD IRIS AND INYO MONO ADVOCATES FOR COMMUNITY ACTION (IMACA)** – Request Board consider authorizing the County Administrator to sign Attachments F to each organization's Grant Application for funding for homeless services and activities.

**BOARD MEMBERS AND STAFF REPORTS**

**COMMENT** (Portion of the Agenda when the Board takes comment from the public and County staff)

32. **PUBLIC COMMENT**

**CORRESPONDENCE - INFORMATIONAL**

33. ***BISHOP POLICE DEPARTMENT*** – Copy of letter to Symons Emergency Specialties concerning ambulance dispatch service provided by the Department.



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

8

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** County Administrator  
**By:** Kelley Williams, Assistant to the CAO

**FOR THE BOARD MEETING OF:** December 10, 2013

**SUBJECT:** Amendment #3 to the contract between the County of Inyo and Allan D. Kotin & Associates for Real Estate Consulting Services

**DEPARTMENTAL RECOMMENDATION**

Request Board approve Amendment #3 to the Contract between the County of Inyo and Allan D. Kotin & Associates to: (a) extend the term of the contract to June 30, 2014; (b) increase total contract amount by \$10,000 for an amount not to exceed \$70,000; and, (c) amend Attachment B "Schedule of Fees" to update contractor/consultant staff whom continue to work at a Board approved rate of no more than \$150/hr. , and authorize Chairperson to sign, contingent upon appropriate signatures being obtained.

**SUMMARY DISCUSSION**

In December of 2011, your Board approved a contract with Allan D. Kotin and Associates (ADK&A), a real estate consulting firm specializing in the development of public private partnerships. Mr. Kotin and his firm have been retained by the County to advise and represent the County on two potential and relatively complex real estate projects: (1) the Consolidated Office Building, for which the County has entered into an Exclusive Negotiation Agreement with Joseph Enterprises; and, (2) the evaluation of options concerning the disposition of the Mount Whitney Fish Hatchery through discussions with the Department of Fish and Game, Sierra Nevada Conservancy, and Friends of Mount Whitney Fish Hatchery.

On June 12, 2012 your Board approved Amendment #1 to the Contract with ADK&A, extending the contract term to June 30, 2013 and increasing the amount by \$30,000 to provide for ADK&A continued participation in the evaluation and negotiation of the Consolidated Office Building project. On June 26, 2013, the County Administrator exercised his authority to extend the contract with ADK&A for an additional 6 months, to December 31, 2013, while ADK&A assisted County staff in representing the County in completing the first phase of the Exclusive Negotiating Agreement. This process concluded with your Board granting non-binding approval of the Concept Plan and Updated Non-Binding Term Sheet on November 12, 2013. ADK&A's services will continue to be required as the County and Joseph Enterprises implement Phase 2 of the Exclusive Negotiation Agreement which will entail the preparation of Final Documents for the project transaction.

As your Board is aware, discussions between the California Department of Fish and Game and the Sierra Nevada Conservancy regarding the possible (interim) transfer of the Mount Whitney Fish Hatchery from the Department to the Conservancy are ongoing. A key factor in any transfer of the Hatchery proceeding to the Conservancy (or any other entity in which the County may have an interest in working with) will be a confidence among the parties – including the County and Friends of the Mount Whitney Fish Hatchery – in a realistic strategy for developing a long-term plan for this iconic property. Mr. Kotin's services are integral to recommending a framework for such a long-range plan, and critical recommending and evaluating a range of sustainable uses and partnerships that will be the bedrock of any long-range plan for the Hatchery. It is necessary to amend the contract to ensure ADK&A's ability and availability to participate in this process in an environment of likely quickening discussions and decisions.

The recommended amendment to ADK&A contract will allow for Mr. Kotin's continued participation in both the Mount Whitney Fish Hatchery and Consolidated Office Building Projects.

**ALTERNATIVES**

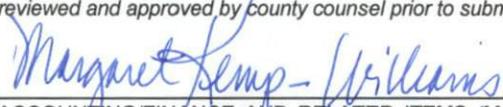
Your Board could choose not to approve the contract amendment with ADK&A, however, this is not recommended because it will essentially limit the County's ability to meaningfully participate in discussions regarding the long-term disposition of the Mount Whitney Fish Hatchery, or continue with its thorough analysis and negotiation of the Consolidated Office Building project.

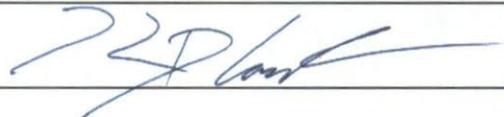
**OTHER AGENCY INVOLVEMENT**

County Counsel, Public Works and County Administration are working with Mr. Kotin relative to negotiations with Joseph Enterprises for the Consolidated County Office Building Project. Discussion of options for the long-term disposition of the Mount Whitney Fish Hatchery involve County staff and Mr. Kotin working with the State Department of Fish and Game, Sierra Nevada Conservancy, Friends of Mt. Whitney Fish Hatchery and, possibly, the State Department of General Services and the County's legislative delegation.

**FINANCING**

Funding for this agreement is identified in the Board approved Fiscal Year 2013-2014 CAO Accumulated Capital Outlay Budget #010201, Professional Services Object Code #5265.

<b>APPROVALS</b>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>  Approved: <input checked="" type="checkbox"/> Date <u>12/04/13</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>  Approved: <input checked="" type="checkbox"/> Date <u>12/4/2013</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i> Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**  
 (Not to be signed until all approvals are received)  Date: 12/4/13

**AMENDMENT NUMBER 3 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Allan D. Kotin & Associates of Los Angeles, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Personal Services dated December 20, 2011 on County of Inyo Standard Contract No. 156 for the term from November 1, 2011 (Extended to December 31, 2013 by Amendment #2).

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

**2. TERM.**

The term of this Agreement shall be from November 1, 2011 to June 30, 2014 unless sooner terminated as provided below.

**3. CONSIDERATION.**

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement, including travel and per diem expenses, if any, shall not exceed \$70,000.00\*\*\*\*\* Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed, including travel or per diem, which is in excess of the contract limit.

**ATTACHMENT B**  
**AMENDMENT NUMBER 3 TO**  
**AGREEMENT BETWEEN THE COUNTY OF INYO AND**  
**Allan D. Kotin & Associates**  
**FOR THE PROVISION OF Real Estate Consulting SERVICES**

**SCHEDULE OF FEES:**

Consultant's services will be paid based on the following rate schedule:

Allan Kotin	\$225 per hour
Aaron Brumer	\$120 per hour
Faith Backus	\$150 per hour
Other	No more than \$150 per hour

For visits to a County-specified client site, the Consultant's time will be paid based on one half the travel time, estimated at 4 hours when traveling to Inyo County, in accordance with this rate schedule.

**AMENDMENT NUMBER 3 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Allan D. Kotin & Associates  
FOR THE PROVISION OF Real Estate Consulting SERVICES**

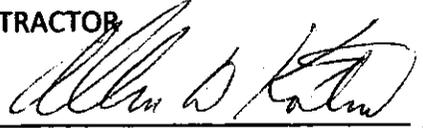
IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND  
SEALS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_

COUNTY OF INYO

By: \_\_\_\_\_

Dated: \_\_\_\_\_

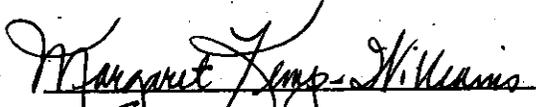
CONTRACTOR

By:   
Signature

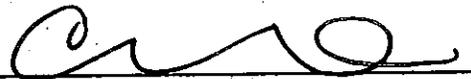
ALLAN D. KOTIN  
Type or Print

Dated: 11-26-13

APPROVED AS TO FORM AND LEGALITY:

  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

\_\_\_\_\_  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

\_\_\_\_\_  
County Risk Manager



**AGENDA REQUEST FORM**  
**BOARD OF SUPERVISORS**  
**COUNTY OF INYO**

For Clerk's Use Only:  
**AGENDA NUMBER**  
 9

- Consent   
  Departmental   
  Correspondence Action   
  Public Hearing  
 Scheduled Time for   
  Closed Session   
  Informational

**FROM:** County Administration - Personnel

**FOR THE BOARD MEETING OF:** December 10, 2013

**SUBJECT:** Adoption of 2014-2015 MOU between County and Law Enforcement Administrators Association

**DEPARTMENTAL RECOMMENDATION:**

Request Board approve the Memorandum of Understanding between the County of Inyo and the Law Enforcement Administrators Association (LEAA) for the period December 10, 2013 through December 31, 2014 and authorize the Chairperson to sign.

**CAO RECOMMENDATION:**

**SUMMARY DISCUSSION:**

Your Board has given direction regarding negotiations on the current contract with the Law Enforcement Officers Association (LEAA). At this time, negotiations have concluded successfully with both parties agreeing to the proposed Memorandum of Understanding.

**ALTERNATIVES:**

Not approve and direct staff to come back with different alternatives.

**OTHER AGENCY INVOLVEMENT:**

County Counsel

**FINANCING:**

Funds are budgeted in contingencies in the 13/14 Personnel Budget, #010800

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.) <i>Margaret Kemp-Williams</i> Approved: <input checked="" type="checkbox"/> Date <u>12/05/13</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.) Approved: _____ Date _____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) <i>Sue DC</i> Approved: <input checked="" type="checkbox"/> Date <u>12/5/13</u>

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received) Kevin Carunchio      Date: 12/5/13  
 (The Original plus 20 copies of this document are required) *by Sue DC*

**MEMORANDUM OF UNDERSTANDING**

*between*

**INYO COUNTY LAW ENFORCEMENT  
ADMINISTRATORS ASSOCIATION**

*and*

**COUNTY OF INYO**

*December 10, 2013 - December 31, 2014*

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**COMPREHENSIVE  
MEMORANDUM OF UNDERSTANDING  
BETWEEN**

**THE COUNTY OF INYO  
AND  
THE INYO COUNTY LAW ENFORCEMENT ADMINISTRATOR'S  
ASSOCIATION**

**2013-2014**

**Section 1 – Introduction**

**Article 1 – Recognition**

The County of Inyo (hereinafter called the "County") has recognized the Inyo County Law Enforcement Administrators Association (hereinafter called the "Association") as the formally recognized employee organization of bargaining unit employees for the purpose of meeting its obligations under the Meyers-Milias-Brown Act, Government Code Section 3500 *et seq.*, when rules, regulations, or laws affecting wages, hours and other terms and conditions of employment are amended or changed.

**Article 2 – Not applicable**

**Article 3 - Non-Discrimination**

- Section 1: The parties mutually recognize and agree to protect the rights of all employees hereby to join and/or participate in protected Association activities, or to refrain from joining or participating in protected activities, in accordance with Government Code Sections 3500 to 3511.
- Section 2: The County and the Association agree that they shall not discriminate against any employee because of race, color, sex, age, national origin, ancestry, political or religion or religious creed, medical condition or sexual orientation. The County and the Association shall reopen any provision of this Agreement for the purpose of complying with any final order of a federal or state agency or court of competent jurisdiction requiring a modification or change in any provision or provisions of this Agreement in compliance with state or federal anti-discrimination laws.
- Section 3: Whenever the masculine gender is used in this Agreement, it shall be understood to include the feminine gender.

**Article 4 – Personnel Rules and Regulations**

The County of Inyo Personnel Rules and Regulations are hereby incorporated by reference and, except as provided in this Memorandum of Understanding, govern the terms and conditions of employment.

**Article 5 – Membership**

The Association represents the following management positions;

Undersheriff:	Sheriff's Department
Lieutenants:	Sheriff's Department
Chief Investigator:	District Attorney

**Article 6 – Merit System Membership**

Those positions represented by the Association shall be part of the County Merit System, with the terms and conditions of their employment governed by the County Merit System rules, the County of Inyo Personnel Rules and Regulations and this Memorandum of Understanding. The County shall amend the current Merit System rules as necessary to comply with this section.

## **Section 2 – Salaries / Additional Compensation**

### **Article 1 – Salaries**

Section 1: The positions represented by the Association are flat salaried positions subject only to benefits as addressed by this MOU.

Undersheriff:	SC85, SD85, SE85
Lieutenant:	SC81, SD81, SE81
Chief Investigator	SC81, SD81, SE81

Section 2: 2% COLA effective the first full pay period beginning January 2, 2014.

### **Article 2 – Longevity Pay**

County agrees to the following longevity increases after ten (10) years of consecutive services:

10 years:	2%
15 years:	2%
20 years:	2%
25 years:	2%

### **Article 3 – Bilingual Pay**

County agrees to compensate Members who meet bilingual proficiency qualifications an additional five percent (5%) per month. The Sheriff shall designate the languages and testing requirements, including periodic re-examination of proficiency as deemed appropriate, which will determine the qualifications for and maintenance of this incentive.

### **Article 4 – Uniforms**

Section 1: The uniform allowance is \$1,000.00 per year for the cleaning, replacement and maintenance of Members clothing.

Section 2: This allowance shall be paid quarterly in the amount of \$250. This shall be payable on the last payroll date of each quarter.

Section 3: All clothing damaged within the course and scope of employment shall be replaced or repaired at no cost to the Member. The determination as to replacement or repair shall be made by the Department. Normal wear and tear is not included.

### **Article 5 – Out of Classification Pay**

In the event a represented employee is temporarily assigned for a period of more than 5 working days to a position with a higher salary range that member shall have his or her salary increased to the amount of the higher range for the duration of the assignment. The increase is retroactive to the first day of the assignment.

## **Article 6 – Educational Reimbursement**

The County agrees to reimburse educational expenses up to a maximum of \$350.00 per fiscal year, per Member for tuition and books.

- The Member must be engaged in a course of study that has a direct relationship to duties performed and would benefit the Department and County and is approved by the Department Head.
- The Member must complete the course work with a grade of "passing" or higher and submit a final grade report and a receipt for books purchased.
- If a Member makes a commitment to attend course work either in-county or out-of-county, the Department will make every attempt to accommodate a Member's request for duty scheduling to allow for successful course completion.
- The Member will be required to utilize leave time if time off in excess of normally scheduled time off is required for successful course completion.
- If the Department grants scheduling priority to a Member and such a priority cause other Members to receive undesirable shift work or not receive the normal rotational shift change, the Department will not be subject to grievance issues.

## **Article 7 – Other Safety Compensation**

### A. Education Incentive:

1. County agrees to compensate Members holding Associate College degrees and/or an Intermediate Certificate issued by Peace Officers Standards and Training an additional 5 percent ( 5%) of the Members base pay.

2. County agrees to compensate Members holding Bachelor College degrees and/or an Advanced Certificate issued by Peace Officer Standards and Training an additional 5 percent ( 5%) of the Members base pay.

3. County agrees to compensate Members holding a Supervisory Certificate issued by Peace Officer Standards and Training an additional 5 percent ( 5% ) of the Member's classification base pay.

4. County agrees to compensation Members possessing a Masters Degree in a field applicable to Law Enforcement Management and/or a Management Certificate from Peace Officers Standards and Training (POST) an additional 5% of the Members base pay.

5. Stand By Pay: Employees requested by the Department Head to serve an after hours response capacity will receive \$100 per day for performing standby duties on Saturday and Sunday and any county recognized holiday.

B. Safety Equipment: The County agrees to supply the following safety equipment to Members. If Members wish to purchase equipment that is not standard issue, they may do so at their own expense. All equipment shall meet Departmental approval prior to use.

*Gun*  
*Holster*  
*Sam Browne belt and accessories*  
*Baton and holder*  
*Handcuff case and handcuffs*  
*Flashlight including batteries*  
*Ammunition and holder*  
*Safety helmet*  
*Body armor*  
*Parka Rain gear (pants and jacket)*

Association agrees to waive all claims for sums expended by its Members to purchase equipment.

C. Expert Pay: All members who qualify as "Expert" or higher at a quarterly qualification shoot will receive a one-time payment of \$50. A qualifying shoot shall be scheduled by the Department once each quarter with a Department appointed firearms instructor. For those members unable to participate in the designated shoot due to vacation, illness or other reason acceptable to the Department, the Department may schedule a make-up qualifying shoot. A member may have only one attempt to qualify as Expert or higher for this additional compensation each quarter. The Firearms Instructor will designate, in accordance with Department policy, which attempt at the qualifying shoot will be the "designated qualifying shoot".

D. Additional Compensation in "Times of Emergency" – In times of declared disaster/emergency, State or Federal, those members assigned to that disaster/emergency shall be compensated for overtime at the rate of time and one-half (1.5%) upon the receipt of reimbursement funds by the County from the State or Federal government for the members work that meets the requirements for the reimbursement rate of 1.5%. This additional compensation shall be provided per the requirements of Resolution No. 94-15.

## **Section 3 – Leave**

### **Article 1 – Vacation**

Vacation accrual rates and use of vacation are defined in the County Personnel Rules and Regulations Manual.

1. Effective November 1, 1997, the maximum amount of vacation days, which may be accrued, shall be 280 hours (35 days).
2. Any excess over 280 hours (35 days) must be used by October 31, 1997, but there shall be no forfeitures of any accrued but unused vacation.
3. In the event an employee is denied a request for vacation, which denial causes the employee to cease accruing vacation benefits due to the 35 day cap provided herein, the employee may continue to accrue vacation benefits so long as (1) the employee and his/her supervisor agree that the employee will take necessary vacation time at a date in the future to bring the employee below the 35-day cap; (2) the alternate vacation must be scheduled and taken by the employee within six months; and (3) the County Administrator approves the arrangements, which approval will not be unreasonably denied.
4. In the event an employee would cease accruing vacation benefits due to the 35-day cap provided herein, the employee may continue to accrue vacation benefits so long as (1) the employee and his/her supervisor agree that the employee will take necessary vacation time at a date in the future to bring the employee below the 35-day cap; (2) the vacation must be scheduled and taken by the employee within six months; and (3) the County Administrator approves the arrangements, which approval will not be unreasonably denied.

The Association understands that the County is under no obligation to change vacation benefits for DSA employees and that an agreement providing for no changes to vacation benefits for DSA employees would result in no changes to LEAA represented employees.

## **Article 2 – Holidays**

Association Members shall be entitled to the following legal holidays:

*January 1 (New Years Day)*  
*Third Monday in January (Martin Luther King Day)*  
*February 12 (Lincoln's Birthday)*  
*Third Monday in February (Washington's Birthday)*  
*Last Monday in May (Memorial Day)*  
*July 4 (Independence Day)*  
*First Monday in September (Labor Day)*  
*September 9 (California Admissions Day)*  
*Second Monday in October (Columbus Day)*  
*November 11 (Veterans Day)*  
*Thanksgiving Day*  
*Friday immediately following Thanksgiving Day*  
*December 25 (Christmas)*  
*Christmas Eve and New Years Eve (See below)*

All regular employees eligible therefore under Rule 818 of the Personnel Rules shall be entitled to a one (1) day holiday with pay on their last working day preceding either December 25 or January 1 of each year. The employee's Department head shall determine upon which of the alternative days the employee may take such leave. Department heads shall schedule such leaves in a manner, which ensures continuation of regular County business with a minimum degree of disruption. If an employee cannot be excused on either day, the employee shall be entitled to the leave at some other time convenient to the Department.

Every day appointed by the President or Governor for a public fast, thanksgiving or holiday.

If any of the above-designated holidays falls on a Saturday, the preceding Friday is a holiday. If any of the above designated holidays falls on a Sunday, the following Monday is a holiday. Employees for whom necessity requires a different holiday schedule than generally applied shall work according to regulations prepared by the Department Head.

## **Article 3 – Sick**

Any Member, at the member's option, may exchange up to ten (10) days accrued unused sick leave with the County for money compensation at the employee's current hourly rate upon the following conditions:

1. A maximum of ten (10) days of accrued unused sick leave may be exchanged during any calendar year;
2. The exchange will be made on or before December 5<sup>th</sup> of each year;
3. After the exchange, the member must maintain a minimum balance of 100 hours of accrued unused sick leave.

Except as provided above, there shall be no payoff of accrued unused sick leave upon termination or retirement.

**Article 4 – Leave Pool**

Association members are all currently involved in the County Leave Pool as such continue to be involved on an equal basis with DSA members.

## **Section 4 – Other Benefits**

### **Article 1 – Insurance**

- Section 1: The County shall maintain the existing health (including PORAC Premier), dental, vision, long-term disability and life insurance and shall continue them on an equal basis for those benefits.
- Section 2: Except as specified herein, the represented employees shall receive all benefits as provided for in the Personnel Rules and Regulations.
- Section 3: Effective the first full pay period in January 2014 - County agrees to pay 80% of the premium of PERS Choice, PORAC or PERS Select Plans. Employee will be responsible for 20% of the premium. The maximum the County will contribute toward a different CalPERS plan other than listed above will be 80% of PERS Choice premium.
- Section 4. Effective first full pay period in January 2014 , employees who have other medical coverage and have opted out of the County's Medical Plan will receive the following:
- |                |                         |
|----------------|-------------------------|
| Employee Only: | \$92.31 per pay period  |
| Employee + 1:  | \$184.62 per pay period |
| Family:        | \$276.93 per pay period |
- Section 5. If and when the County is allowed or becomes eligible to participate in a Two-Tier Medical Insurance System allowing the discontinuation or modification of retiree medical benefits for new hires, LEAA agrees to meet and confer on implementation of the Two-Tier Medical Insurance System.

### **Article 2 – Retirement**

- Section 1: The County agrees to provide the 3% at 50 Full Formula PERS retirement for Association members.
- Section 2: The County agrees to pay the Association members contribution for PERS retirement at the rate of 9%.
- Section 3: Members upon retirement may convert up to three hundred (300) days accrued unused sick leave to service credit upon retirement.
- Section 4: County will pay 100% of the Members' normal contributions as employer paid member contributions (EPMC) and report the same percentage of compensation earnable as additional compensation pursuant to Government Code Section 20636 (c)(4) and 20691.
- Section 5 : County will implement PEPRA as outlined in the law for all new employees hired after January 1, 2013.

## **Section 5 – Policy and Procedures**

### **Article 1 – No Smoking Policy**

County and Association agree to a non-smoking policy as a condition of employment for new hires.

### **Article 2 – Drug and Alcohol Policy**

- A. Association agrees to the County Alcohol and Drug Abuse Policy as last amended 9/91. County agrees that members are excluded from this policy when duties require they maintain possession of alcohol or drugs. County also agrees that members who are required by the Department to undergo an alcohol or drug test as described in the policy will:
1. be entitled to a second sample and independent analysis of the second sample; and
  2. be evaluated under County Personnel Rules and Regulations policies with regard to "probable cause" for drug testing.
- B. The Association also agrees to the County of Inyo Drug and alcohol Policy pursuant to the Department of Transportation Resolutions as last amended April 1, 1998.

### **Article 3 – Employee Assistance Policy**

The County will provide represented employees with the same employee assistance program as provided to its other merit system employees.

### **Article 4 – Travel Pay**

County will use the Internal Revenue Service (IRS) policy regarding reimbursement of travel pay. If the IRS rates increase, the County reimbursement rates will increase in the same amount as the IRS rates. Should the IRS rates decrease or undergo fundamental changes, renegotiations between the County and the Association on travel pay will occur.

### **Article 5 – Tuition Reimbursement**

The County agrees to reimburse educational expenses up to a maximum of \$350.00 per year, per Member for tuition and books.

The Member must be engaged in a course of study that has a direct relationship to duties performed and would benefit the Department and County and is approved by the Department Head. The Member must complete the course work with a grade of "passing" or higher and submit a final grade report and a receipt for books purchased.

If a Member makes a commitment to attend course work either in county or out-of-county, the Department will make every attempt to accommodate a Member's request for duty scheduling to allow for successful course completion. The Member will be required to utilize leave time if time off in excess of normally scheduled time off is required for successful course completion.

If the Department grants scheduling priority to a Member and such a priority cause other Members to receive undesirable shift work or not receive the normal rotational shift change, the Department will not be subject to grievance issues.

#### **Article 6 – Mistaken Overpayments**

Should any covered employee be overpaid due to any mistake or inadvertence, the County may recover the amount of overpayment by subsequent unilateral deduction from the pay of the employee in question up to not more than the amount of the overpayment. However, not more than twenty-five percent (25%) of any such employee's net pay shall be deducted from any one paycheck for this purpose.

#### **Article 7 - Elevation to Elected Office**

In the event an Association member is elected to any County office, the Member may carry over to the new position 120 days of sick leave for the sole purpose of converting such sick leave to service credit at the time of retirement.

In the event an elected office is vacated by an elected official, a represented employee temporarily assigned the duties of that elected official shall have his salary increased to the amount the elected official received when the office was vacated. Such increase shall be paid beginning the date the office was vacated until the vacancy is filled by either the Board of Supervisors or an election, whichever is earlier.

#### **Article 8 – Discipline & Grievance Procedure**

Employee grievances and discipline shall be handled in accordance with the County Personnel Rules and Regulations. Selection of Hearing Officer shall be mutually agreed upon by both parties and to be selected from a list provided by Mr. Curtis Lyon of the State Mediation and Conciliation Service.

This Memorandum of Understanding hereby incorporates by reference the provisions of sections 3300 through 3311 of the Government Code of the State of California, which sections are collectively known as the Public Safety Officers' Procedural Bill of Rights Act.

#### **Article 9 – Personnel Complaints per Section 832.5 of the California Penal Code**

Personnel complaints will be taken as required by law.

In those cases where a personnel complaint is of a nature that may result in disciplinary action as referenced in Sections 3300 through 3311 of the California Government Code, the Department will request such complaint be made in writing. If the complaining party refuses to write or sign such complaint, such refusal will be noted in the investigator's report along with the reason, if known.

**Article 10 – Administrative Reorganization**

If Department lay-offs are required, those having a below standard evaluation at last annual evaluation will be laid off first, and thereafter, layoffs will be made by seniority. Seniority shall be determined first by rank, then by length of service within a rank and finally by length of service with the Department.

When the Department rehires after layoffs have occurred, the last employee laid off will be the first employee rehired.

## **Section 6 – Other Terms**

### **Article 1 - Authorized Agents**

Authorized agents, for the purpose of administering the terms and provisions of this Memorandum of Understanding shall be:

*County:*

County Administrative Officer  
P.O. Box N  
Independence, CA 93526

*Association:*

President, Law Enforcement  
Administrators Association  
P.O. Box 31  
Lone Pine, CA 93545

### **Article 2 – No Strike – No Lockout**

- Section 1: The Association, its officers, agents, representatives and or members agree that during the term of this MOU they will not cause or condone any strike, walkout, slowdown, sick-out or any other job action by withholding or refusing to perform services.
- Section 2: The County agrees that it shall not lockout the represented employees during the term of this MOU. The term "lockout" is hereby defined so as to include the discharge, suspension, termination, layoff, failure to recall or failure to return to work employees of the County in the exercise of it's rights as set forth in any of the provisions of this MOU or applicable ordinance or law.
- Section 3: Any employee of the County who participates in any conduct prohibited in Section 1 above may be subject to disciplinary action up to and including termination.
- Section 4: In the event that any one or more officers, agents, representatives, or members of the Association engage in any of the conduct prohibited in Section 1 above, the Association shall immediately instruct any persons engaging in such conduct that their conduct is in violation of this MOU and is unlawful and they must immediately cease engaging in conduct prohibited in Section 1 above, and return to work.

### **Article 3 – Emergency Waiver**

In the event of circumstances beyond the control of the County, such as acts of God, fire, flood, insurrection, civil disorder, national emergency, or similar circumstances, if the County Administrative Officer or his designee so declares, any provisions of this MOU or the Personnel Rules of the County, which restricts the County's ability to respond to these emergencies, shall be suspended for the duration of such emergency. After the emergency is declared over, the Association shall have the right to meet and confer with the County regarding the impact on employees of the suspension of these provisions in the MOU and any personnel rules and policies.

#### **Article 4 – Re-opener**

Section 1: Either the Law Enforcement Administrators Association or the County may reopen this MOU to negotiate any term(s) and condition(s) expressly addressed or absent from this MOU upon 30 days written notice to the other side. Both parties agree to negotiate regarding any issues subject to the request to reopen the MOU. Changes will only be made by mutual agreement of both sides.

Section 2: The parties shall reopen any provisions of this MOU for the purpose of complying with any final order of a federal or state agency or court of competent jurisdiction requiring a modification or change in any provision or provisions of this MOU in order to comply with state or federal laws.

#### **Article 5 – Employee Organizational Rights and Responsibilities**

#### **Article 6 – Separability**

Should any provision of this MOU be found to be inoperative, void, or invalid by a court of competent jurisdiction, all other provisions of this MOU shall remain in full force and effect.

#### **Article 7 – Sole and Entire MOU**

Section 1: It is the intent of the parties hereto that the provisions of this Memorandum of Understanding shall supersede all prior agreements and memoranda of agreement or memoranda of understanding, or contrary salary and/or personnel resolutions, or written, expressed or implied, between the parties, and shall govern the entire relationship and shall be the sole source of any and all rights which may be asserted hereunder. This Memorandum of Understanding is not intended to conflict with Federal or State law.

Section 2: The parties acknowledge that the Board of Supervisors will adopt this agreement by resolution and that said resolution shall remain in full force and effect during the life of this Memorandum of Understanding.

**Article 8 – Term of MOU**

The term of this Memorandum of Understanding shall continue in full force and effect until December 31, 2014. The County will provide each employee represented by the Association a copy of this and all subsequent MOU's.

**Article 9 – Ratification and Execution**

The County and the Association acknowledge that this Memorandum of Understanding shall not be in full force and effect until ratification by the Association and adopted by the Board of Supervisors of the County of Inyo. Subject to the foregoing, this MOU is hereby executed by the authorized representatives of the County and Association and entered into as of this 10th day of December 2013.

DATED: 12/5/13

SIGNED:   
LEAA President, Jeff Hollowell

DATED: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
Chairperson, Board of Supervisors



**AGENDA REQUEST FORM**  
**BOARD OF SUPERVISORS**  
**COUNTY OF INYO**

Consent    Departmental    Correspondence Action    Public Hearing  
 Schedule time for    Closed Session    Informational

For Clerk's Use  
Only:

AGENDA NUMBER

10

FROM: Coroner  
BY: Kelley Williams

FOR THE BOARD MEETING OF: December 10, 2013

SUBJECT: Approval of 2 (two) new Coroner Contracts with the County of Inyo for Autopsy Services

**DEPARTMENTAL RECOMMENDATIONS:**

Request your Board approve contracts between the County of Inyo and the following, and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained and the Board's adoption of future budgets:

- (a) Eva S. Wasef, M.D., for autopsy services for the term of January 1, 2014 through December 31, 2015 for a total contract amount of \$46,000; and
- (b) Milton R. Jones, M.D., for autopsy services for the term of January 1, 2014 through December 31, 2015 for a total contract amount of \$43,200.

**CAO RECOMMENDATION:**

**SUMMARY DISCUSSION:**

Dr. Eva Wasef and Dr. Milton Jones' contracts expire with the County on December 31, 2013. Milton J. Jones, M.D. resides in Lone Pine. He has provided Inyo County with autopsy services since the 1960's at a very reasonable cost to the County and he is the only physician in Southern Inyo County with the expertise to provide autopsy services. Dr. Jones is currently training another physician that lives in the area to provide these autopsy services during Dr. Jones' absence.

Eva S. Wasef, M.D. has graciously worked for the Coroner's office for the past year as the Coroner's autopsy surgeon. She is a pathologist at Northern Inyo Hospital and is currently the only pathologist in Inyo County. There is no one in the area with her expertise and laboratory availability to assist me. She is able to provide microscopic studies and immediate toxicology services when needed to determine the cause of death. Her services are a tremendous benefit to the County.

I am requesting a two year contract renewal with both of these physicians to coincide with all of the other service contracts with the Coroner's office, i.e. Central Valley Toxicology and the three deputy coroners.

**ALTERNATIVES:**

Your Board could approve the contracts as submitted or could disapprove the contracts and advise staff of further direction. This action is not recommended. If Inyo County were located in a more populated area, I would be in a position to seek bids for these services. But, with lack of these specialized services available in our remote area, Inyo County is fortunate to have Drs. Jones and Wasef available to provide these critical services to the Coroner.

**OTHER AGENCY INVOLVEMENT:**

**FINANCING:**

The funding for these contracts is included in the FY 2013/2014 Board approved Coroner's Budget #023500, Professional Services Object Code #5265.

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) <i>Margaret Temple Williams</i> Approved: <input checked="" type="checkbox"/> Date <u>12/03/2013</u>
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.) <i>[Signature]</i> Approved: <u>yes</u> Date <u>12/3/2013</u>
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) <i>[Signature]</i> Approved: <input checked="" type="checkbox"/> Date <u>12-3-2013</u>

**DEPARTMENT HEAD SIGNATURE:**  
(Not to be signed until all approvals are received) *[Signature]* Date: 12-3-2013

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Eva S. Wasef, M.D.  
**FOR THE PROVISION OF** Autopsy **SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the autopsy services of Eva S. Wasef, M.D. of San Marino, CA (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Leon B. Brune, whose title is: Coroner. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, county, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

**2. TERM.**

The term of this Agreement shall be from 01/01/ 2014 to 12/31/2015 unless sooner terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment C) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed \$46,000.00 Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9, attached hereto as Attachment C, upon executing this Agreement.

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

**6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.**

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

**7. COUNTY PROPERTY.**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

**8. WORKERS' COMPENSATION.**

Contractor shall provide Statutory California Worker's Compensation coverage and Employer's Liability coverage for not less than \$1,000,000 per occurrence for all employees engaged in services or operations under this Agreement. The County of Inyo, its agents, officers and employees shall be named as additional insured or a waiver of subrogation shall be provided.

**9. INSURANCE.**

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives or employees.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001).
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Errors and Omissions liability insurance appropriate to the Contractor's profession. Architects' and engineers' coverage is to be endorsed to include contractual liability.

B. Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1. General Liability (including operations, products and completed operations as applicable): \$1,000,000.00 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$ 500,000.00 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000.00 per accident for bodily injury or disease.
4. Errors and Omissions Liability: \$1,000,000.00 per occurrence.

C. Deductibles and Self-insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the County guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

D. Other Insurance Provisions. The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The County, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance, or as a separate owner's policy (CG 20 10 11 85).
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the County.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII. The County at its option may waive this requirement.

F. Verification of Coverage. Contractor shall furnish the County with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the County or on other than the County's forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the County before work commences. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by the specifications at any time.

## 10. STATUS OF CONTRACTOR.

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

- A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.
- B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.
- C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

## 11. DEFENSE AND INDEMNIFICATION.

Contractor shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the performance of this Agreement by Contractor, or Contractor's agents, officers, or employees. Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Contractor's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other costs which is caused in whole or in part by any act or omission of the Contractor, its agents, employees, supplier, or any one directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Contractor, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

## 12. RECORDS AND AUDIT.

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts

during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

**13. NONDISCRIMINATION.**

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

**14. CANCELLATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

**15. ASSIGNMENT.**

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

**16. DEFAULT.**

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

**17. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-four (24) below.

**18. CONFIDENTIALITY.**

Contractor agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County.

**19. CONFLICTS.**

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

**20. POST AGREEMENT COVENANT.**

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

**21. SEVERABILITY.**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**22. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-four (24) (Amendment).

**23. ATTORNEY'S FEES.**

If either of the parties hereto brings an action or proceeding against the other, including, but not limited to, an action to enforce or declare the cancellation, termination, or revision of the Agreement, the prevailing party in such action or proceeding shall be entitled to receive from the other party all reasonable attorney's fees and costs incurred in connection therewith.

**24. AMENDMENT.**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**25. NOTICE.**

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo:

<u>Coroner</u>	Department
<u>325 W. Elm Street</u>	Street
<u>Bishop, CA 93514</u>	City and State

Contractor:

<u>Eva S. Wasef, M.D.</u>	Name
<u>1775 Chelsea Road</u>	Street
<u>San Marino, CA 91108</u>	City and State

26. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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**AGREEMENT BETWEEN COUNTY OF INYO**  
AND Eva S. Wasef, M.D.  
FOR THE PROVISION OF Autopsy SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS DAY  
OF \_\_\_\_\_

COUNTY OF INYO:

CONTRACTOR:

By: \_\_\_\_\_

By: Eva S. Wasef  
Type or Print Name

Eva S. Wasef  
Signature

Dated: \_\_\_\_\_

Dated: 10/29/2013

APPROVED AS TO FORM AND LEGALITY:

Margaret Kemp Williams  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]  
Director of Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

\_\_\_\_\_  
County Risk Manager

iC:Contracts/MiscContracts/PhysII.116

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Eva S. Wasef, M.D.  
**FOR THE PROVISION OF** Autopsy **SERVICES**

**TERM:**

**FROM:** 01/01/2014 **TO:** 12/31/2015

**SCOPE OF WORK:**

Autopsy Services

**ATTACHMENT B**

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Eva S. Wasef, M.D.  
**FOR THE PROVISION OF** Autopsy **SERVICES**

**TERM:**

**FROM:** 01/01/2014 **TO:** 12/31/2015

**SCHEDULE OF FEES:**

Gross complete autopsy.....	\$1,100.00
External examination and review of medical records to determine the cause of death.....	\$ 500.00
Transcription.....	\$ 20.00
Processing fee.....	\$ 60.00
Reimbursement of microscopic tests required to determine the cause of death.....	\$ 200.00

**ATTACHMENT C**

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Eva S. Wasef, M.D.  
**FOR THE PROVISION OF** Autopsy **SERVICES**

**TERM:**

**FROM:** 01/01/2014 **TO:** 12/31/2015

**FORM W-9**

Request for Taxpayer  
Identification Number and Certification  
(See attached)

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Milton R. Jones M.D.  
**FOR THE PROVISION OF** Autopsy **SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the autopsy services of Milton R. Jones, M.D. of Lone Pine, CA (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Leon B. Brune, whose title is: Coroner. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, county, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

**2. TERM.**

The term of this Agreement shall be from 01/01, 2014 to 12/31/2015 unless sooner terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment C) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed \$43,200.00 Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9, attached hereto as Attachment C, upon executing this Agreement.

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

**6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.**

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

**7. COUNTY PROPERTY.**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

**8. WORKERS' COMPENSATION.**

Contractor shall provide Statutory California Worker's Compensation coverage and Employer's Liability coverage for not less than \$1,000,000 per occurrence for all employees engaged in services or operations under this Agreement. The County of Inyo, its agents, officers and employees shall be named as additional insured or a waiver of subrogation shall be provided.

**9. INSURANCE.**

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives or employees.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001).
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Errors and Omissions liability insurance appropriate to the Contractor's profession. Architects' and engineers' coverage is to be endorsed to include contractual liability.

B. Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1. General Liability (including operations, products and completed operations as applicable): \$1,000,000.00 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$ 500,000.00 per accident for bodily injury and property damage.
3. Employer's Liability: \$ 1,000,000.00 per accident for bodily injury or disease.
4. Errors and Omissions Liability: \$ 1,000,000.00 per occurrence.

C. Deductibles and Self-insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the County guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

D. Other Insurance Provisions. The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The County, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance, or as a separate owner's policy (CG 20 10 11 85).
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the County.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII. The County at its option may waive this requirement.

F. Verification of Coverage. Contractor shall furnish the County with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the County or on other than the County's forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the County before work commences. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by the specifications at any time.

## 10. STATUS OF CONTRACTOR.

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

## 11. DEFENSE AND INDEMNIFICATION.

Contractor shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the performance of this Agreement by Contractor, or Contractor's agents, officers, or employees. Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Contractor's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other costs which is caused in whole or in part by any act or omission of the Contractor, its agents, employees, supplier, or any one directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Contractor, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

## 12. RECORDS AND AUDIT.

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts

during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

**13. NONDISCRIMINATION.**

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

**14. CANCELLATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

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This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

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If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

**17. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-four (24) below.

**18. CONFIDENTIALITY.**

Contractor agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County.

**19. CONFLICTS.**

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

**20. POST AGREEMENT COVENANT.**

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

**21. SEVERABILITY.**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**22. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-four (24) (Amendment).

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If either of the parties hereto brings an action or proceeding against the other, including, but not limited to, an action to enforce or declare the cancellation, termination, or revision of the Agreement, the prevailing party in such action or proceeding shall be entitled to receive from the other party all reasonable attorney's fees and costs incurred in connection therewith.

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This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**25. NOTICE.**

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo:

<u>Coroner</u>	Department
<u>325 W. Elm Street</u>	Street
<u>Bishop, CA 93514</u>	City and State

Contractor:

<u>Milton R. Jones, M.D.</u>	Name
<u>151 S. Lakeview Avenue</u>	Street
<u>Lone Pine, CA 93545</u>	City and State

26. **ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Milton R. Jones, M.D.  
**FOR THE PROVISION OF** Autopsy **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS DAY  
OF \_\_\_\_\_

COUNTY OF INYO:

CONTRACTOR:

By: \_\_\_\_\_

By: \_\_\_\_\_

Type or Print Name

Milton R Jones M D

Signature

Dated: \_\_\_\_\_

Dated: 11/01/2013

APPROVED AS TO FORM AND LEGALITY:

Margaret Kemp-Williams

County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

See DC

Director of Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

\_\_\_\_\_  
County Risk Manager

iC:Contracts/MiscContracts/PhysII.116

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** Milton R. Jones, M.D.  
**FOR THE PROVISION OF** Autopsy **SERVICES**

**TERM:**

**FROM:** 01/01/2014 **TO:** 12/31/2015

**SCOPE OF WORK:**

Autopsy Services

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO  
AND Milton R. Jones, M.D.  
FOR THE PROVISION OF Autopsy SERVICES

TERM:

FROM: 01/01/2014 TO: 12/31/2015

SCHEDULE OF FEES:

Gross complete autopsy.....\$900.00  
External examination to determine the cause of death  
or medical consultation.....\$400.00  
Reimbursement of other necessary chargrs in determining  
cause of death: Microscopic examination or other  
needed tests.....\$As Billed

(As Billed by an outside service that provides the tests required,  
with a copy of their actual invoice)

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO  
AND Milton R. Jones, M.D.  
FOR THE PROVISION OF Autopsy SERVICES

TERM:

FROM: 01/01/2014 TO: 12/31/2015

FORM W-9

Request for Taxpayer  
Identification Number and Certification  
(See attached)



**AGENDA REQUEST FORM**  
 BOARD OF SUPERVISORS  
 COUNTY OF INYO

For Clerk's Use Only:  
 AGENDA NUMBER

11

- Consent   
  Departmental   
  Correspondence Action   
  Public Hearing  
 Scheduled Time:   
  Closed Session   
  Informational

**FROM:** Planning Department

**FOR THE BOARD MEETING OF:** December 10, 2013

**SUBJECTS:** Amendment No. Four to contract between the County of Inyo and PCR Services Corporation, for the provision of environmental review and processing services for the Environmental Impact Report for the Crystal Geyser Roxane Cabin Bar Ranch Water Bottling Plant project.

**DEPARTMENTAL RECOMMENDATION:** Request that the Board approve Amendment No. Four to the contract between the County of Inyo and PCR Services Corporation to extend the contract termination date from December 31, 2013 to June 30, 2014, and authorize the Chairperson to sign.

**SUMMARY DISCUSSION:** On February 22, 2011, the Board entered into a contract with PCR Services Corporation to produce an Environmental Impact Report (EIR) for the Crystal Geyser Roxane (CGR) Cabin Bar Ranch Water Bottling Plant project. On February 7, 2012, the Board approved Amendment No. One to the Contract between County of Inyo and PCR to increase the amount payable under the Agreement and augment the scope of work. On January 22, 2013, the Board approved Amendment No. Two to the Contract between County of Inyo and PCR to increase the amount payable under the Agreement, extend the contract term limit, and augment the scope of work. On June 25, 2013, the Board approved Amendment No. Three to the Contract between County of Inyo and PCR to extend the contract term limit.

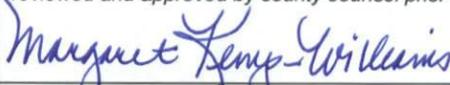
Prior to CGR being able to pump any water, a Mitigation, Monitoring, and Reporting Plan (MMRP) needs to be approved by the Board of Supervisors. Due to the possibility of additional work needing to be done with regards to the MMRP, it is prudent to extend the contract to June 30, 2014.

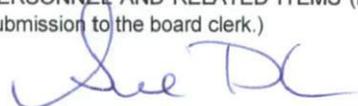
**ALTERNATIVES:** The Board could choose not to approve the proposed amendments. This is not recommended, as the services of PCR were and are necessary in order for the County to continue processing the application from CG Roxane LLC.

**OTHER AGENCY INVOLVEMENT:** None directly.

**FINANCING:** Reimbursement for the costs of the Crystal Geyser Cabin Bar Ranch Water Bottling Plant project Environmental Impact Report (EIR) will continue to be provided by initial, and subsequent, deposits from the C.G. Roxane, LLC which are held in trust (C.G. Cabin Bar, 503811).

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>  Approved: <input checked="" type="checkbox"/> Date <u>11/25/13</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>  Approved: <input checked="" type="checkbox"/> Date <u>12/2/2013</u>

PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: <u>J</u> Date <u>12/2/2013</u>
---------------------	--

**DEPARTMENT HEAD SIGNATURE:**  
(Not to be signed until all approvals are received)  Date: 12/3/13

Attachments:

- 1.) Proposed Contract Amendment with PCR Services

**AMENDMENT NO. FOUR TO THE AGREEMENT  
BETWEEN THE COUNTY OF INYO AND  
PCR SERVICES CORPORATION  
FOR THE PROVISION OF ENVIRONMENTAL REVIEW  
AND PROCESSING SERVICES**

**WHEREAS**, the County of Inyo (hereinafter referred to as "County") and PCR Services Corporation (hereinafter referred to as Contractor) have entered into an Agreement for the provision of professional services dated February 22, 2011 on County of Inyo Standard Contract No. 156 for the term from March 1, 2011 to March 1, 2013; and

**WHEREAS**, by Contract Amendment One, dated February 7, 2012, the County and Contractor amended said Agreement to increase the amount payable under the Agreement to \$239,822 and augment the Scope of Work for biological, historic, and archaeological resources, data collection, and meetings and management; and

**WHEREAS**, by Contract Amendment Two, dated January 22, 2013, the County and Contractor amended said Agreement to increase the amount payable under the Agreement to \$365,491, extend the contract term to June 30, 2013, and augment the Scope of Work to reflect the effort to complete the draft and final EIRs; and

**WHEREAS**, by Contract Amendment Three, dated June 25, 2013, the County and Contractor amended said Agreement to extend the contract term to December 31, 2013; and

**WHEREAS**, County and Contractor do desire to consent to further amend such Agreement as set forth below.

**WHEREAS**, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

**County and Contractor hereby amend such Agreement, Amendment Four, as follows:**

Revise Section 2 (Term) of the Agreement to extend the termination date of the Agreement to June 30, 2014.

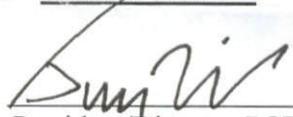
AMENDMENT NO. FOUR TO THE AGREEMENT BETWEEN THE COUNTY  
OF INYO AND  
PCR SERVICES CORPORATION  
FOR THE PROVISION OF ENVIRONMENTAL REVIEW AND PROCESSING  
SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS  
AND SEALS THIS \_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

COUNTY

CONTRACTOR

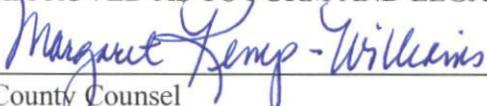
By: \_\_\_\_\_

By:  \_\_\_\_\_  
Vice President/Director, PCR Services Corp.

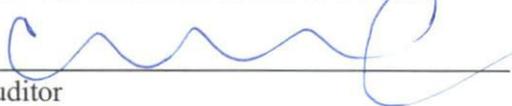
Dated: \_\_\_\_\_

Dated: 11/19/13

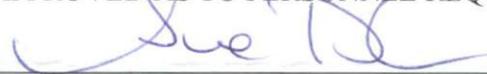
APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

  
\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

  
\_\_\_\_\_  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

  
\_\_\_\_\_  
County Risk Manager



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

12

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time     Closed Session     Informational

**FROM:** Planning and Water Departments

**FOR THE BOARD MEETING OF:** December 10, 2013

**SUBJECT:** Amendment No. Six to the contract between the County of Inyo and Daniel B. Stephens & Associates, Inc.

**DEPARTMENTAL RECOMMENDATION:** Request the Board approve Amendment No. Six to the contract between County of Inyo and Daniel B. Stephens & Associates, Inc. (DBSA) to extend the contract term to March 31, 2014 for the provision of hydrologic analysis services, and authorize the Chairperson to sign.

**SUMMARY DISCUSSION:** On March 11, 2009 the Inyo County Planning Commission approved Conditional Use Permit (CUP) No. 2007-03 (Coso Operating Company, LLC) and certified an associated Environmental Impact Report (EIR), which permitted the Coso Operating Company (Coso) to extract groundwater from two existing wells on its Hay Ranch in the Rose Valley and transport it via pipeline to Coso's geothermal plant at China Lake Naval Air Weapons Station nine miles east. Conditions of approval include a Hydrologic Mitigation Monitoring Plan (HMMP), which provides a mechanism to monitor groundwater levels in the Rose Valley and to regulate Coso's groundwater pumping to ensure less than significant impacts. Subsequently, an appeal was filed and the Board upheld the Planning Commission's decision on May 6, 2009.

As required by the CUP, EIR, and HMMP, the Water Department issued an Addendum to the HMMP on April 1, 2011, which describes the baseline groundwater levels and the changes to the groundwater level triggers, pumping rate, and duration of pumping approved by the Water Department.

When DBSA completed its work supporting the HMMP Addendum, it recommended that the groundwater model's predictions should be reexamined after a further period of groundwater pumping and data collection, and at the discretion of the Water Department staff, the model should be recalibrated and revised as indicated by the most recent data. This was completed in August 2013.

On September 13, 2013, an appeal of the Inyo County Water Department decision, which allowed Coso to continue pumping was received. Extension of the Contract is necessary in the event that DBSA needs to complete additional work related to the appeal or be available for the appeal hearing.

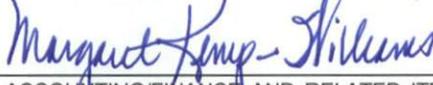
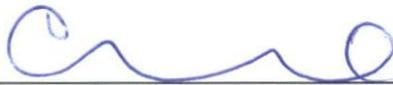
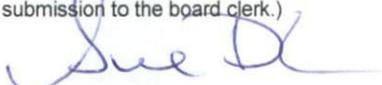
On November 20, 2010, the Board approved Amendment No. One to the contract between County of Inyo and DBSA which amended the schedule of fees to reflect the contract limit and not a task limit. On April 5, 2011, the Board approved Amendment No. Two to the contract between County of Inyo and DBSA to amend the contract term to April 15, 2012 and to increase the amount payable under the agreement to fund necessary hydrologic analysis as required by mitigation measures established in the CUP and Environmental Impact Report. On April 10, 2012, the Board approved Amendment No. Three to the contract between County of Inyo and DBSA to amend the contract term to June 30, 2013. On June 25, 2013, the Board approved Amendment No. Four to the contract between County of Inyo and DBSA to

amend the contract term to December 31, 2013 and amended the schedule of fees to reflect the 2013 DBSA Standard Schedule of Fees. On July 16, 2013, the Board approved Amendment No. Five to the contract between County of Inyo and DBSA to increase the amount payable under the agreement and added tasks to the scope of work.

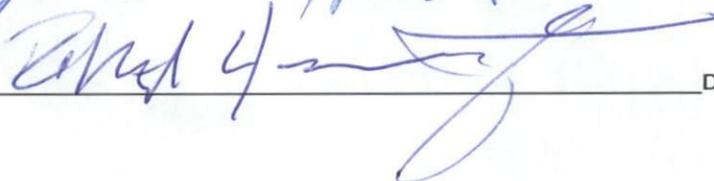
**ALTERNATIVES:** The Board could not approve the amendment. This is not recommended as additional work may be necessary due to the appeal.

**OTHER AGENCY INVOLVEMENT:** Coso Operating Company, LLC, Daniel B. Stephens & Associates, County Counsel

**FINANCING:** Financing will continue to be provided by deposit from the Coso Operating Company, LLC (Coso Monitoring & Mitigation Fund Balance, 503823). \$8,960.50 remains on the Contract with DBSA for the provisions of hydrologic analysis services, which will cover all costs associated with this amendment. Work on tasks in accordance with this amendment will take place in FY 2013-2014 and was included in the FY 2013-2014 Board approved budget.

<b>APPROVALS</b>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  Approved: <input checked="" type="checkbox"/> Date <u>11/25/13</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>12/2/2013</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: <input checked="" type="checkbox"/> Date <u>12/2/2013</u>

**DEPARTMENT HEAD SIGNATURE:**  
 (Not to be signed until all approvals are received)  Date: 12/3/13

**DEPARTMENT HEAD SIGNATURE:**  
 (Not to be signed until all approvals are received)  Date: 12/3/2013

**Attachments**

- 1 – Proposed Contract Amendment (DBSA)

**AMENDMENT NO. SIX TO THE AGREEMENT  
BETWEEN THE COUNTY OF INYO AND  
DANIEL B. STEPHENS & ASSOCIATES INC.  
FOR THE PROVISION OF HYDROLOGIC ANALYSIS  
SERVICES**

**WHEREAS**, the County of Inyo (hereinafter referred to as "County") and Daniel B. Stephens & Associates Inc. (hereinafter referred to as Contractor) have entered into an Agreement for the provision of hydrologic analysis services dated April 20, 2010 on County of Inyo Standard Contract No. 156 for the term from April 15, 2010 to April 15, 2011; and

**WHEREAS**, by contract Amendment One, dated November 30, 2010, the County and Contractor have amended the schedule of fees to indicate that fees will be paid by the hour not to exceed the Limit Upon Amount Payable under Agreement; and

**WHEREAS**, by contract Amendment Two, dated April 5, 2011, the County and Contractor have extended the contract term to April 15, 2012, increased the amount payable under the agreement to \$165,129.64, and added tasks to the scope of work; and

**WHEREAS**, by contract Amendment Three, dated April 10, 2012, the County and Contractor have extended the contract term to June 30, 2013; and

**WHEREAS**, by contract Amendment Four, dated June 25, 2013, the County and Contractor have extended the contract term to December 31, 2013 and amended the schedule of fees; and

**WHEREAS**, by contract Amendment Five, dated July 16, 2013, the County and Contractor have increased the amount payable under the agreement to \$169,360.14, and added tasks to the scope of work; and

**WHEREAS**, County and Contractor do desire to consent to amend such Agreement as set forth below; and

**WHEREAS**, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

**County and Contractor hereby amend such Agreement, Amendment Six, as follows:**

Revise Section 2 (Term) to extend the contract term to March 31, 2014.

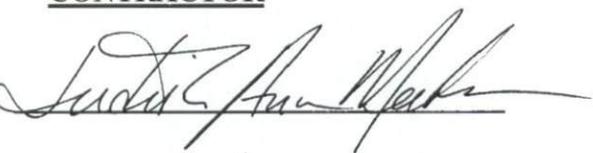
**AMENDMENT NO. SIX TO THE AGREEMENT BETWEEN  
THE COUNTY OF INYO AND  
DANIEL B. STEPHENS & ASSOCIATES INC.  
FOR THE PROVISION OF HYDROLOGIC ANALYSIS SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS  
AND SEALS THIS \_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

**COUNTY**

**CONTRACTOR**

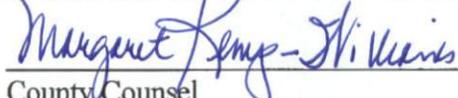
By: \_\_\_\_\_

By: 

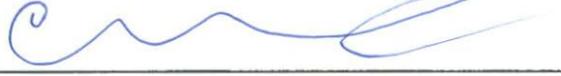
Dated: \_\_\_\_\_

Dated: 4/19/2013

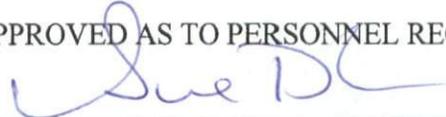
APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

  
\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

  
\_\_\_\_\_  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

  
\_\_\_\_\_  
County Risk Manager



**AGENDA REQUEST FORM**  
**BOARD OF SUPERVISORS**  
**COUNTY OF INYO**

- Consent     Departmental     Correspondence Action     Public Hearing  
 Schedule time for     Closed Session     Informational

For Clerk's Use  
Only:

AGENDA NUMBER

13

FROM: Public Works Department

FOR THE BOARD MEETING OF: December 10, 2013

SUBJECT: Approval of Amendment No. 5 to the contract for engineering services with Quincy Engineering, Inc. (Quincy) for the Sabrina Bridge Replacement Project.

**DEPARTMENTAL RECOMMENDATIONS:** Request that your Board approve Amendment No. 5 to County of Inyo Standard Contract No. 156 between the County of Inyo and Quincy Engineering, Inc. (Quincy) of Sacramento, California for continued engineering services for the Sabrina Bridge Replacement Project, extending the term of the contract to June 30, 2014; and authorize the chairperson to execute the amendment, contingent upon obtaining appropriate signatures, and upon adoption of future budgets.

**CAO RECOMMENDATION:**

**SUMMARY DISCUSSION:** Construction of the Sabrina Bridge Replacement Project was completed on September 25, 2013. This bridge replaces the previously-existing County Bridge 48C-0025, and spans the Middle Fork of Bishop Creek at Sabrina Road. The previously-existing bridge was scour-critical and structurally deficient, therefore, replacement of the bridge was essential. The new bridge consists of a 3.5-foot deep cast-in-place, prestressed concrete box girder bridge with a width of 32.5 feet and a span of 88 feet founded on cast-in-place concrete abutments. This is now the longest single-span bridge in the county. The approach roadway on both sides of the bridge are realigned to improve sight distance and safety. The project is funded by the federal Highway Bridge Program.

Construction of the bridge is finished. However, there is project closeout and as built preparation work that needs to be performed. The need for Quincy's services were expected to end during December 2013 with the completion of construction activities. However, final project closeout is now expected to extend to June 2014. Therefore, the Public Works Department is requesting that the Board approve this amendment.

**ALTERNATIVES:**

The Board could choose not to approve the Amendment No. 5 to the contract with Quincy for the Sabrina Bridge Replacement Project. This is not recommended because Quincy, as engineer-of-record for the project, must complete the as built plans. Public Works will also need Quincy's assistance with the Final Report for the project.

**OTHER AGENCY INVOLVEMENT:**

County counsel

**FINANCING:**

There are no additional financial impacts at this time. The department is only requesting an extension of time to an existing contract that is currently budgeted in Public Works Budget Unit 034601, State Funded Roads, object code 5711, Sabrina Bridge.

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.)	Approved: <u>✓</u>	Date <u>11/22/13</u>
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)	Approved: <u>✓</u>	Date <u>11/27/2013</u>
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)	Approved: <u>N/A</u>	Date _____

**DEPARTMENT HEAD SIGNATURE:**  
(Not to be signed until all approvals are received) [Signature] Date: 11/26/13

**AMENDMENT NUMBER 5 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Quincy Engineering, Inc.  
FOR THE PROVISION OF ENGINEERING AND ENVIRONMENTAL SERVICES  
FOR THE SABRINA ROAD BRIDGE REPLACEMENT PROJECT**

**WHEREAS**, the County of Inyo (hereinafter referred to as "County") and Quincy Engineering, Inc., of Sacramento, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Engineering and Environmental Services dated December 1, 2009, on County of Inyo Standard Contract No. 156, for the term from December 1, 2009 to December 31, 2013.

**WHEREAS**, County and Contractor do desire and consent to amend such Agreement as set forth below;

**WHEREAS**, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

1. Section 2, Term. The first sentence is revised as follows:

"The term of this Agreement shall be from December 1, 2009 to June 30, 2014, unless sooner terminated as provided below."

The effective date of this amendment to the Agreement is December 17, 2013.

All other terms and conditions of the Agreement are unchanged and shall remain the same.

AMENDMENT NUMBER 5 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Quincy Engineering, Inc.  
FOR THE PROVISION OF ENGINEERING SERVICES  
FOR THE RIVERSIDE ROAD BRIDGE REPLACEMENT PROJECT

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

COUNTY OF INYO

By: Margaret Kemp-Williams  
Dated: 11/22/13

APPROVED AS TO FORM AND  
LEGALITY:

\_\_\_\_\_  
County Counsel

APPROVED AS TO ACCOUNTING  
FORM:

[Signature]  
County Auditor

APPROVED AS TO PERSONNEL  
REQUIREMENTS:

\_\_\_\_\_  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

\_\_\_\_\_  
County Risk Manager

CONTRACTOR

By: [Signature]  
Dated: 11/20/13

Taxpayer's Identification Number:

680269312

**AMENDMENT NUMBER 5 TO  
AGREEMENT BETWEEN THE COUNTY OF INYO AND  
Quincy Engineering, Inc.  
FOR THE PROVISION OF ENGINEERING SERVICES  
FOR THE RIVERSIDE ROAD BRIDGE REPLACEMENT PROJECT**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

**COUNTY OF INYO**

**CONTRACTOR**

By: \_\_\_\_\_

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Taxpayer's Identification Number:  
\_\_\_\_\_

APPROVED AS TO FORM AND  
LEGALITY:

  
County Counsel

APPROVED AS TO ACCOUNTING  
FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL  
REQUIREMENTS:

\_\_\_\_\_  
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

\_\_\_\_\_  
County Risk Manager



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

14

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** Pam Hennarty, Senior Deputy County Administrator

**FOR THE BOARD MEETING OF:** December 10, 2013

**SUBJECT:** Consideration of the Designation of Specific County-owned Property as Surplus Property

**DEPARTMENTAL RECOMMENDATION:**

In accordance with the Inyo County Real Property Management Policy,

- A. Designate the County-owned property, identified as Assessor's Parcel Number 003-210-02, located at 210 N. Main Street, Big Pine, CA as surplus property;
- B. Dispose of APN 003-210-02 through a sale to a public entity;
- C. Retain all water and/or mineral rights the County currently has on the property.

**SUMMARY DISCUSSION:**

The Inyo County Real Property Management Policy adopted on August 14, 2007, outlines the process for management, disposition and sale of County-owned Real Property including the process and procedures to be followed when considering if and how a property will be sold. This process includes review by the Financial Advisory Committee, notice of consideration of surplus property and notice of sale.

The Big Pine Volunteer Fire Department expressed interest in purchasing the property located adjacent to the Big Pine Fire Station at 210 N. Main Street Big Pine (APN: 003-210-02) which it currently leases from the County. The property comprises 0.07 acres which was the former site of the Big Pine Library. The Fire Department indicated that the Los Angeles Department of Water and Power is in the process of selling to the Fire Department the adjacent property, also leased by the Fire Department. The Fire Department believes ownership of both parcels will allow for the Fire Department to qualify for funding to construct a new firehouse.

In accordance with the Inyo County Real Property Management Policy, the request was considered by the Financial Advisory Committee. The Financial Advisory Committee recommended that the Board designate APN 003-210-02 as surplus property (attached); move forward with the sale of APN 003-210-02 to a public entity for public purposes in accordance with Government Code Section 54220 et seq.; and retain any water and mineral rights as outlined in the Real Property Management Policy (attached). The property was appraised in April 2010 with a market value of \$16,500. As required by the Real Property Management Policy, the Financial Committee's recommendation for the designation of surplus property and manner of disposal was published in the Inyo Register on November 16 and December 3, 2013.

If the Board approves the surplus designation the property will then be noticed for sale to public entities for a period of 60 days, at which time any offers to purchase the property will be reviewed and brought back for consideration by your Board.

**ALTERNATIVES:**

Your Board could consider not declaring the property as surplus and continuing to lease the property to the Big Pine Fire Department.

**OTHER AGENCY INVOLVEMENT:**

Big Pine Fire Department

**FINANCING:**

No financial considerations associated with this process.

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  <i>Margaret Kemp-Williams</i> Approved: <input checked="" type="checkbox"/> Date <u>12/03/14</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: _____ Date _____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**  
(Not to be signed until all approvals are received)

*Ken Penney* Date: 12/03/13



**FINANCIAL ADVISORY COMMITTEE  
REAL PROPERTY RECOMMENDATION CHECKLIST**

**DATE:** March 3, 2009

**PARCEL INFORMATION**

**ASSESSOR'S PARCEL NUMBER:** 003-210-02

**LOCATION:** 210 N. Main Street, Big Pine, CA (former site of the Big Pine Library)

**CURRENT USE:** Vacant and leased to the Big Pine Fire Department

**MOST RECENT APPRAISED FAIR MARKET VALUE (DATE OF APPRAISAL):** Not Available (Unknown)

**WATER/MINERAL RIGHTS:** Unkown (would need to verify subsequent to Board's designation as surplus property)

**FINANCIAL ADVISORY COMMITTEE RECOMMENDATION** ( CONSENSUS,  MAJORITY,  MINORITY)

**RECOMMENDATION:** Consider designating as surplus property  
Retain any water/mineral rights

**RECOMMENDED MEANS OF DISPOSAL:** Sale to public entity for public purposes in accordance with Government Code Section 54220 et seq.

**RATIONALE:** The County has entered into a long-term lease with the Big Pine Fire Department for its use of this property and the County has no plans to develop parcel. Allowing the Big Pine Fire Department to acquire the parcel for the construction of a new fire station will serve the public interest.

**FINANCIAL ADVISORY COMMITTEE CONSIDERATIONS**

- ACCESS:** Location on Highway 395 may add value to this property, however, it is already under long-term lease to the Big Pine Fire Department which also benefits from its location and access to highway by facilitating the Department's emergency response times.
- INFRASTRUCTURE AVAILABILITY:** Water, sewer and electrical infrastructure were available when the site was utilized by the Big Pine Library, and is readily accessible, which increases value due to lower development costs.
- COMMUNITY NEED:** The Big Pine Fire Department has expressed a need to expand the size of its current fire station to meet community needs.
- FINANCIAL RETURN TO COUNTY:** Financial return to County should be considered relative to public benefit. In this case, the public benefit of making the property available for a new fire station outweighs any financial return the County might otherwise realize by selling the property (if it were not already under long-term lease to the Fire Department).
- POTENTIAL HIGHEST & BEST USES:** Considering its current and desired continued utilization by the Big Pine Fire Department, the highest and best use of this property is to assist the Fire Department in providing EMS and fire protection services to the surrounding community.
- LAND USE DESIGNATIONS:** The property is currently zoned Commercial Business District which allows the proposed use as a fire station.
- OTHER:** The designation of the parcel as surplus property should be considered in the context of the Fire Department also successfully acquiring the neighboring parcel from the LADWP, and its sale should be conditioned on the property's continued use as a fire station. Failure to acquire the adjacent parcel from LADWP, or not using the parcel in conjunction with a fire station, would both have the effect of increasing the value of the property while diminishing the public benefit, in which case the County should benefit more (than it is likely to by selling the parcel to the Fire Department) from a monetary standpoint.

**INYO COUNTY  
REAL PROPERTY MANAGEMENT POLICY**

**I. GENERAL PROVISIONS**

**A. Purpose**

The intent and purpose of this Policy ("Policy") is to establish uniform principles to guide actions by the Inyo County Board of Supervisors ("Board") related to the management, disposition and sale of County-owned Real Property, and the acquisition thereof. The Policy sets forth the process to be used in determining whether County-owned Real Property is surplus to County needs and whether such property should be sold, exchanged, leased, or developed through a Request For Proposal (RFP) process. The Policy also establishes the procedures to be used in the process of selling, exchanging, developing through RFP, or leasing of County-owned Real Property.

**B. Prohibition of Interest in the Disposition of Surplus Property**

Inyo County employees, representatives, consultants, and agents shall comply with all applicable County and State conflict of interest laws and policies in the disposition of surplus property.

**II. POLICY STATEMENT**

Over many years the County of Inyo (County) has obtained various parcels of land that may not be required or suitable for the public's benefit. If the County subsequently determines that a property/properties are no longer required for a public purpose, it may sell, exchange, develop using the RFP-process provided for by law, or lease such real property or interest therein in the manner and upon the terms, standards, and conditions established herein and approved by the Inyo County Board of Supervisors. All sales of property will be made in exchange for payment in cash; exchange for other lands that may be used for a public purpose; or, other value as determined by the Board. The Board will obtain appraised fair market value for any surplus real property offered for sale, except that less than fair market value may be accepted if it is determined to be in the County's best interest by the Board to sell the property for a negotiated amount that is subsequently approved by the Board by 4/5's vote.

**III. COMPLIANCE WITH LAW**

A. The disposal of surplus property, and the acquisition of real property shall be in accordance with all laws that are in existence at the time of disposal or acquisition.

**B. Properties that have been determined to be surplus to the County by the Board may be disposed of according to state law, which is summarized in Attachment A.**

**C. Sale to Public Entity**

**First consideration for properties determined to be surplus to the County shall be sold or traded to another public entity for public purposes in accordance with Government Code §§ 54220 et seq. Prior to disposing of any potential surplus real property, a written offer will be made to sell or lease the property to public agencies for the purpose of developing low and moderate income housing, parks and recreational facilities, schools, or other public purposes. The offer to sell or lease the property to a public entity will be exclusive for a period of sixty (60) days. In the event more than one public entity responds, first priority shall be given to the public entity which agrees to use the site for low to moderate income housing, except that first priority shall be given to a public entity which agrees to use the site for park or recreational purposes if the surplus property is already being used and will continue to be used for park or recreational purposes, or if the surplus property is designated for park and recreational use in the local general plan and will be developed for that purpose. The next priority will be given to the public entity that makes the first offer to purchase the property for fair market value as established by the Board.**

**D. Sale by Competitive Sealed Bid**

**If no public entity accepts the County's offer to sell or lease the surplus property within sixty (60) days, then the County may, at its sole discretion, dispose of the property to the general public by sealed bid in the manner prescribed in Government Code §§ 25520, 25521, 25528, 25530, 25531, 25533 and 25534 et seq. These sections provide for sealed bids, require the County to provide additional notice of the sale to the public through posting and advertising, allow the Board to reject any proposal and withdraw the property from sale, and allow for oral bids to be received at the public meeting provided that any oral bid be five percent higher than the highest written bid.**

**E. Sale by Public Auction**

**The County may also dispose of property to the general public by public auction and in the manner prescribed in Government Code § 25363 et seq. This method authorizes the sale of property and requires that the sale be made at the courthouse door or such other place as the Board directs by four-fifths vote, with notice of the sale given five days prior, and published in a newspaper in the County or posted in three public places, and provided that notification has been made to those public agencies identified in Government Code § 54220 et seq.**

Each person submitting a proposal to purchase a property by sealed bid or public auction must submit a deposit of ten percent (10%) of the offered price at the time his or her proposal is submitted.

#### **F. Sale or Lease by Request for Proposals**

The Board may elect to sell surplus property via the Request for Proposals (RFP) method as prescribed in Article 7.5, commencing within § 25515 of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code.

The Board would direct the County staff to prepare an RFP for sale and development of surplus property in a manner consistent with the County Zoning Ordinance and the County's General Plan.

Upon expiration of the time during which public entities may offer to purchase the property, and assuming no sale of the property to any such entity is made, County staff will return to the Board with the proposed RFP for its consideration. If approved, the Board will, by a 4/5ths vote, approve the issuance of the RFP.

The Board will adopt a resolution which, in addition to describing the particulars of the property and the County's vision for its development, will set a place, time and date for a hearing, to be held at least 60 days later, at which the Board will consider all timely responses to the RFP. That resolution, containing the directions on how interested persons could respond to the RFP, must be published in the newspaper once a week for three successive weeks.

After the mandatory 60-day period for receiving responses to the RFP expires, County staff will review all timely responses to the RFP and prepare a recommendation for consideration by the County Financial Advisory Committee ("Committee") and/or the Board.

At the place, date and at the time set forth in the above-described resolution for the Board's consideration of them, the Board will review the responses to the RFP and staff's recommendations. The Board will then select a successful respondent and direct staff and the successful respondent to meet and negotiate a final arrangement for the sale of the property and its subsequent development by that respondent.

Additionally, the Board will direct the preparation of a California Environmental Quality Act (CEQA) analysis of any necessary general plan amendment and zone change that, if approved, would allow the uses on the property contemplated in the RFP. The Inyo County Planning Department will, as directed by the Board, commence the CEQA review process for the above-described general plan amendment and zone change.

Following the CEQA process and review period, the Inyo County Planning Commission ("Commission") will consider the CEQA document concerning the

proposed general plan amendment and zone change, and will consider recommending approval of those amendments and consider recommending certification of the CEQA document. The Commission will also consider making the finding required by Government Code §§ 25515.1(a) and 65402 that the proposed development of the property is consistent with the County's general plan.

Once a final arrangement is worked out with the successful respondent, it must be memorialized in the form of an ordinance. The ordinance will be scheduled for consideration by the Board at the first reading noticed in accordance with Government Code § 6066, which requires the advertisement to run once a week for two weeks.

If the Board approves the proposed arrangement for the sale and development of property, it will adopt the ordinance at a subsequent public hearing. The ordinance and the agreement will not go into effect for 30 days, during which time it could be challenged via a citizen referendum. During this 30-day period, County staff will prepare all documents, and make the arrangements necessary to consummate the sale and ensure that the property will be used in accordance with the RFP and the approving ordinance; this will include retaining a title company to prepare a title report, opening escrow, and preparing the deed that will be used to transfer title to the property.

Once the 30 day referendum period expires, the sale of the property will be consummated (i.e./e.g. the purchase price will be paid to the County or deposited into the escrow, the deed will be signed and recorded, any agreements respecting the use/development of the property will be signed, etc.).

Thereafter, the Planning Director will monitor the development and use of the property to ensure that the terms of the sale and development agreement are adhered to. This would carry on indefinitely, or if the restrictions on the use of the property are of limited duration, until that time expires.

If the surplus property is not subsequently sold as a result of the sealed bid, public auction or RFP process, the property may be sold to the party who makes the highest reasonable offer to purchase the property that is acceptable to the Board.

#### **IV. EXCHANGE, DISPOSAL, OR LEASE OF SURPLUS REAL PROPERTY**

County property for which there is not an immediate or foreseeable public purpose should be made available for private ownership. For the purposes of this Policy, public purpose will be determined by the Board in accordance with the law.

##### **A. Identification of Potential Surplus Property**

1. To facilitate the identification of County property for which there is not an immediate or foreseeable public purpose, no less frequently than once every three years the County shall review its inventory of real property and identify holdings that could be designated as surplus property.
2. The review identified in Section IV.A.1. shall be initiated by the County Administrative Officer (CAO) in consultation with, and assistance from other County departments. The CAO shall prepare an inventory of all real property owned by the County, consistent with the requirement of Section IV.A.3., and present the inventory to the Committee for review and recommendation to the Board.
3. The inventory of County-owned property shall include the Assessor's Parcel Number, legal description and a map showing the location of the property and a description of its current use. If available, the most recent appraised fair market value of the property, as well any indication of the County's water and/or mineral rights, should be identified in the inventory. The inventory should identify those properties for which there is a current or foreseeable public purpose, and those properties recommended for consideration as surplus. In addition, the CAO may, in preparing the inventory, make recommendations relative to the manner in which the property should be disposed.
4. The Committee shall review the inventory and make recommendations to the Board regarding County-owned property that could be designated as surplus, whether mineral and water rights should be retained, and the manner in which the surplus property should be disposed. In the event the Committee does not reach a unanimous recommendation, both the majority and minority Committee recommendations may be forwarded to the Board. Any recommendation forwarded to the Board shall include with the list a checklist, developed by the Committee, which includes the reasons for the Committee's recommendation for exchange, sale or lease of County owned property. The checklist, at a minimum, will include access considerations, infrastructure availability, community need, financial return to the County, potential highest and best use, and land use designations.
5. The Board shall consider the inventory of County-owned property, and the Committee's recommendations for the designation of surplus property and the manner of disposal at a public meeting duly noticed by advertisement in a local newspaper once a week for two weeks.

6. The Board, Committee, or County staff may initiate the consideration of the designation of a specific County-owned property as surplus property independent of the inventory process described herein provided that all other provisions of this Policy are implemented.

#### **B. Manner of Disposal of Surplus Property**

In determining the manner in which surplus property might be disposed, the Committee and the Board shall consider the following:

1. The manner of disposal that will maximize the financial return to the County. In evaluating financial return to the County, the financial return generated from the outright sale of the property shall be weighed against the cost of acquiring land and/or facilities, using the methods described in Section IV. B. 2. and 3. below, to meet a public purpose.
2. The possibility of exchanging the County-owned property for real property owned by other public agencies and private parties for a public purpose.
3. Opportunities to use the Request For Proposal process, described in Section III. F., to meet a public purpose through the sale or lease of property to private interests.
4. County-owned real property for which there is a possible future public purpose should be leased in a manner that provides the highest and best use of the land and maximizes the financial return to the County. Any lease will include at a minimum a standard escalation clause pertaining to the lease payment and terms for renegotiations.

#### **C. Use of Proceeds**

Proceeds realized from the sale of County-owned property disposed in accordance with this Policy shall be used to fund one-time costs associated with the acquisition of real property for a public purpose, the construction or deferred maintenance of County property and facilities (including tenant improvements at leased properties), and other capital improvement projects. Proceeds realized from the sale of County-owned real property disposed in accordance with this Policy shall not be used to fund on-going County operating expense.

#### **D. Property Research Prior to Exchange, Disposal or Lease**

Subsequent to the Board's designation of County-owned real property as surplus, and prior to the disposal or lease of any County-owned surplus real property, the County shall do the following:

1. Determine actual title to the property/properties and whether the subject property/properties hold water and mineral rights;
2. Determine actual fair market value of the subject property/properties by independent appraisal;
3. Solicit other affected County Departments for comments to the exchange, sale, or lease of surplus property;
4. Identify the Zoning and determine General Plan conformance of the subject property/properties;
5. Identify whether subject property/properties are within an Alquist Priolo Study area, Flood Hazard Zone, Avalanche Zone, etc.

#### E. Other Provisions of Sale

In order to maximize the financial return to the County from the sale, exchange, disposal through RFP-process, or lease of County-owned surplus land in a manner consistent with law:

1. Parcels will be exchanged, sold or leased on an "As Is Where Is" basis.
2. The minimum price established for a parcel shall include the appraised value plus all County costs to dispose of the property.
3. The Board will reserve the right to reject all offers at its sole discretion for the sale, exchange, purchase, development, or lease of any surplus property.
4. The Board will reserve the right to cancel, for any reason whatsoever, any exchange, sale or lease of any parcel prior to the conveyance of title.
5. The Board will reserve the right to place covenants, conditions, or restrictions on the deed for any parcel as allowed by law.
6. The Board reserves the right at its sole discretion to approve or reject such a transaction based upon its determination of the prospective transferee's ability, including but not limited to the

financial ability, to perform as contemplated under the terms of the transaction.

## V. ACQUISITION OF REAL PROPERTY

- A. The County may acquire real property, consistent with the provisions of state law to meet an identified or foreseeable public need. This includes the acquisition of tax-defaulted property by Agreement of Sale as legally defined.
- B. The County may object to the sale of the tax-defaulted property and apply to purchase the property for the express purpose of facilitating a land exchange to meet a public need including, for the purpose of this section, increasing the amount of privately-owned property near existing communities and town sites. If the County acquires a tax-defaulted property for the purpose of facilitating a land exchange, and the land exchange process has not formally commenced within two-years of the date of the County taking title to the property, the Board shall take immediate steps to dispose of the property in accordance with this Policy unless a finding is made that the property serves an immediate public purpose or the initiation of a land exchange is imminent.
- C. The County shall not acquire real property for the sole purpose of land speculation (e.g., acquiring land for the sole purpose of selling it for a profit).

## VI. DEFINITION OF TERMS

- Appraised Value – The monetary value of the County owned property as determined by the County, which may be based on the fair market value of the property as determined by an MAI appraiser employed by the County to make such determination.
- “Cash” – U.S. currency, Bank Cashier’s Check in dollars, or Electronic Funds Transfer in dollars.
- “Fair Market Value” – The price that would be paid by a knowledgeable and informed buyer if the property was sold on the open market.
- “Proceeds of Sale” – The monetary amount received by the County from the disposition of a piece of real property net of the costs incurred by the County to dispose of the property.
- “Public Entity” - As referenced in Section 54222 of the Government Code and as further defined in Section 50079 of the California Health and Safety Code, includes any: county; city; duly constituted governing body of an Indian reservation; redevelopment agency or housing authority, as specifically defined; state agency; public district; other political subdivision of the state, or instrumentality thereof which is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income.
- “Real Property” – County owned fee simple parcels of land, mineral and water rights and County owned improvements thereon.

ATTACHMENT A

**Summary of State Laws Governing the Exchange, Disposal or Lease of Inyo County Property**

The exchange, disposal or lease of those properties that have been determined to be surplus by the Inyo County Board of Supervisors (Board), or not needed for a public purpose or use, may be disposed of by any of the following means:

- a. Directly to a public entity at their request without providing notice to other agencies or calling for a competitive bid at a price representing fair market value and upon determination that the public entity's use shall be for low to moderate income housing purposes as described in Government Code § 54220 et seq.
- b. Directly to a public entity in accordance with Government Code § 25515.1 (a) et seq., which requires notification to those public agencies described in Government Code § 54220 et seq. offering the property for sale or trade.

California Government Code § 54220 et seq. requires surplus government land to be first made available for housing for persons and families of low and moderate income or recreational or open space purposes. Surplus government land means land owned by an entity of the state, or any local entity that is determined to be no longer necessary for the entity's use.

- c. Directly to the Public in the manner prescribed in Government Code § 25363 et seq., which authorizes the sale of property at public auction. Requiring that the sale be made at the courthouse door or such other place within the County as the Board directs by four-fifths vote, with notice of the sale given five days prior, and published in a newspaper in the County or posted in three public places, and provided that notification has been made to those public agencies identified in Government Code § 54220 et seq.
- d. Directly to the Public in the manner prescribed in Government Code §§ 25520, 25521, 25528, 25530, 25531, 25533 and 25534 et seq. These sections provide for sealed bids, require the County to provide additional notice of the sale to the public through posting and advertising, allow the Board to reject any proposal and withdraw the property from sale, and allow for oral bids to be received at the public meeting provided that any oral bid be five percent higher than the highest written bid.
- e. Directly to the Public through the preparation of an RFP for its sale and/or development in accordance with Article 7.5, commencing within § 25515 of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code.

The sales price of any surplus real property will be based on the appraised fair market value. Less than appraised fair market value may be accepted if it is determined to be in

the County's best interest to sell the property for a negotiated amount that is subsequently approved by the Inyo County Board of Supervisors by 4/5's vote.

iC:RealPropertyManagementPolicy/LandHoldingPolicy.Final 50807



**AGENDA REQUEST FORM**  
**BOARD OF SUPERVISORS**  
**COUNTY OF INYO**

For Clerk's Use Only:  
**AGENDA NUMBER**  
 15

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** Inyo County Free Library

**FOR THE BOARD MEETING OF:** December 10, 2013

**SUBJECT:** Request approval to hire two APAR Library Specialists in the Tecopa and Furnace Creek Libraries.

**DEPARTMENTAL RECOMMENDATION:**

Request your Board find that consistent with the adopted Authorized Position Review Policy:

1. the availability of funding for the Library Specialist positions exists as certified by the Library Director and concurred with by the Auditor-Controller and the County Administrator and,
2. whereas internal candidates meet the qualifications for the position, the position can be filled through a closed, County recruitment and,
3. authorize the hiring of two APAR Library Specialists I, Range 46A (\$12.90 per hour).

**SUMMARY DISCUSSION:**

The Library Specialist positions in Tecopa and Furnace Creek were vacated last year due to retirement and relocation. In the interim, the positions have been filled with temporary employees. Due to the limits on temporary employees because of the Affordable Care Act, filling these positions with permanent employees is desirable.

At this time, the Tecopa Library is open three days weekly during the winter season and two days weekly in summer, eight hours each day, on average about 19 hours per week. This necessitated a BPAR employee due to the winter hours. It is now proposed to open the Tecopa Library for three days per week year round, 19 hours per week, thus permitting filling the position with an APAR employee.

<b>Tecopa Current Hours</b>							
HOURS	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
October-March	7-11:30 am 12-3 pm	7-11:30 am 12-3 pm	CLOSED	7-11:30 am 12-3 pm	CLOSED	CLOSED	CLOSED
April-Sept.	CLOSED	7-11:30 am 12-3 pm	CLOSED	7-11:30 am 12-3 pm	CLOSED	CLOSED	CLOSED
<b>Tecopa Proposed Hours</b>							
All year	7am – 1pm	7am – 2pm	CLOSED	7am – 1pm	CLOSED	CLOSED	CLOSED

The Furnace Creek Library is open two days per week for 7 hours. The circulation at the Furnace Creek Branch has more than tripled since fiscal year 2009-10 due to the move to the new facility in June 2011, a small increase in hours last year, and the addition of satellite internet access.

Both of these positions include the safe operation of a remote library, independent trouble shooting and an ability to receive training only via telephone and written policies.

**ALTERNATIVES:**

Your Board could chose not to approve the requested positions, in which case additional temporary employees will need to be hired to provide coverage. This is not recommended for reasons of efficiency due to training requirements.

**OTHER AGENCY INVOLVEMENT:**

Inyo County Personnel Department

**FINANCING:**

Sufficient funds are in the Library's 2013-2014 budget for these positions.

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  N/A  Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  <i>Emily Sheple</i> Approved: <u>yes</u> Date <u>12-4-13</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  <i>by K Nease</i> Approved: <u>✓</u> Date <u>12/4/13</u>

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)  
(The Original plus 20 copies of this document are required)

*Nancy Masfren*

Date: 12/4/13



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only: <b>AGENDA NUMBER</b>
16

Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM: County Counsel/CAO/Water Department**

**FOR THE BOARD MEETING OF: December 10, 2013**

**SUBJECT: PAYMENT TO JAMS ENDISPUTE FOR INYO COUNTY'S SHARE OF THE NEUTRAL MEDIATION/ARBITRATION FEES IN BLACKROCK 94 DISPUTE RESOLUTION**

**DEPARTMENTAL RECOMMENDATION:** Request ratification and approval for payments to JAMS ENDISPUTE (JAMS) of the County's portion of the arbitration costs as incurred for the Blackrock 94 Dispute Resolution (Blackrock) in an amount not to exceed forty-five thousand dollars (\$45,000) which sum includes \$11,929.97 already paid and \$9,181.02 currently due.

**SUMMARY DISCUSSION:** The County of Inyo and the City of Los Angeles began dispute resolution per the court ratified Long Term Water Agreement (Agreement) on Blackrock several years ago. Per the Agreement, when a dispute is not resolved by the parties; it proceeds to Arbitration. JAMS was selected by the parties to serve as the neutral arbitration body for Blackrock. The Agreement further provides the cost of the neutral mediator/arbitrator is shared equally by the County and Los Angeles Department of Water and Power. The County Administrator is authorized to enter into agreements with an anticipated value of up to (\$10,000) ten thousand dollars, and, in this capacity, approved the required JAMS Fee Agreement and Cancellation Policy to facilitate the mediation/arbitration process.

Since the mediation/arbitration process began in August 2013 the costs incurred by the County have reached \$21,110.99. The arbitrators, party and neutral, retained jurisdiction in the event the matter is not resolved by the interim order. Accordingly, the possibility remains open that additional funds will be incurred with JAMS regarding Blackrock. We, therefore, request your Board ratify the past payments and authorize payment of the pending and future costs until this matter is resolved. We are unable to estimate the final costs to JAMS for the reasons set forth herein, but the County is obligated to pay for half of all fees charged.

**ALTERNATIVES:**

There are no other alternatives, since this was Court Ordered.

**OTHER AGENCY INVOLVEMENT:**

County Counsel, Water Department and Administrator.

**FINANCING:**

The Water Department is paying for all mediation/arbitration fees in this matter.

**APPROVALS**

<p>COUNTY COUNSEL:</p>	<p>AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)</p> <p><i>Margaret Kemp-Williams</i> Approved: <u>✓</u> Date: <u>12/04/2013</u></p>
<p>AUDITOR/CONTROLLER:</p>	<p>ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</p> <p><i>[Signature]</i> Approved: <u>yes</u> Date: <u>12/04/2013</u></p>
<p>PERSONNEL DIRECTOR:</p> <p><b>N/A</b></p>	<p>PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</p> <p>Approved: _____ Date: _____</p>

**DEPARTMENT HEAD SIGNATURE:** *Margaret Kemp-Williams* Date: 12/04/2013  
 (Not to be signed until all approvals are received)

**DEPARTMENT HEAD SIGNATURE:** *[Signature]* Date: 12/4/13  
 (Not to be signed until all approvals are received)

**DEPARTMENT HEAD SIGNATURE:** *Adam Steward* <sup>for Robert</sup> <sub>Warrington</sub> Date: 12/4/13  
 (Not to be signed until all approvals are received)

Can be found in S/ARF/JAMS Payment req



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

17

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** WATER DEPARTMENT

**FOR THE BOARD MEETING OF:** DECEMBER 10, 2013

**SUBJECT:** APPOINTMENT OF TWO APPLICANTS TO FILL VACANCIES ON THE WATER COMMISSION

**DEPARTMENTAL RECOMMENDATION:**

Request Board consider the Letters of Interest received for appointment to the Water Commission and appoint two Water Commissioners with a term ending December 31, 2017.

**SUMMARY DISCUSSION:**

The Water Commission currently has two vacancies with a term ending December 31, 2013. The Clerk of the Board has advertised this vacancy in accordance with County policy. Letters of Interest (attached) were received from the following; Craig Patten, Sally Manning, Daniel Pritchett, Charles Stewart, and James Stroh.

**ALTERNATIVES:**

Not appoint a Commissioner at this time, and re-advertise to fill the vacancies.

Designate an ad hoc committee to interview the respondents and make recommendations to the Board.

**OTHER AGENCY INVOLVEMENT:**

None

**FINANCING:**

Water Commission stipends and travel expenses are paid from the Water Department budget (024102).

**APPROVALS**

COUNTY COUNSEL:  <b>N/A</b>	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  Approved: _____ Date _____
AUDITOR/CONTROLLER:  <b>N/A</b>	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: _____ Date _____

PERSONNEL DIRECTOR:  <b>N/A</b>	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: _____ Date _____
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**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)  
(The Original plus 20 copies of this document are required)

*[Signature]* Date: *12-4-13*



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
**AGENDA NUMBER**  
18

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** Kevin D. Carunchio, County Administrator

**FOR THE BOARD MEETING OF** December 10, 2013

**SUBJECT:** Continuation of declaration of local emergency

**DEPARTMENTAL RECOMMENDATION:** - Request Board discuss and consider staff's recommendation regarding continuation of the local emergency, The Death Valley Road eater Emergency, that resulted in flooding in the eastern portion of Inyo County during the month of August 2012, per Resolution #2012-32.

**SUMMARY DISCUSSION:** - During your August 28, 2012 Board of Supervisors meeting your Board took action to declare a local emergency, which has been named The Death Valley Road eater Emergency, which was a result of flooding in the southeastern portion of Inyo County during the month of August. Since the circumstances and conditions relating to this emergency persist, your Board directed that the continuation of the declaration be considered on a by-weekly basis. The recommendation is that the emergency be continued until the further evaluation of the damage is completed and staff makes the recommendation to end the emergency.

**ALTERNATIVES:** N/A

**OTHER AGENCY INVOLVEMENT:** N/A

**FINANCING:** N/A

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>  Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>  Approved: _____ Date _____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i>  Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)

(The Original plus 20 copies of this document are required)

Date: \_\_\_\_\_



**AGENDA REQUEST FORM**  
**BOARD OF SUPERVISORS**  
**COUNTY OF INYO**

For Clerk's Use Only:  
**AGENDA NUMBER**  
 19

- Consent   
  Departmental   
  Correspondence Action   
  Public Hearing  
 Scheduled Time for   
  Closed Session   
  Informational

**FROM:** Kevin D. Carunchio, County Administrator

**FOR THE BOARD MEETING OF** December 10, 2013

**SUBJECT:** Continuation of declaration of local emergency

**DEPARTMENTAL RECOMMENDATION:** - Request Board discuss and consider staff's recommendation regarding continuation of the local emergency, The Gully Washer Emergency, that resulted in flooding in the central, south and southeastern portion of Inyo County during the month of July, 2013.

**SUMMARY DISCUSSION:** - During your August 6, 2013 Board of Supervisors meeting your Board took action to declare a local emergency, which has been named The Gully Washer Emergency, which was a result of flooding in the central, southern and southeastern portion of Inyo County during the month of July. Since the circumstances and conditions relating to this emergency persist, your Board directed that the continuation of the declaration be considered on a by-weekly basis. The recommendation is that the emergency be continued until the further evaluation of the damage is completed and staff makes the recommendation to end the emergency.

**ALTERNATIVES:** N/A

**OTHER AGENCY INVOLVEMENT:** N/A

**FINANCING:** N/A

<b>APPROVALS</b>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>  Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>  Approved: _____ Date _____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i>  Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)  
 (The Original plus 20 copies of this document are required)

Date: \_\_\_\_\_



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
**AGENDA NUMBER**

20

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** Kevin D. Carunchio, County Administrator

**FOR THE BOARD MEETING OF** December 10, 2013

**SUBJECT:** Continuation of declaration of local emergency

**DEPARTMENTAL RECOMMENDATION:** - Request Board discuss and consider staff's recommendation regarding continuation of the local emergency, The Canyon Crusher Emergency, that resulted in flooding in the portions of Inyo County during the month of August, 2013.

**SUMMARY DISCUSSION:** - During your September 17, 2013 Board of Supervisors meeting your Board took action to declare a local emergency, which has been named The Canyon Crusher Emergency, which was a result of flooding in the portions of Inyo County during the month of August. Since the circumstances and conditions relating to this emergency persist, your Board directed that the continuation of the declaration be considered on a by-weekly basis. The recommendation is that the emergency be continued until the further evaluation of the damage is completed and staff makes the recommendation to end the emergency.

**ALTERNATIVES:** N/A

**OTHER AGENCY INVOLVEMENT:** N/A

**FINANCING:** N/A

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>  Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>  Approved: _____ Date _____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i>  Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)  
(The Original plus 20 copies of this document are required)

Date: \_\_\_\_\_



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
**AGENDA NUMBER**  
21

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** Inyo County Planning Department

**FOR THE BOARD MEETING OF:** December 10, 2013

**SUBJECT:** Sequoia-Kings National Parks Restoration of Native Species in High Elevation Aquatic Ecosystems Plan and Draft Environmental Impact Statement

**RECOMMENDATION:** Review draft correspondence to the Sequoia-Kings National Park Service regarding the proposed Restoration of Native Species in High Elevation Aquatic Ecosystems Plan (Plan) and Draft Environmental Impact Statement (EIS), and authorize the Chair to sign correspondence in regards thereto.

**SUMMARY DISCUSSION:** The Sequoia-Kings National Park Service has issued an EIS for the Restoration of Native Species in High Elevation Aquatic Ecosystems Plan. The purpose of the Plan is to guide management actions of the National Park Service to restore and conserve native species diversity and ecological function to selected high elevation aquatic ecosystems. Specifically, the plan intends to restore populations of the Sierra Nevada Yellow-Legged Frog and the Northern Distinct Population Segment of the Mountain Yellow-Legged Frog by removing non-native trout from high elevation lakes in the National Parks through a combination of physical tools and piscicides (fish poison). The plan includes evaluative criteria for lake selection to ensure National Park visitors have continued access to a wide range of angler experiences. The proposed plan may have socioeconomic impacts on Inyo County.

The comment period for the Draft EIR ends on December 17, 2013. Staff has drafted the attached correspondence for the Board's consideration to the Superintendent of Sequoia-Kings National Park based on the review of the Plan and Draft EIS. The correspondence identifies concerns of the County as they relate to socioeconomic impacts that may result from fish removal in popular angler destinations accessed from trailheads originating in Inyo County, specifically the Bishop Pass trailhead, the Kearsarge Pass trailhead, and the John Muir and Pacific Crest trails. The correspondence supports the evaluative criteria proposed by the National Park Service, and requests economic impacts to Inyo County associated with reduced visitor experiences be considered in the EIS.

**ALTERNATIVES:** The Board could direct changes to the correspondence, or not submit correspondence.

**OTHER AGENCY INVOLVEMENT:** Department of Interior, U.S. National Park Service; other agencies with jurisdiction (U.S. Forest Service, California Department of Fish and Wildlife, etc.); neighboring Counties.

**FINANCING:** General funds are utilized to monitor federal rule making.

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i>

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)

  
Attachments

Date: 12/3/13

1. Draft Correspondence to the Superintendent of Sequoia-Kings National Park

December 10, 2013

Superintendent  
Sequoia and Kings Canyon National Parks  
Attn: Aquatic Ecosystems Restoration Plan  
47050 Generals Highway  
Three Rivers, CA 93271

**Re:** Restoration of Native Species in High Elevation Aquatic Ecosystems Plan and Draft Environmental Impact Statement

To Whom It May Concern:

On behalf of the Inyo County Board of Supervisors, thank you for inviting us to participate in development of the Sequoia and Kings National Parks Restoration of Native Species in High Elevation Aquatic Ecosystems Plan and Draft Environmental Impact Statement ("Plan" and "Draft EIS", respectively). These resources are an integral component of our natural environment and the history of our County, and we are committed to working with you to preserve and enhance native biological diversity in the Sierra Nevada. We also acknowledge the significance of the proposed plan to restore populations of two species of mountain yellow-legged frogs (*Rana muscosa* and *Rana sierra*). We recognize that these actions will require substantial efforts locally as well as regionally and nationally.

We have reviewed the proposed Plan and Draft EIS, and are in support of the balanced nature of the Plan, which seeks to ensure National Parks visitors will continue to enjoy a range of experiences and recreational opportunities at wilderness lakes and streams. We further approve of the evaluative criteria for individual lake selection, which favors restoration of lakes with low recreational fishing value, and preserves fisheries that support a range of visitor values including lakes that are easily accessed from popular trailheads, remote lakes that provide solitude and lakes with large trophy fish.

That said, we are concerned regarding the impacts to important components of our local society, culture, history, and economy associated with recreational fishing in the Sierra Nevada. These activities are and continue to be integral to our well-being. Management actions over the last half-century have persistently worked to reduce access to our public lands for recreation, thus eroding our culture and our historical connection to the land, as well as impacting our economy. Many of the most popular angler destinations in Sequoia and Kings National Parks are accessed from trailheads originating in Inyo County. It is imperative that the Plan and Draft EIS recognize the significant and detrimental impacts to Inyo County's economy and cultural heritage that would result from curtailing these recreational opportunities.

We request that the Plan and Draft EIS remove lakes that are popular angler destinations accessed via trailheads originating in Inyo County from consideration for ecosystem restoration. Specifically, we request the following lakes be removed from consideration for restoration including: lakes adjacent to the Bishop Pass Trail in Dusy Basin; lakes adjacent to the Kearsarge Pass Trail; and lakes adjacent to the John Muir and Pacific Crest trails.

Thank you again for the opportunity to provide input into the Restoration of Native Species in High Elevation Aquatic Ecosystems Plan and Draft Environmental Impact Statement. If you have any questions, please contact the County's Administrative Officer, Kevin Carunchio, at (760) 878-0292 or kcarunchio@inyocounty.us.

Thank you.

Sincerely,

Linda Arcularius, Chair  
Inyo County Board of Supervisors

cc: Board of Supervisors  
County Administrative Officer  
County Counsel  
Planning Director  
Secretary Jewell, U.S. Department of Interior  
Secretary Vilsack, USDA  
Doug Wilson, Willdan  
Regional Council of Rural Counties  
California State Association of Counties  
National Association of Counties  
Fresno County  
Tulare County  
Mono County  
Jan Knight, U.S. Fish and Wildlife Service  
Dan Ashe, U.S. Fish and Wildlife Service  
Ed Armenta, Inyo National Forest  
Chief Tidwell, Forest Service  
Heidi Sickler, California Department of Fish and Wildlife



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

22

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** Inyo County Planning Department

**FOR THE BOARD MEETING OF:** December 10, 2013

**SUBJECT:** Proposed Designation of Critical Habitat for the Bi-State Distinct Population Segment of Greater Sage-Grouse

**DEPARTMENTAL RECOMMENDATION:** Review a proposed rule to designate critical habitat for the Bi-State Distinct Population Segment of Greater Sage-Grouse pursuant to the Federal Endangered Species Act, review draft correspondence in regards thereto, and authorize the Chair to sign.

**SUMMARY DISCUSSION:** The U.S. Fish and Wildlife Service (USFWS) proposes to list approximately 1.8 million acres of critical habitat for the Bi-State Distinct Population Segment of Greater Sage-Grouse (refer to Attachment 2). According to the federal register notice, the bird requires large, interconnected expanses of sagebrush plant communities and exhibits strong site fidelity. Threats to the species include habitat loss, climate change, and predation.

While the critical habitat proposal appears relatively minor in Inyo County, limited mostly to potential impediments to recreation, road maintenance, and grazing in the northern White Mountains, the proposal could significantly impact nearby counties and thus indirectly impact the County. In particular, the proposal's impact could be severe in Mono County (refer to Attachment 3).

Comments regarding the proposed rule are due December 27, 2013. Staff has prepared correspondence for the Board's consideration expressing concern about the proposed critical habitat and requesting an extension to the comment period (refer to Attachment 1).

**ALTERNATIVES:** The Board may consider modifying the correspondence or not submitting correspondence. The Board could also request a public hearing regarding the proposed rule; such a request is due by December 12, 2013.

**OTHER AGENCY INVOLVEMENT:** Public Works Department and Agricultural Commissioner; USFWS, Forest Service, and Bureau of Land Management, and other federal agencies; affected counties and City of Los Angeles.

**FINANCING:** General funds are utilized to monitor federal rulemaking efforts.

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

**DEPARTMENT HEAD SIGNATURE:**  
(Not to be signed until all approvals are received)



Date: 12/4/13

Attachments:

1. Draft Correspondence
2. Notice
3. Mono County Correspondence

December 10, 2013

Secretary Salazar  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington DC 20240

**Re: Proposed Designation of Critical Habitat for the Bi-State Distinct Population Segment of  
Greater Sage-Grouse  
Docket No. FWS-R8-2013-0042**

Dear Secretary Salazar:

On behalf of the Inyo County Board of Supervisors, I wish to convey to you our deep concern about the proposed critical habitat that the U.S. Fish and Wildlife Service (USFWS) is proposing for the Bi-State Distinct Population Segment of Greater Sage-Grouse. This proposal has the potential for significant regional, indirect, induced, and cumulative impacts on Inyo County and nearby counties in California and Nevada. When considered cumulatively -- specifically in conjunction with the proposed critical habitat for the Yosemite toad, the Sierra Nevada yellow-legged frog, and the northern distinct population segment of the mountain yellow-legged frog -- with the numerous other listings being considered by the Service, these proposals have the potential to decimate our economy, culture, society, and way of life.

We understand that great effort has been taken to develop and implement the Bi-State Conservation Plan and Bi-State Action Plan to conserve the species and avoid listing. Numerous other planning efforts are proceeding to conserve the species (including efforts undertaken by the Forest Service, Bureau of Land Management, and City of Los Angeles, and the affected counties), and we understand that ample evidence exists that threats to the species from human local activities have already been addressed and continue to be further ameliorated. Therefore, we believe that this proposal is premature and contrary to the spirit of cooperation in which these important current planning efforts are taking place, and we wish to convey to you our dismay that critical habitat is being proposed in light of this work.

The proposed critical habitat in Inyo County is within the White Mountains (mostly in Wilderness) and we therefore suspect that any potential direct impacts to our County will be limited to recreation, road maintenance, and agricultural uses occurring nearby. While these activities are relatively limited in scope, we look forward to reviewing the Service's economic analysis, and urge you to direct your staff to work with the County, other responsible and trustee agencies, local citizens and business owners, and agricultural interests, to quantify potential impacts to our economy taking into account direct, indirect, induced, and cumulative effects.

We also believe that the descriptions of this proposed management unit in the Federal Register Notice are erroneous and request clarification. We are unaware of any urbanization pressures in this area, and request clarification of the Notice's statement that special management considerations are required for such issues as well.

Due to the proposal's potential to significantly impact our regional economy, particularly in light of the proposed amphibian critical habitat, we request that a 90-day extension to the comment period be

provided. Such an extension is necessary to afford the analysis necessary for us to better understand these potential impacts.

Thank you for your consideration. If you have any questions, please contact the County's Administrative Officer Kevin Carunchio at (760) 878-0292 or by email at [kcarunchio@inyocounty.us](mailto:kcarunchio@inyocounty.us).

Sincerely,

Linda Arcularius  
Chairperson, Inyo County Board of Supervisors

cc: County Administrative Officer  
County Counsel  
Planning Director  
Public Works Director  
Agricultural Commissioner  
Congressional Delegation  
Ron Nichols, DWP  
Dan Ashe, USFWS  
Mono County  
Esmeralda County  
Bureau of Land Management  
Inyo National Forest  
Rural County Representatives of California  
California State Association of Counties  
National Association of Counties  
USFWS Public Comments Processing



# FEDERAL REGISTER

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No. 208

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Part III

Department of the Interior

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Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Bi-State Distinct Population Segment of Greater Sage-Grouse; Proposed Rule

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

[Docket No. FWS-R8-2013-0042;  
4500030114]

RIN 1018-AZ70

**Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Bi-State Distinct Population Segment of Greater Sage-Grouse**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, propose to designate critical habitat for the the Bi-State distinct population segment (DPS) of greater sage-grouse (*Centrocercus urophasianus*) under the Endangered Species Act (Act). In total, approximately 755,960 hectares (1,868,017 acres) fall within the boundaries of the proposed critical habitat designation in Carson City, Lyon, Douglas, Mineral, and Esmeralda Counties, Nevada, and Alpine, Mono, and Inyo Counties, California. If we finalize this rule as proposed, it would extend the Act's protections to this DPS's critical habitat.

**DATES:** *Comment Submission:* We will accept comments received or postmarked on or before December 27, 2013. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by December 12, 2013. *Public Meeting:* Two public meetings will be held on this proposed rule: (1) November 5, 2013, from 4:00 p.m. to 6:00 p.m. (Pacific Time); and (2) November 6, 2013, from 1:00 p.m. to 3:00 p.m. (Pacific Time). People needing reasonable accommodations in order to attend and participate in the public hearing should contact Jeannie Stafford, Nevada Fish and Wildlife Office, as soon as possible (see **FOR FURTHER INFORMATION CONTACT**).

**ADDRESSES:** *Comment Submission:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS-R8-ES-2013-

0042, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on "Comment Now!"

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS-R8-ES-2013-0042; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Requested section below for more information).

*Public Meetings:* The November 5, 2013, public meeting will be held at the Tri-County Fairgrounds, Home Economics Room, Sierra Street and Fair Drive, Bishop, CA 93514. The November 6, 2013, public meeting will be held at the Smith Valley Community Center, 2783 State Route 208, Wellington, NV 89444.

*Details of Units:* The coordinates or plot points or both from which the maps are generated are included in the administrative record for this critical habitat designation and are available at [www.regulations.gov](http://www.regulations.gov) at Docket No. FWS-R8-ES-2013-0042, the Reno Fish and Wildlife Office or on their Web site at <http://www.fws.gov/nevada/>, and at the Ventura Fish and Wildlife Office or on their Web site at <http://www.fws.gov/ventura/> (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we may develop for this critical habitat designation will also be available at the Fish and Wildlife Service Web sites and Field Offices set out above, and may also be included in the preamble or at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For general information on the proposed critical habitat designation as well as information about the proposed critical habitat specific to Nevada (Carson City, Lyon, Douglas, Mineral, and Esmeralda Counties), contact Edward D. Koch, State Supervisor, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775-861-6300; or facsimile 775-861-6301. For information about the proposed critical habitat specific to California (Alpine, Mono, and Inyo Counties), contact Diane Noda, Field Supervisor,

or Carl Benz, Assistant Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003; telephone 805-644-1766; facsimile 805-644-3958. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

*Why we need to publish a rule.* Elsewhere in today's Federal Register, we propose to list the Bi-State DPS of greater sage-grouse as a threatened species under the Endangered Species Act. Under the Act, critical habitat shall be designated, to the maximum extent prudent and determinable, for any species determined to be an endangered or threatened species under the Act. Designations and revisions of critical habitat can be completed only by issuing a rule.

*This rule proposes to designate critical habitat for the Bi-State DPS of greater sage-grouse (hereafter referred to as the Bi-State DPS of greater sage-grouse or the Bi-State DPS).* Based on our proposal to list the Bi-State DPS as a threatened species, we are proposing critical habitat for the Bi-State DPS under the Act. In total, approximately 755,960 hectares (ha) (1,868,017 acres (ac)) are being proposed for designation as critical habitat in Carson City, Lyon, Douglas, Mineral, and Esmeralda Counties in Nevada, and Alpine, Mono, and Inyo Counties in California.

*The basis for our action.* Under the Endangered Species Act, any species that is determined to be an endangered or threatened species shall, to the maximum extent prudent and determinable, have habitat designated that is considered to be critical habitat.

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species.

*We are preparing an economic analysis of the proposed designation of critical habitat.* In order to consider economic impacts, we are preparing an

analysis of the economic impacts of the proposed critical habitat designation and related factors. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek additional public review and comment.

*We will seek peer review.* We are seeking comments from independent specialists to ensure that our critical habitat proposal is based on scientifically sound data and analyses. We have invited these peer reviewers to comment on our specific assumptions and conclusions in this listing proposal. A thorough review of information that we relied on in making this determination—including information on taxonomy, habitat, distribution, population estimates and trends, and potential threats—is presented in the Bi-State DPS Species Report available at <http://www.regulations.gov> (Docket No. FWS-R8-ES-2013-0042). A summary of this analysis is found within the proposed listing rule published elsewhere in today's **Federal Register**. Because we will consider all comments and information we receive during the comment period, our final determination may differ from this proposal.

#### Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned government agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) The reasons why we should or should not designate habitat as "critical habitat" under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat may not be prudent.

(2) Specific information on:

(a) The amount and distribution of the Bi-State DPS's habitat;

(b) What areas, that were occupied at the time of listing (or are currently occupied) and that contain features essential to the conservation of the DPS, should be included in the designation and why;

(c) The features essential to the conservation of the Bi-State DPS as described in the *Physical and Biological*

*Features* section of this rule, in particular the currently unsuitable or less than suitable habitat that accommodates restoration identified in the Bi-State Action Plan (i.e., actions HIR1-1-PN, HIR-1-2-PN, HIR1-1-DCF, HIR1-2-DCF, HIR1-1-MG, HIR1-1-B, and HIR1-3-SM) (Bi-State Technical Advisory Committee (TAC) 2012, pp. 93-95).

(d) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and

(e) What areas not occupied at the time of listing are essential for the conservation of the DPS and why.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(4) Information on the projected and reasonably likely impacts of climate change on the Bi-State DPS and proposed critical habitat.

(5) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation; in particular, we seek information on any impacts on small entities or families, and the benefits of including or excluding areas that exhibit these impacts.

(6) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act, in particular lands managed or utilized by the Department of Defense (U.S. Marine Corps' Mountain Warfare Training Center) and by the Los Angeles Water and Power District (LAPWD).

(7) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in the **ADDRESSES** section.

We will post your entire comment—including your personal identifying information—on <http://www.regulations.gov>. You may request at the top of your document that we withhold personal information such as your street address, phone number, or email address from public review;

however, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

#### Previous Federal Actions

All previous Federal actions are described in the proposal to list the Bi-State DPS as a threatened species under the Act, which is published elsewhere in today's **Federal Register**.

#### Critical Habitat

##### Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of

critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it is listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical and biological features within an area, we focus on the principal biological or physical constituent elements (primary constituent elements such as roost sites, nesting grounds, seasonal wetlands, water quality, tide, soil type) that are essential to the conservation of the species. Primary constituent elements are those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. We designate critical habitat in areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of

the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the *Federal Register* on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, other unpublished materials, or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, would continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect habitat. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools would continue to contribute to recovery of this species.

Similarly, critical habitat designations made on the basis of the best available information at the time of designation would not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

For the purposes of this proposed rule, we discuss the biology of the Bi-State DPS, its habitat, population abundance information, and other physical, biological, and geographical information within the context of the local management units (Population Management Units (PMUs)) used by the various land management agencies within the range of the DPS. Six PMUs were established in 2001 as management tools for defining and monitoring sage-grouse distribution in the Bi-State area (Sage-Grouse Conservation Planning Team 2001, p. 31). The PMU boundaries are based on aggregations of leks (communal breeding areas), known seasonal habitats, and telemetry data, which represent generalized subpopulations or local breeding complexes. The six PMUs (north to south) include: Pine Nut, Desert Creek-Fales, Bodie, Mount Grant, South Mono, and White Mountains PMUs. These six PMUs represent a total of four to eight demographically independent populations with a combined total of approximately 43 active leks (Service 2013a, pp. 17-20). Please see the proposed listing rule published elsewhere in today's *Federal Register* or the Species Report (Service 2013a, entire) available at <http://www.regulations.gov> under Docket No. FWS-R8-ES-2013-0042 for more background information related to these PMUs. Additionally, the PMUs are identified in the Proposed Regulation Promulgation section of this proposed rule.

#### *Prudency Determination*

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist:

(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or

(2) Such designation of critical habitat would not be beneficial to the species.

There is currently no imminent threat of take attributed to collection or vandalism according to the analysis presented in the Species Report (Service 2013a, entire) and summarized in our proposed rule to list the Bi-State DPS as threatened (published elsewhere in today's **Federal Register**). Identification and mapping of critical habitat is not expected to initiate any such threat. In the absence of finding that the designation of critical habitat would increase threats to a species, if there are any benefits to a critical habitat designation, then a prudent finding is warranted. Here, the potential benefits of designation include: (1) Triggering consultation under section 7 of the Act in new areas for actions in which there may be a Federal nexus where it would not otherwise occur because, for example, it is or has become unoccupied or the occupancy is in question; (2) focusing conservation activities on the most essential features and areas; (3) providing educational benefits to State or county governments or private entities; and (4) preventing people from causing inadvertent harm to the DPS. Therefore, because we have determined that the designation of critical habitat will not likely increase the degree of threat to the DPS and may provide some measure of benefit, we find that designation of critical habitat is prudent for the Bi-State DPS.

#### Critical Habitat Determinability

Having determined that designation is prudent, under section 4(a)(3) of the Act we must find whether critical habitat for the eight species is determinable. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

- (i) Information sufficient to perform required analyses of the impacts of the designation is lacking, or
- (ii) The biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat.

When critical habitat is not determinable, the Act allows the Service an additional year to publish a critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

We reviewed the available information pertaining to the biological needs of the species and habitat characteristics where the Bi-State DPS is located. This and other information represent the best scientific data available and lead us to conclude that the designation of critical habitat is determinable for the Bi-State DPS.

#### Physical or Biological Features

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas within the geographical area occupied by the species at the time of listing to designate as critical habitat, we consider the physical or biological features that are essential to the conservation of the species and which may require special management considerations or protection. These include, but are not limited to:

- (1) Space for individual and population growth and for normal behavior;
- (2) Food, water, air, light, minerals, or other nutritional or physiological requirements;
- (3) Cover or shelter;
- (4) Sites for breeding, reproduction, or rearing (or development) of offspring; and
- (5) Habitats that are protected from disturbance or are representative of the historic, geographical, and ecological distributions of a species.

We derive the specific physical or biological features essential for the Bi-State DPS from studies of this species' habitat, ecology, and life history as summarized in the proposed listing rule published elsewhere in today's **Federal Register**, and in greater detail in the Species Report (Service 2013a, entire) available at <http://www.regulations.gov> (in the Search box, enter FWS-R8-ES-2013-0042, which is the docket number for this rulemaking). We have determined that the following physical or biological features are essential to the conservation of the Bi-State DPS of greater sage-grouse:

#### Space for Individual and Population Growth and for Normal Behavior

The Bi-State DPS of greater sage-grouse require large, interconnected expanses of sagebrush plant communities that contain a healthy understory composed primarily of native, herbaceous vegetation (Patterson 1952, p. 9; Knick *et al.* 2003, p. 623; Connelly *et al.* 2004, pp. 4-15; Pyke 2011, p. 532; Wisdom *et al.* 2011, entire). The Bi-State DPS uses a variety of habitats throughout its lifecycle, such as riparian and upland meadows, riparian areas with a shrub component, agricultural lands, and steppe dominated by native grasses and forbs. However, the Bi-State DPS of greater sage-grouse is considered a sagebrush obligate because of its near complete reliance on sagebrush as forage during the winter. In addition, the use of non-sagebrush habitats is contingent on the presence of sagebrush habitats in close

proximity (Patterson 1952, p. 42; Braun *et al.* 1976, p. 168; Schroeder *et al.* 1999, pp. 4, 5; Connelly *et al.* 2000a, pp. 970-972; Connelly *et al.* 2004, pp. 4-1, 4-18, and references therein; Connelly *et al.* 2011b, p. 80; Casazza *et al.* 2011, p. 159).

The Bi-State DPS of greater sage-grouse moves seasonally among various sagebrush-dominated vegetation communities. These moves are driven by breeding activities, nest and brood-rearing site requirements (such as mesic meadows or spring habitats (see also the "Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements" section below)), seasonal changes in the availability of food resources, and response to weather conditions. Research findings have parsed the annual life cycle of greater sage-grouse into more or less unique seasonal habitat requirement categories, but in general annual habitat use can be categorized into three seasons (although these do not have to be mutually exclusive): (1) Breeding, (2) brood-rearing summer, and (3) winter, as well as the pathways that link these habitats together (Connelly *et al.* 2011b, pp. 71-80). Research on greater sage-grouse suggests the species exhibits strong site fidelity (loyalty to a particular area) to migration corridors and seasonal habitats, including breeding, nesting, brood-rearing, and wintering areas, even when a particular area may no longer be of value (Connelly *et al.* 2004, p. 3-1; Connelly *et al.* 2011b, p. 82). Available data suggest birds within the Bi-State DPS appear to conform with this understanding (Weichman 2012, unpublished data; P. Coates 2012, pers. comm.). Adult greater sage-grouse rarely switch inter-annual use among these seasonal habitats once they have been selected, limiting the species' adaptability to habitat changes (Berry and Eng 1985, pp. 238-240; Fischer *et al.* 1993, p. 1039; Holloran and Anderson 2005, p. 749; Connelly *et al.* 2011b, p. 82).

Estimating an average annual home range size for the Bi-State DPS is difficult due to the large variation in sage-grouse movements both within and among populations. These variations are related to the spatial availability of habitats required for seasonal use as well as individual bird behavior. The pattern and scale of annual movements among populations of greater sage-grouse within the Bi-State area, and the degree to which a given habitat patch can fulfill the species' annual habitat needs, are dependent on the arrangement and quality of habitats across the landscape. Habitat structure and quality vary spatially over the

landscape; therefore, some areas may provide habitat for a single season, while other areas may provide habitat for one or more seasons (Connelly *et al.* 2011a; p. 59). In addition, plant community dynamics and natural or anthropogenic disturbance also result in a temporal component of habitat variability and suitability. Across the DPS, fine-scale habitat structure data on which to delineate seasonal habitats currently do not exist.

In the Bi-State area, greater sage-grouse home range size varies from 608 to 24,800 ha (0.9 to over 94.9 square miles) (Casazza *et al.* 2009, p. 8; U.S. Geological Survey (USGS) 2012, unpublished data). Variation occurs among individuals as well as among populations, presumably due in part to behavior and juxtaposition of seasonal habitats (Connelly *et al.* 2011a, p. 59). Migratory movements (defined in Connelly *et al.* (2000a, p. 969) as moving more than 10 kilometers (km) (6 miles (mi)) between seasonal habitats) are uncommon among most individuals in the Desert Creek-Fales, Bodie, South Mono, and White Mountains PMUs; however, within these areas some individuals make seasonal movements that exceed this migratory definition (Casazza *et al.* 2009, p. 8). Further, recent research in the Pine Nut PMU has documented typical movements between breeding and brood-rearing summer habitats of greater than 40 km (24 mi), with at least one individual moving in excess of 160 km (100 mi) from its lek of capture to summer and winter habitats (USGS 2012, unpublished data).

While not typical, the extensive migratory movements in the Pine Nut PMU demonstrate the importance of migratory behaviors for the Bi-State DPS and the potential large-scale annual habitat requirements of the species. Migratory behavior is generally slow and meandering (flying or walking less than 1 km (0.6 mi) per day); however, more rapid movements are known and local migratory flights can occur (Dunn and Braun 1986, p. 89), including in the Bi-State area (USGS 2012, unpublished data). Migratory behavior in a population can have important ramifications on population dynamics (Berryman 2002, p. 441). Juvenile sage-grouse that moved farther distances to seasonal habitats had lower overall survival than did juveniles that moved relatively short distances (Beck *et al.* 2006, p. 1076). Thus, in populations where large movements are necessary to access seasonal habitat, an increased cost in terms of increased mortality may be incurred (Connelly *et al.* 2011a, p. 67).

Therefore, based on the species' year-round reliance on sagebrush and the various seasonal habitat requirements discussed above, we identify sagebrush plant communities and interspersed mesic areas of sufficient size and configuration to be a physical or biological feature essential to the conservation of this species.

#### Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

Food resources used by the Bi-State DPS vary throughout the year because of seasonal changes in food availability and specific dietary requirements of adults and chicks. Greater sage-grouse diet is composed of nearly 100 percent sagebrush in the winter, while forbs, insects, and sagebrush are important dietary components during the remainder of the year (Wallestad *et al.* 1975, p. 629; Barnett and Crawford 1994, p. 117; Schroeder *et al.* 1999, p. 5; Gregg *et al.* 2006, pp. 475–476).

Pre-laying hens are particularly dependent on forbs and the insects supported by native herbaceous understories (Drut *et al.* 1994, pp. 173–175; Barnett and Crawford 1994, p. 117; Coggins 1998, p. 30). This pre-laying period is from approximately late-March to early April. While limited information is available on pre-nesting habitat selection, pre-laying habitats for female sage-grouse need to provide a diversity of vegetation including forbs that are rich in calcium, phosphorous, and protein to meet the nutritional needs of females during the egg development period (Barnett and Crawford 1994, p. 117; Connelly *et al.* 2000a, p. 970). During the pre-laying period, female sage-grouse select forbs that generally have higher amounts of calcium and crude protein than sagebrush (Barnett and Crawford 1994, p. 117).

Forbs and insects are essential nutritional components for Bi-State DPS sage-grouse chicks and for brood-rearing sage-grouse (Klebenow and Gray 1968, pp. 81–83; Peterson 1970, pp. 149–151; Johnson and Boyce 1991, p. 90; Connelly *et al.* 2004, p. 3–3; Dahlgren *et al.* 2006, p. 981; Aldridge and Boyce 2007, pp. 522–523; Casazza *et al.* 2011, pp. 158–159). During the first 3 weeks after hatching, insects are a critical food source of chicks (Patterson 1952, p. 201; Klebenow and Gray 1968, p. 81; Peterson 1970, pp. 150–151; Johnson and Boyce 1990, pp. 90–91; Johnson and Boyce 1991, p. 92; Drut *et al.* 1994, p. 93; Pyle and Crawford 1996, p. 320; Fischer *et al.* 1996a, p. 194). Diets of 4- to 8-week-old greater sage-grouse chicks were found to have more plant material

as the chicks matured (Peterson 1970, p. 151). Succulent forbs are predominant in the diet until chicks exceed 3 months of age, at which time sagebrush becomes a major dietary component (Klebenow 1969, pp. 665–656; Connelly and Markham 1983, pp. 171–173; Fischer *et al.* 1996b, p. 871; Schroeder *et al.* 1999, p. 5).

Decreased availability of forbs corresponds to a decrease in the probability of successfully fledging offspring, number of chicks per female, and brood size (Barnett and Crawford 1994, p. 117; Dahlgren *et al.* 2006, p. 981; Aldridge and Boyce 2007, pp. 522–523; Casazza *et al.* 2011, pp. 158–159). Population dynamics of greater sage-grouse are sensitive to adult survival, female reproductive success, and chick survival (Blomberg *et al.* 2012, pp. 11–12). Therefore, habitats that support sagebrush vegetation as well as a vegetative understory composed of native grasses and forbs are essential to key demographic rates.

In most areas within the range of Bi-State DPS, the herbaceous understory component of sagebrush plant communities dries out as summer progresses. Habitats used by greater sage-grouse in summer through late fall are typically more mesic than surrounding habitats. These areas are used primarily for foraging because they provide reliable sources of green, herbaceous vegetation when this resource is seasonally limited on the landscape (Connelly *et al.* 2011b, pp. 76–77 and references therein). Specifically, these areas include: non-wooded riparian communities, springs, seeps, mesic upland meadows, or the margins of irrigated hay meadows and alfalfa fields (Casazza *et al.* 2011, pp. 162–163; Connelly *et al.* 2011b, pp. 76–77 and references therein). However, brood-rearing habitats are selected for and provide for an increased probability of successful recruitment when sites have adequate perennial forb cover and plant species richness, adequate meadow to sagebrush edge (ratio of perimeter to area), and are farther from woodlands (Casazza *et al.* 2011, pp. 162–163).

In winter, greater sage-grouse diet is almost exclusively sagebrush, although various species of sagebrush can be consumed (Rasmussen and Griner 1938, p. 855; Batterson and Morse 1948, p. 20; Patterson 1952, pp. 197–198; Wallestad *et al.* 1975, pp. 628–629; Remington and Braun 1985, pp. 1056–1057; Welch *et al.* 1988, p. 276; Welch *et al.* 1991, p. 462; Myers 1992, p. 55; Connelly *et al.* 2000a, p. 972). While limited data are available on winter habitat use in the Bi-State area, characteristics appear similar

to those identified across the range of greater sage-grouse (P. Coates 2012, pers. comm.). Habitats used by greater sage-grouse during winter typically consist of 10 to 30 percent sagebrush cover and sagebrush heights of 25 to 35 centimeters (cm) (10 to 14 inches (in)), regardless of snow depth (Connelly *et al.* 2000a, p. 972). In all suitable winter habitats, the height of sagebrush must be tall enough so that leaves remain exposed when wintering areas are largely covered with snow (Connelly *et al.* 2011b, p. 79).

Based on the information above, we identify sagebrush plant communities that contain herbaceous vegetation consisting of a diversity and abundance of forbs, insects, and grasses that fulfill all of the Bi-State DPS's seasonal dietary requirements to be a physical or biological feature essential to the conservation of this DPS. We also identify non-sagebrush habitats located adjacent to sagebrush plant communities that are used by sage-grouse for foraging during seasonally dry periods to be a physical or biological feature essential to the conservation of this DPS. These habitats are generally more mesic than surrounding habitat, and include wet meadows, riparian areas, and irrigated pastures.

#### Cover or Shelter

Predation is the most commonly identified cause of direct mortality for greater sage-grouse during all life stages and the species relies on sagebrush and herbaceous vegetation yearlong for escape and hiding cover (Schroeder *et al.* 1999, p. 9; Connelly *et al.* 2000b, p. 228; Connelly *et al.* 2011a, p. 66). While limited data are available on specific predators in the Bi-State area, known and potential predators of adult birds include golden eagle (*Aquila chrysaetos*), coyote (*Canis latrans*), American badger (*Taxidea taxus*), and bobcat (*Felis rufus*) (Hartzler 1974, pp. 532–536; Schroeder *et al.* 1999, pp. 10–11; Schroeder and Baydack 2001, p. 25; Rowland and Wisdom 2002, p. 14; Hagen 2011, p. 97). Most raptor predation of greater sage-grouse is on juveniles and adult age classes during the breeding and late brood-rearing periods when birds are more conspicuous and associated with more sparsely vegetated sites (Hagen 2011, p. 96). Juvenile greater sage-grouse also are killed by common ravens (*Corvus corax*), American badgers, coyotes, and weasels (*Mustela* spp.) (Braun 1995, entire; Schroeder *et al.* 1999, p. 10). Nest predators in the Bi-State area may include badgers, weasels, coyotes, common ravens, American crows

(*Corvus brachyrhynchos*), magpies (*Pica* spp.), and domestic cows (*Bovus* spp.) (Coates *et al.* 2008, pp. 425–426). Coates (2012, pers. comm.) suggests that common ravens are likely the most prolific nest predator in the Bi-State area.

While greater sage-grouse in the Bi-State DPS are depredated by a variety of predators across all life stages, they are not considered primary-prey for any one predator species. The top predators in the Bi-State area (i.e., golden eagles, coyotes, bobcats, and common ravens) are considered generalists and focus more heavily on small mammals.

Nest predation is influenced by the amount of cover surrounding the nest (Gregg *et al.* 1994, p. 164; Braun 1995, pp. 1–2; DeLong *et al.* 1995, p. 90; Braun 1998, p. 149; Coggins 1998, p. 30; Connelly *et al.* 2000a, p. 975; Schroeder and Baydack 2001, p. 25; Coates and Delehanty 2008, p. 636; Kolada *et al.* 2009b, p. 1343). Females actively select nest sites with the presence of big sagebrush (*Artemisia tridentata* Nutt. ssp.), grass, and forb cover (Connelly *et al.* 2000a, p. 971), and nesting success of greater sage-grouse is positively correlated with these qualities (Schroeder and Baydack 2001, p. 25; Hagen *et al.* 2007, p. 46; Kolada *et al.* 2009b, p. 1343). In general, vegetation characteristics of successful nest sites include sagebrush canopy cover of greater than 15 percent, sagebrush heights of 30 to 80 centimeters (cm) (11.8 to 31.5 in), grass and forb heights of 18 cm (7.1 in), and grass and forb cover of greater than 15 percent (Connelly *et al.* 2000a, p. 977). While cover (canopy cover or shrubs, and understory cover or herbaceous plants) positively influences nesting success, the most important type of cover appears variable across the range of the greater sage-grouse (Connelly *et al.* 2000a, p. 971; Coates 2007, p. 148). In the Bi-State area, shrub canopy cover appears to be most influential to both nest-site selection and nesting success (Kolada *et al.* 2009a, p. 1336; Kolada *et al.* 2009b, p. 1343).

Furthermore, vegetation other than sagebrush (i.e., understory vegetation and other herbaceous cover) have a significant positive impact on nest success (Kolada *et al.* 2009b, p. 1343). While not readily apparent in the Bi-State area (Kolada *et al.* 2009b, p. 1344), both understory cover and height has been shown to influence nest success across the range of the greater sage-grouse (Gregg 1994, p. 164; Hagen *et al.* 2007, p. 46). Additionally, reduced herbaceous cover for young chicks can increase their rate of predation (Schroeder and Baydack 2001, p. 27;

Aldridge and Boyce 2008, p. 402). These studies taken collectively indicate the importance of sufficient cover to nest and brood success of sage-grouse in the Bi-State area.

Fragmentation of large, intact habitats into smaller units due to anthropogenic or natural causes has been implicated to affect the Bi-State DPS's susceptibility to mortality through predation. Local attraction of common ravens to nesting females may be facilitated by loss and fragmentation of native shrublands, which increases exposure of nests to potential predation (Aldridge and Boyce 2007, p. 522; Bui 2009, p. 32; P. Coates 2012, pers. comm.). Reduction in patch size and diversity of sagebrush habitat, and increased edge, as well as the construction of fences, power lines, and other infrastructure also are likely to encourage the presence of the common raven (Coates *et al.* 2008, p. 426; Bui 2009, p. 4). Greater sage-grouse are adapted to minimize predation by cryptic plumage and behavior (Hagen 2011, p. 96). Because sage-grouse are prey, predation will continue to have an effect on the Bi-State DPS; however, where habitat is not limited and is of good quality, predation appears to be less influential on population demographic rates (Coates 2007, pp. 154, 155; Hagen 2011, p. 100). Landscape fragmentation, habitat degradation, and human populations have the potential to increase predator populations through increasing ease of securing prey and subsidizing food sources and nest or den sites. Thus, otherwise suitable habitat may, in fact, act as a population sink, whereby predation affects mortality more quickly than the beneficial aspects of the habitat can affect recruitment (Aldridge and Boyce 2007, p. 517). Most sage-grouse research has failed to quantify predation rates in relation to habitat structure at a landscape level. Thus, while it is not currently possible to completely understand the relationships among habitat structure, sage-grouse demographic rates, and predator communities, available information suggests fragmentation of habitat can facilitate an increase in predation rates.

Bi-State DPS of greater sage-grouse use sagebrush plant communities during the winter season for thermal cover and to meet nutritional needs. Sagebrush stand selection in winter is influenced by snow depth and available literature suggests sagebrush canopy cover should be greater than 10 percent and shrubs should have at least 25 cm exposed above the snow (Patterson 1952, pp. 188–189; Connelly 1982 as cited in Connelly *et al.* 2000a, p. 980). In some areas, topography influences sagebrush

stand selection (Beck 1977, p. 22; Crawford *et al.* 2004, p. 5). Winter sagebrush use areas are associated with drainages, ridges, or southwest aspects with slopes less than 15 percent (Beck 1977, p. 22). Lower, flat areas and shorter sagebrush along ridge tops provide roosting areas. In extreme winter conditions, greater sage-grouse will spend nights and portions of the day burrowed into "snow burrows" (Back *et al.* 1987, p. 488), and we expect the Bi-State DPS to exhibit the same behavior. During severe winters in the Bi-State area, significant percentages of birds from the various PMUs can be highly concentrated in localized sites. In these conditions, tall, late-seral sagebrush stands are an especially important food source and in some instances birds have been observed digging through several inches of snow to access shrubs (Casazza *et al.* 2009, p. 33).

Therefore, based on the information above, we identify sagebrush plant communities consisting of adequate shrub and herbaceous structure to provide year-round escape and hiding cover, as well as areas that provide concealment of nests and broods during the breeding season, and winter season thermal cover to be a physical or biological feature essential to the conservation of this DPS. Quantitative information on cover can be found in the *Primary Constituent Elements for the Bi-State DPS* section, below.

#### Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

**Lek Sites.** Lek sites can be located on areas of bare soil, wind-swept ridges, exposed knolls, low-statured sagebrush communities, meadows, and other relatively open sites with good visibility and low-vegetation structure (Connelly *et al.* 1981, pp. 153–154; Gates 1985, pp. 219–221; Klott and Lindzey 1989, pp. 276–277; Connelly *et al.* 2004, p. 3–7 and references therein). In addition, leks are usually located on flat to gently sloping areas of less than 15 percent grade (Patterson 1952, p. 83; Giezantner and Clark 1974, p. 218; Wallestad 1975, p. 17; Autenrieth 1981, p. 13). Leks are often surrounded by denser shrub-steppe cover, which is used for escape, and thermal and feeding cover. Leks can be formed opportunistically at any appropriate site within or adjacent to nesting habitat (Connelly *et al.* 2000a, p. 970). However, adult male sage-grouse demonstrate strong yearly fidelity to lek sites (Patterson 1952, p. 91; Dalke *et al.* 1963, pp. 817–818), and some leks in the Bi-State area have been used since the 1950s. Across the entire Bi-State

DPS, approximately 35 to 45 leks are considered active as of 2013. In general, lek habitat availability is not considered to be a limiting factor for sage-grouse (Schroeder 1997, p. 939).

**Nesting Habitat.** Greater sage-grouse typically select nest sites under sagebrush cover with some forb and grass cover, and successful nests are found in areas with higher shrub density and greater forb and grass cover than unsuccessful nests (Connelly *et al.* 2011b, p. 73). While the importance of nesting cover remains apparent in the Bi-State area, local data suggest slight deviations from the generally accepted standards for the greater sage-grouse, which were largely derived from research conducted outside the southern Great Basin. Specifically, Kolada *et al.* (2009a, p. 1336; 2009b, p. 1343) found that nesting success improved when nesting habitat contained greater than 20 percent sagebrush canopy cover and greater than 40 percent total shrub cover while shrub height did not appear to influence nesting success. This canopy cover standard in the Bi-State area is generally greater than those reported elsewhere across the range of the species. Additionally, there is currently little support in the Bi-State area for a positive influence of understory cover and height on either nest site selection or nest success (Kolada *et al.* 2009a, p. 1336; Kolada *et al.* 2009b, p. 1343). Similar findings are apparent in other locations in Nevada, but these investigations also suggest a trade-off between overstory and understory cover (Coates and Delehanty 2010, pp. 245–246). This implies that the need for understory cover diminishes as overstory cover increases, and vice versa. Thus, while shrub canopy and grass cover provide concealment for sage-grouse nests and young and are critical for reproductive success, the composition of these cover components appears to vary regionally (Barnett and Crawford 1994, pp. 116–117; Gregg *et al.* 1994, pp. 164–165; DeLong *et al.* 1995, pp. 90–91; Connelly *et al.* 2004, p. 4–4; Kolada *et al.* 2009a, p. 1336; Kolada *et al.* 2009b, p. 1343). In the southern Great Basin and in the Bi-State area specifically, there is strong support for the importance of greater shrub canopy cover on nesting success.

Female greater sage-grouse exhibit strong fidelity to nesting locations (Lyon 2000, p. 20; Connelly *et al.* 2004, pp. 4–5; Holloran and Anderson 2005, p. 747). Interannual distances between nests are frequently less than 1 km and often much less than this (Connelly *et al.* 2011b, p. 74 and references therein). Additionally, re-nesting attempts are also frequently in close proximity to the

original nest (Weichman 2012, unpublished data).

**Brood-rearing Habitat.** Early brood-rearing habitat is found close to nest sites (Connelly *et al.* 2000a, p. 971), although individual females with broods may move large distances (Connelly 1982, as cited in Connelly *et al.* 2000a, p. 971). These sites typically contain a greater amount of perennial forbs, with horizontal and vertical structural diversity that provides an insect prey base and herbaceous forage for newly hatched chicks but additionally for pre-laying and nesting hens (Schroeder *et al.* 1999, p. 11; Connelly *et al.* 2000a, p. 971; Connelly *et al.* 2004, pp. 4–5–4–8; Casazza *et al.* 2011, pp. 158–159). By mid-summer and into early fall, birds move to mesic sagebrush plant communities that continue to provide green forbs. Casazza *et al.* (2011, pp. 158–163) found that sage-grouse in the Bi-State area with broods selected areas with increased plant species richness, greater forb cover, and increased meadow edge, and they avoided areas in proximity to trees (e.g., riparian sites, conifer encroached sites). While broods are known to utilize edges of hay meadows, data indicate that small, irregularly shaped meadows are of greater importance to broods than are large agricultural fields (Casazza *et al.* 2011, p. 163). However, due to relatively limited meadow habitat in the Bi-State area, the edges of irrigated agricultural fields are likely important in brood production.

Therefore, based on the information above, we identify sagebrush plant communities with the appropriate shrub and herbaceous vegetation structure to meet all the needs for all the Bi-State DPS of greater sage-grouse reproductive activities (including lekking, nesting, and brood-rearing) to be a physical or biological feature essential to the conservation of this DPS. Quantitative information on appropriate levels of vegetation structure and composition can be found in the *Primary Constituent Elements for the Bi-State DPS* section, below.

#### Habitats Protected From Disturbance or Representative of the Historical, Geographical, and Ecological Distributions of the Species

Greater sage-grouse in the Bi-State area historically occurred from at least the Pine Nut Mountains area to south of the Mono County and Inyo County border near Bishop, California. Additionally, there are areas that are presumed to have been historically occupied that are no longer occupied and are now unsuitable for sage-grouse occupancy (i.e., Smith Valley,

Gardnerville, and Bridgeport). Suitable habitat for the Bi-State DPS within the geographic area currently occupied by the species is approximately 590,184 ha (1,458,381 ac) (Service 2013a, Table 1 p. 20). The remaining habitat within the Bi-State area is fragmented, resulting in varying degrees of isolation among local breeding populations. Many of these fragmented areas serve as unused corridors/sites between seasonal habitats for a given population of sage-grouse contained within the Bi-State DPS. These corridors are a physical or biological feature essential to the conservation of this DPS based on greater sage-grouse research, which suggests that sage-grouse exhibit strong site fidelity (loyalty to a particular area) to migration corridors and seasonal habitats, including breeding, nesting, brood-rearing, and wintering areas, even when a particular area may seemingly no longer be of value (Connelly *et al.* 2004, p. 3–1; Connelly *et al.* 2011b, p. 82)

The currently suitable sagebrush plant communities and the intervening or adjacent fragmented areas (including corridors/sites between seasonal habitat areas) that are proposed for designation contain physical and biological features that are representative of the historical and geographical distribution of the Bi-State DPS. We believe the currently unused corridors/sites that contain plant communities (primarily woodland encroached sites that are not suitable for use) that are proposed for designation were all likely historically used by the DPS and also represent historic biological and ecological distribution within the the DPS's present range. These corridors/sites are intermixed within suitable habitat areas currently utilized by the Bi-State DPS during various life stages, as described above. These corridors/sites are limiting the extent of sagebrush habitat throughout the current range of the DPS, especially in the PMUs with the smallest populations (i.e., Pine Nut, Mount Grant, Desert Creek-Fales, and White Mountain PMUs), and are creating varying degrees of isolation among local breeding populations. Restoration of these corridors/sites can facilitate movements among populations and allow the DPS to recovery its historical distribution within its present range. To inform our decision on specific locations of these corridors/sites, we used the 2012 Bi-State Action Plan (Bi-State TAC 2012a, entire). The Bi-State Action Plan identifies areas for possible restoration activity within the present range of the species that would improve overall habitat quality and quantity and

provide improved connectivity among local breeding populations across the Bi-State DPS.

Therefore, based on the information above, we identify corridors/sites that currently contain unsuitable/unused plant communities that are interspersed with sagebrush habitats that exhibit one or more of the physical or biological features described above, to be a physical or biological feature essential to the conservation of the Bi-State DPS. Once special management designed to improve the condition of these interspersed corridors/sites has been implemented, they will help ensure long-term conservation of the DPS, and most importantly provide connectivity between currently fragmented areas.

#### *Climate Change*

Climate change projections in the Great Basin suggest a hotter and stable-to-declining level of precipitation, and a shift in precipitation events to the summer months; fire frequency is expected to accelerate, fires may become larger and more severe, and fire seasons will be longer (Brown *et al.* 2004, pp. 382–383; Neilson *et al.* 2005, p. 150; Chambers and Pellat 2008, p. 31; Global Climate Change Impacts in the United States 2009, p. 83). With these projections, drought (which is a natural part of the sagebrush ecosystem) is likely to be exacerbated.

Specifically within the Bi-State area, we anticipate climate change will act synergistically with other impacts to the Bi-State DPS to further diminish habitat, including features such as water, food, cover or shelter, and sites for breeding and reproduction. Predicting the impact of global climate change on sage-grouse populations is challenging due to the relatively small spatial extent of the Bi-State area. It is likely that vegetation communities will not remain static and the amount of sagebrush shrub habitat will decrease. Further, increased variation in drought cycles due to climate change will likely place additional stress on the populations. However, while it is reasonable to assume the Bi-State area will experience vegetation changes into the future, we do not know with precision the nature of these changes or ultimately the effect this will have on the Bi-State DPS. Regardless, we anticipate the area will likely become generally less suitable to invasion by *Bromus tectorum* (cheatgrass). It is similarly likely that the current extent of suitable shrub habitat (e.g., areas for cover, shelt, breeding, and reproduction) will decrease, as the conditions that make the reduction in cheatgrass possible also suggest a less suitable climate condition

for sagebrush and improved suitability for woodland and drier vegetation communities, which are not favorable to sage-grouse in the Bi-State DPS. For additional discussion on this topic, see the "Climate Change" section of the proposed listing rule published elsewhere in today's **Federal Register**.

#### *Primary Constituent Elements for the Bi-State DPS*

According to 50 CFR 424.12(b), we are required to identify the physical or biological features essential to the conservation of the Bi-State DPS in areas occupied at the time of listing, focusing on the features' primary constituent elements (PCEs). We consider primary constituent elements to be those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

We only consider areas as critical habitat if they meet the "Landscape-scale Primary Constituent Element" (PCE 1) because small, isolated patches of sagebrush do not support the Bi-State DPS. If an area meets the landscape scale requirement, then a particular site is considered critical habitat if it contains one or more of the "Site-scale Primary Constituent Elements" (PCEs 2 through 4); Landscape scale may also contain the plant communities discussed above.

Based on our current knowledge of the physical or biological features and habitat characteristics required to sustain the species' life-history processes, we determine that the PCEs specific to the Bi-State DPS of greater sage-grouse are:

#### **Landscape-scale Primary Constituent Element**

**Primary Constituent Element 1—** Areas with vegetation composed primarily of sagebrush plant communities of sufficient size and configuration to encompass all seasonal habitats for a given population of greater sage-grouse, or facilitate movements within and among populations. This includes former sagebrush communities in specific locations that are currently primarily woodland encroached sites that potentially provide connectivity between populations.

#### **Site-Scale Primary Constituent Elements**

**Primary Constituent Element 2—** Breeding habitat composed of sagebrush plant communities with structural characteristics within the ranges described in Table 1, below. Habitat structure values are average values.

**TABLE 1—BI-STATE DPS OF GREATER SAGE-GROUSE STRUCTURAL GUIDELINES FOR BREEDING HABITAT**

Vegetation variable	Amount of occurrence in the habitat
Sagebrush Canopy Cover.	>20 percent.
Non-sagebrush Canopy Cover.	>20 percent.
Total Shrub Canopy Cover.	>40 percent.
Sagebrush Height .....	>30 cm (12 in).
Perennial Grass Cover.	No less than 5 percent but >10 percent if total shrub cover <25 percent.
Annual Grass Cover	<5 percent.
Forb Cover .....	>10 percent.
Grass/Forb Height .....	>18 cm (7 in).

Primary Constituent Element 3—Brood-rearing habitat composed of sagebrush plant communities and mesic habitats used primarily in the summer to late fall season. These sites include, but are not limited to, riparian communities, springs, seeps, and mesic meadows with structural characteristics within the ranges described in Table 2, below.

**TABLE 2—BI-STATE DPS OF GREATER SAGE-GROUSE STRUCTURAL GUIDELINES FOR BROOD-REARING HABITAT**

Vegetation variable	Amount of occurrence in the habitat
Sagebrush Canopy Cover.	10 to 25 percent.
Total Shrub Canopy Cover.	14 to 25 percent.
Sagebrush Height .....	>30 cm (12 in).
Perennial Grass Cover.	>7 percent.
Perennial Forb Diversity.	>5 species present.
Forb Cover .....	>7 percent.
Grass/Forb Height .....	18 cm (7 in).
Meadow Edge (ratio perimeter to area).	>0.015.
Species Richness .....	>5 species.

Primary Constituent Element 4—Winter habitat composed of sagebrush plant communities with sagebrush canopy cover greater than 10 percent and sagebrush height of greater than 25 cm (9.8 in) above snow level.

For the PCEs 2 through 4, we adopt the values from the literature on greater sage-grouse, but we modify them where available with specific research conducted in the Bi-State area and southern Great Basin. These data combined provide structural habitat values for Bi-State DPS of greater sage-grouse in all seasonal habitats. Source data include structural vegetation data collected in the breeding season

(Connelly *et al.* 2000a; Hagen *et al.* 2007; Kolada *et al.* 2009a; Kolada *et al.* 2009b; Coates and Delehanty 2010; Blomberg *et al.* 2012), summer-fall (Casazza *et al.* 2011; Coates *et al. in prep.* a), and winter (Connelly *et al.* 2000a; Coates *et al. in prep.* b). To the greatest extent possible, these structural habitat values are representative of the southern Great Basin and the Bi-State area specifically, and reflect the shrub structure, understory structure, and understory composition selected for by greater sage-grouse in this region. As such, these values are based on the most current and comprehensive assessment of the Bi-State DPS habitat structure. We consider an area critical habitat if its average vegetation values are within the values for the majority of structural categories for any given PCE (see Tables 1 and 2, above).

*Special Management Considerations or Protection*

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features which are essential to the conservation of the species and which may require special management considerations or protection. All units proposed for designation as critical habitat, as described below, require some level of management to address the current and future threats to the physical and biological features essential to the conservation of Bi-State DPS of greater sage-grouse. In all of the described units, special management may be required to ensure that the habitat is able to provide for the biological needs of this DPS.

A detailed discussion of the current and future threats to the Bi-State DPS of greater sage grouse can found in the Species Report available at <http://www.regulations.gov> under Docket No. FWS-R8-ES-2013-0042 and summarized in the proposed listing rule to list the species as threatened, which is published elsewhere in today's **Federal Register**, in the section entitled *Summary of Factors Affecting the Species*. In general, the features essential to the conservation of the Bi-State DPS may require special management considerations or protection to reduce the following individual threats and their interactions: The spread of invasive plant species and associated changes in sagebrush plant community structure and dynamics; wildfire and altered fire regime; residential and commercial development, including associated land-clearing activities for the construction of access roads, utilities, and fences;

increased recreational use of roads and trails; the proliferation of predators; improper grazing management; and other activities that result in the loss or degradation of sagebrush plant communities. The largest, overarching concern to the Bi-State DPS is multiple threats acting upon the landscape that are resulting in habitat fragmentation. The aforementioned activities are having direct and indirect effects on the birds' habitat and behavior, and are cumulatively and individually increasing habitat fragmentation.

The physical and biological features contained within the units designated as critical habitat may require special management considerations or protection to address the threats mentioned above. Based on our analysis of threats to the Bi-State DPS of greater sage-grouse, management activities that could ameliorate these threats include, but are not limited to:

(1) Comprehensive land-use planning and implementation that prevents a net decrease in the extent and quality of the DPS's habitat through the prioritization and protection of habitats and monitoring; protection of lands by fee title acquisition or the establishment of permanent conservation easements;

(2) Management of recreational use to minimize direct disturbance and habitat loss;

(3) Control of nonnative, invasive plants and native, invasive plants to reduce further habitat loss and reduce the potential for wildfires;

(4) Management of domestic and wild ungulate use to ensure the suitable sage-grouse habitat meets or exceeds the structural habitat components required by sage-grouse;

(5) Monitoring and management of predator communities to determine impacts and help reduce potential predation;

(6) Coordinated and monitored habitat restoration or improvement projects to increase the amount of suitable habitat, particularly within fragmented areas and migration corridors; and

(7) Implementation of wildfire suppression, particularly in big sagebrush plant associations, to reduce further loss of big sagebrush communities that sage-grouse rely on for multiple life stages.

Such special management activities may be required to protect the physical and biological features essential to the conservation of the DPS, and support the conservation of the DPS by preventing or reducing the loss, degradation, and fragmentation of sagebrush landscapes. Additionally, management of critical habitat features can increase the amount of suitable

habitat and enhance connectivity among sage-grouse populations in the Bi-State area through the restoration of lands that were previously composed of sagebrush plant communities. The limited extent of sagebrush habitat throughout the DPS's current range (as well as the significantly fragmented nature of the remaining sagebrush habitat) emphasizes the need for special management of these corridors/sites for the Bi-State DPS' use, thus potentially providing unfragmented habitat needed to survive and recover.

In some cases, continuing current land management practices may be appropriate and beneficial for the Bi-State DPS. For instance, continued irrigation and maintenance of hay and alfalfa fields on private lands near sagebrush habitats may help provide or enhance brood-rearing, mesic habitats for the Bi-State DPS. We acknowledge the ongoing and proposed conservation efforts of many entities across the range of the Bi-State DPS, such as the Natural Resource Conservation Service (NRCS) Sage Grouse Initiative (<http://www.nrcs.usda.gov/wps/portal/nrcs/site/national/home/>), that include many partners to implement conservation actions. We are currently coordinating with Federal agencies to ensure a seamless continuation of conservation practices if final rules are published for a listing determination and critical habitat designation.

#### Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied at the time of listing that contain the features essential to the conservation of the species. If, after identifying these specific areas, a determination is made whether these areas are inadequate to ensure conservation of the species, in accordance with the Act and our implementing regulations at 50 CFR 424.12(e), we then consider whether designating additional areas—outside of the geographical area currently occupied—are essential for the conservation of the species. As a result of this analysis, we are proposing to designate critical habitat within the geographical area occupied by the species at the time of listing (currently occupied) on which are found those physical or biological features essential

to the conservation of the DPS and which may require special management considerations or protection. Some of the units we are proposing to designate as critical habitat contain corridors/sites that are currently unsuitable for use because of woodland encroachment. These corridors/sites are interspersed within suitable habitat that is currently used by the DPS. These sites provide essential connectivity corridors and habitat extent necessary for the conservation and recovery of the DPS (see the Physical or Biological Features section above). Once special management designed to improve the condition of these interspersed corridors/sites has been implemented, they will help ensure long-term conservation of the DPS and provide connectivity between currently fragmented areas. We are not proposing to designate specific areas outside the geographical area currently occupied by the DPS.

We delineated the critical habitat unit boundaries as follows:

We based our identification of lands that contain physical and biological features essential to the conservation of the Bi-State DPS of greater sage-grouse on polygons delineated and defined by the Bi-State TAC during the development of the 2012 Bi-State greater sage-grouse Preliminary Priority Habitat (PPH) Map (Bi-State TAC 2012b), and a map product depicting occupied habitat developed by the Bureau of Land Management (BLM) in conjunction with the U.S. Forest Service in 2008 (BLM 2008). The Bi-State TAC is comprised of biologists representing the California Department of Fish and Wildlife (CDFW), Nevada Department of Wildlife (NDOW), BLM, the U.S. Forest Service, NRCS, USGS, and our offices (i.e., the Service). Both of these products (i.e., the PPH map and BLM map) largely correlate with one another, although the combined map encompasses more area than either product individually. The PPH map developed in 2012, was largely informed by Resource Selection Function (RSF) equations. RSFs are ranked habitat suitability factors that predict what areas an animal will use or avoid. We consider polygons derived through modeling RSFs to be the area currently suitable for sage-grouse in the Bi-State area. RSFs predict suitable habitat and thus likely overestimate the currently utilized habitat; however, a significant amount of sage-grouse population and habitat use data specific to the Bi-State area were used to develop these data layers, thus resulting in a high-quality mapping product for use as the best available information. Ground-truthing of many of these areas

confirms this mapping effort is accurate for predicting use by sage-grouse (Coates 2012, pers. comm.). Thus, we consider the polygons delineated through this process to be currently occupied. The 2008 BLM map was informed by the delineation of existing vegetation and expert opinion, and similarly we consider the polygons delineated through this process to be currently suitable habitat in this proposal. Therefore, combining the PPH map derived by RSFs and the 2008 BLM map contributes to our understanding of what constitutes currently suitable and potentially usable habitat.

RSFs are a data-driven approach used to identify suitable habitat. The RSF process used readily available, broad-scale, vegetation maps; more than 7 years of radio telemetry data; and on-the-ground vegetation data collected from across the range of the Bi-State DPS. Specifically, the approach used to identify the critical habitat units includes the following steps:

(1) A land cover map was developed for Nevada and California. This map is a synthesis of multiple, existing, broad-scale, vegetation mapping products (e.g., SynthMap, LANDFIRE, SageStitch, FRAP). Additional map layers were developed for environmental factors thought to be important to the Bi-State DPS, including maps of pinyon-juniper vegetation (dominated by *Pinus edulis* (pinyon pine) and various *Juniperus* (juniper) species that can encroach upon, infill, and eventually replace sagebrush habitat) cover classes used as surrogates for phases of encroachment, topographic variables (i.e., elevation, ruggedness, and slope), agricultural areas, and anthropogenic factors (i.e., urbanization, roads, and recreation).

(2) RSFs were developed by modeling the relative probability of occurrence as a function of different environmental factors. These factors consisted of vegetation types, pinyon-juniper cover classes, agricultural areas, elevation, ruggedness, slope, roads, recreation, and urbanization. The factors were measured at multiple spatial scales that reflect movement patterns of the Bi-State DPS. The modeling process contrasted these environmental factors for sites used by Bi-State DPS of greater sage-grouse (which included more than 12,500 individual sage-grouse telemetry locations) to available sites (which were randomly generated locations distributed throughout each PMU). Contrasting the environmental factors in areas known to be used by the species versus areas available provided information about what factors (e.g., urbanization, pinyon-juniper woodland sites) correlated with the Bi-State DPS's

selection or avoidance of a specific location. The Pine Nut PMU was analyzed separately from the other five PMUs because the population within this PMU exhibits strong differences in behavior and influential environmental factors compared to other greater sage-grouse populations in the Bi-State area.

(3) RSFs were applied to the map layers developed in Step 1 to calculate an overall probability of use per pixel. This created a single habitat suitability map and resulted in a surface of predicted use by sage-grouse across the range of the Bi-State DPS. This surface was represented by probability values that ranged across a continuous spectrum of 0.0 to 1.0.

(4) To identify currently usable habitat, the values from the habitat suitability map were extracted for 1,300 independent sage-grouse telemetry point locations within the Bi-State area. These newly derived habitat suitability values are associated with areas known to be used by the Bi-State DPS based on independent telemetry point data. We then reclassified this data into binary values (i.e., suitable habitat and potentially unsuitable or less than suitable habitat) for each PMU.

(5) The raster cells classified as suitable habitat were converted to polygons and smoothed using a distance of 1 km (0.6 mi). This value was used because it was sufficiently coarse to alleviate pixelation associated with raster data sets but not overly coarse to where the resulting map altered significantly from the original layers. Thus, the resulting map provided a more easily interpretable layer conducive to management.

(6) All urban areas were digitized and based on model performance at multiple scales; large-bodied standing water areas and other areas that exceeded 1 square km (247 ac) were removed because they are not considered suitable habitat.

(7) A second independent telemetry data set (more than 1,000 points) was used to validate the modeling; greater than 99 percent of the telemetry points fell within the mapped PPH areas generated from the RSF. This step validated that this data-driven approach to identify suitable habitat performed well.

A spatially explicit habitat-suitability model developed for the Bi-State DPS (Bi-State Technical Team 2012, unpublished data) predicts the location of usable habitat within the current range of the Bi-State DPS. The best available data from modeling exercises (as discussed above in this section) includes roughly 590,184 ha (1,458,381 ac) of suitable habitat within the range of the DPS.

(8) To identify acres that are currently less than suitable (e.g., areas exhibiting less than optimal habitat conditions within the present range of the DPS that were either known or likely to be historically utilized), we examined information pertaining to potential woodland restoration sites identified in the 2012 Bi-State Action Plan (Bi-State TAC 2012a, pp. 90–95).

We identified potential habitat as unused habitats that could be suitable for occupation of sage-grouse if practical management was applied. These corridors/sites are most commonly former sagebrush areas overtaken by pinyon-juniper woodlands. To further refine these areas, we identified locations that are: (1) Contiguous with currently utilized habitat that occurs within the present range, (2) provide for connectivity between and within populations, and (3) identified within the 2012 Bi-State Action Plan. We consider the size and degree of isolation among various populations contained within the Bi-State DPS to be a significant conservation concern; therefore, regaining historical connectivity among populations is essential to the conservation of the species. The corridors/sites are all contained within the borders of the delineated PMUs.

(9) To match the approach adopted during the development of the RSF product, we adjusted the 2008 BLM map utilizing a similar process by converting the raster cells to polygons and smoothing the polygons using a distance of 1 km (0.6 mi). These three datasets were then merged together into a unified layer within a GIS.

(10) Utilizing the unified data layer, we identified small, isolated, and disjunct polygons that were not considered to meet the intent of the landscape-scale primary constituent element (PCE 1) and were not considered necessary for the recovery of the species. These polygons were removed from the dataset resulting in our proposed critical habitat map. We specifically request comments on this and other criteria described above.

As described in more detail in the Species Report (Service 2013a, pp. 17–29) and the proposed listing rule for the Bi-State DPS of greater sage-grouse (published elsewhere in today's *Federal Register*), there are currently six PMUs delineated in the Bi-State area: (1) Pine Nut, (2) Desert Creek–Fales, (3) Bodie, (4) Mount Grant, (5) South Mono, and (6) White Mountains (see Background section above, and the Background section of the proposed listing rule published elsewhere in today's *Federal Register*).

Proposed critical habitat units for the Bi-State DPS collectively contain relatively small and discrete populations that are needed to ensure resilience in the face of environmental fluctuations and catastrophic events, and to ensure the continuation of evolutionary process (see “Species Information” section of the proposed listing rule published elsewhere in today's *Federal Register*, and the “Current Range/Distribution and Population Estimates/Annual Lek Counts” section of the Species Report (Service 2013a, pp. 17–28). Thus, the units contain the physical and biological features that are essential to the conservation of the species. The corridors/sites that are currently experiencing woodland encroachment are contiguous with the suitable habitat, and are a feature that is essential to the conservation of the Bi-State DPS. These corridors/sites provide connectivity between the current populations and reduce habitat fragmentation, which in turn impacts sage-grouse population dynamics. Once special management designed to improve the condition of these corridors/sites has been implemented, they would provide needed connectivity among currently disjunct populations and additional habitat extent, thereby increasing overall habitat redundancy. The best available information indicates that, with proper protection and management, the proposed critical habitat units are sufficient to provide for the conservation of the species.

While there are six PMUs, we are proposing four units as critical habitat for the Bi-State DPS. Units are proposed for designation based on sufficient elements of physical or biological features being present to support the Bi-State DPS's life-history processes. All units individually contain all of the identified elements of physical and biological features, and each unit as a whole supports multiple life-history processes.

We are proposing for designation of critical habitat lands that we have determined are within the geographical area occupied at the time of listing and contain the physical or biological features essential to the conservation of the DPS.

When determining proposed critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for the Bi-State DPS. The scale of the maps we prepared under the parameters for publication within the Code of

Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, if the critical habitat is finalized as proposed, a Federal action involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

The proposed critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document in the rule portion. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this

document. We will make the coordinates or plot points or both on which each map is based available to the public at <http://www.regulations.gov> at Docket No. FWS-R8-ES-2013-0042, on our Internet sites (Reno Fish and Wildlife Office (<http://www.fws.gov/nevada/>) and Ventura Fish and Wildlife Office (<http://www.fws.gov/ventura/>)), and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT** above).

**Proposed Critical Habitat Designation**

We are proposing to designate approximately 755,960 ha (1,868,017 ac) in four units as critical habitat for the Bi-State DPS of greater sage-grouse, all of which are considered currently occupied. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for the Bi-State DPS. The four units we propose as critical habitat correspond to the four

populations recognized by the Western Association of Fish and Wildlife Agencies (WAFWA), which include: (1) Pine Nut, (2) North Mono Lake, (3) South Mono Lake, and (4) White Mountains. These units are contained within the PMU boundaries (which are identified on the maps in the Proposed Regulation Promulgation section of this proposed rule); however, the proposed North Mono Lake Unit (Unit 2) combines three PMUs (Desert Creek-Fales, Bodie, and Mount Grant PMUs) into a single unit. Approximately 75 percent (about 564,578 ha (1,395,103 ac)) of the area within the four units is currently suitable habitat and approximately 25 percent (about 191,381 ha (472,914 ac)) is contiguous with currently suitable habitat but is considered less than suitable for current use. Table 3 shows land ownership and approximate areas of the proposed designated areas for the Bi-State DPS.

**TABLE 3—PROPOSED CRITICAL HABITAT UNITS FOR THE BI-STATE DPS IN NEVADA AND CALIFORNIA**  
 [Area estimates reflect all land within critical habitat unit boundaries.]

Critical habitat unit	Land ownership by type	Size of unit in hectares (acres)
1. Pine Nut .....	Tribal .....	10,401 (25,701)
	Federal .....	92,324 (228,137)
	State .....	4,822 (11,917)
	Private .....	14,197 (35,081)
Subtotal Unit 1 .....		121,744 (300,836)
2. North Mono Lake .....	Tribal .....	16 (40)
	Federal .....	294,775 (728,404)
	State .....	3,374 (8,338)
	Local Agency .....	1,295 (3,200)
Private .....	46,031 (113,744)	345,491 (853,726)
Subtotal Unit 2 .....		345,491 (853,726)
3. South Mono Lake .....	Tribal .....	161 (398)
	Federal .....	138,905 (343,242)
	State .....	1,345 (3,323)
	Local Agency .....	13,312 (32,894)
Private .....	7,750 (19,151)	161,473 (399,008)
Subtotal Unit 3 .....		161,473 (399,008)
4. White Mountains .....	Tribal .....	521 (1,286)
	Federal .....	123,831 (305,994)
	Private .....	2,901 (7,167)
Subtotal Unit 4 .....		127,252 (314,447)
Subtotal .....	Tribal .....	11,099 (27,425)
	Federal .....	526,128 (1,605,777)
	State .....	9,541 (23,578)
	Local Agency .....	14,607 (36,094)
	Private .....	70,878 (175,143)
GRAND TOTAL .....		755,960 (1,868,017)

Note: Area sizes may not sum due to rounding.

We present brief descriptions of the four units and reasons why they meet the definition of critical habitat for the Bi-State DPS, below.

*Unit 1: Pine Nut*

The Pine Nut Unit consists of approximately 121,744 ha (300,836 ac) and is located in Mono and Alpine Counties, California, and Douglas, Lyon, and Carson City Counties, Nevada. The

unit encompasses the Pine Nut Mountains and represents the northern extent of the DPS. It extends from the Carson River south to the West Fork Walker River. The southwestern boundary extends into California encompassing Slinkard Valley near

Woodford, California. Land ownership within this unit consists of approximately 92,324 ha (228,137 ac) of Federal land, 4,822 ha (11,917 ac) of State land, 10,401 ha (25,701 ac) of Washoe Tribe of Nevada and California tribal land, and 14,197 ha (35,081 ac) of private land. The Pine Nut Unit includes lands in the Humboldt-Toiyabe National Forest and lands managed by the Carson City District Office of the BLM. State lands within this unit include Slinkard/Little Antelope Valley Wildlife Area.

This unit is considered to be within the geographical area occupied by the species at the time of listing and contains the physical or biological features essential to the conservation of the DPS. This unit is important for the conservation of the DPS due to the redundancy and additional distributional extent it affords the remainder of the Bi-State DPS. The physical or biological features essential to the conservation of the Bi-State DPS in the Pine Nut Unit may require special management considerations or protection due to the presence of fire; woodland encroachment; nonnative, invasive species; urbanization and human disturbance; infrastructure; feral horses; predation; and additional localized and less severe impacts.

#### *Unit 2: North Mono Lake*

The North Mono Lake Unit consists of approximately 345,491 ha (853,726 ac) and is located in Alpine and Mono Counties, California and Lyon, Douglas, and Mineral Counties, Nevada. The unit extends from southern Smith Valley, Nevada in the north to Mono Lake, California in the south, and the Wassuk Range in Nevada in the east to the foothills of the Sierra Nevada mountain range in the west. Land ownership within this unit consists of approximately 294,775 ha (728,404 ac) of Federal land, 3,374 ha (8,338 ac) of State land, 1,295 ha (3,200 ac) of local agency (County or City) lands, 16 ha (40 ac) of Bridgeport Paiute Indian Colony tribal lands, and 46,031 ha (113,744 ac) of private land. The North Mono Lake Unit includes lands in the Humboldt-Toiyabe National Forest (including Forest Service lands utilized for military readiness via a 40-year special use permit with the Marine Corps' Mountain Warfare Training Center), and BLM's Bishop Field Office and Carson City District Office. State lands within this unit include the Green Creek, East Walker River, Slinkard/Little Antelope Valley, and Pickel Meadow Wildlife Areas.

This unit is considered to be within the geographical area occupied by the

DPS at the time of listing and contains the physical or biological features essential to the conservation of the DPS. The Bodie Hills population contained within this unit represents one of the two largest (core) populations within the Bi-State DPS and as such, the habitat in this unit is important for the conservation of the DPS. The Bodie Hills population harbors greater than 30 percent of the entire Bi-State DPS sage-grouse population, providing both resiliency and redundancy to the DPS. In addition, several peripheral populations in the Desert Creek-Fales and Mount Grant PMUs are contained within this unit and afford additional redundancy and distributional extent. The physical or biological features essential to the conservation of the Bi-State DPS in the North Mono Lake Unit may require special management considerations or protection due to the risk posed by fire; woodland encroachment; infrastructure; urbanization; mineral and energy development; feral horses; nonnative, invasive species; human disturbance; and other localized and less severe threats.

#### *Unit 3: South Mono Lake*

The South Mono Lake Unit consists of approximately 161,473 ha (399,008 ac), and is located entirely within Mono County, California. The unit extends from Mono Lake in the north to Lake Crowley in the south, and from the Nevada and California border in the east to the foothills of the Sierra Nevada Mountains in the west. Land ownership within this unit consists of approximately 138,905 ha (343,242 ac) of Federal land, 1,345 ha (3,323 ac) of State land, 13,312 ha (32,894 ac) of local agency land, 161 ha (398 ac) of Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation (California), and 7,750 ha (19,151 ac) of private land. The South Mono Lake Unit includes lands in the Inyo National Forest and the BLM Bishop Field Office. The majority of City lands within this unit are owned by the City of Los Angeles and managed by the Los Angeles Department of Water and Power.

This unit is considered to be within the geographical area occupied by the species at the time of listing and contains the physical or biological features essential to the conservation of the DPS. The Long Valley population contained within this unit represents one of the two largest remaining populations within the Bi-State DPS and as such habitat in this unit is important for the conservation of the DPS. The Long Valley population harbors approximately 30 percent of the entire

Bi-State DPS sage-grouse population, providing both resiliency and redundancy to the DPS. The physical or biological features essential to the conservation of the Bi-State DPS in the South Mono Lake Unit may require special management considerations or protection due to the risk presented by fire, human footprint (e.g., urbanization (such as mesic areas for late sage-grouse brood-rearing), infrastructure, recreation), woodland expansion, and other localized and less severe threats.

#### *Unit 4: White Mountains*

The White Mountains Unit consists of approximately 127,252 ha (314,447 ac) and is located in Inyo and Mono Counties, California and Esmeralda and Mineral Counties, Nevada. The White Mountains Unit is situated in the southern extent of the Bi-State DPS's range. The unit extends from the Candelaria Hills and Truman Meadows areas in the north to California Highway 168 in the south, and from California Highway 6 in the west to the Silver Peak Range in Nevada. Land ownership within this unit consists of approximately 123,831 ha (305,994 ac) of Federal land, 521 ha (1,286 ac) of Death Valley Timbi-sha Shoshone tribal land, and 2,901 ha (7,167 ac) of private land. The White Mountains Unit includes lands in the Inyo and Humboldt-Toiyabe National Forests, and the Bishop, Tonopah, and Stillwater Field Offices of the BLM.

This unit is considered to be within the geographical area occupied by the species at the time of listing and contains the physical or biological features essential to the conservation of the DPS. This unit is important for the conservation of the DPS due to the redundancy, resiliency, and representation it affords the remainder of the Bi-State DPS. The population represents approximately 5 to 10 percent of the entire DPS. The unit remains generally remote and isolated and lacks many of the immediate anthropogenic stressors apparent in other portions of the DPS; thus the additional redundancy and resiliency afforded by this area may influence conservation of the entire DPS in the future. Additionally, this population has a unique genetic signature and occurs at high elevation on the extreme southwest portion of the DPS's range, thereby adding ecological and genetic representation not found elsewhere across the DPS's range. The physical or biological features essential to the conservation of the Bi-State DPS in the White Mountains Unit may require special management considerations or protection due to the presence of

woodland expansion; urbanization; feral horses; nonnative, invasive species; fire; and limited population size among other more localized and less severe stressors.

### Effects of Critical Habitat Designation

#### Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action that is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

Decisions by the 5th and 9th Circuit Courts of Appeals have invalidated our regulatory definition of "destruction or adverse modification" (50 CFR 402.02) (see *Gifford Pinchot Task Force v. U.S. Fish and Wildlife Service*, 378 F. 3d 1059 (9th Cir. 2004) and *Sierra Club v. U.S. Fish and Wildlife Service et al.*, 245 F.3d 434, 442 (5th Cir. 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or

authorized, do not require section 7 consultation.

When determining proposed critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other manmade structures because such lands lack physical and biological features necessary for greater sage-grouse. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed sites. Therefore, if the critical habitat is finalized as proposed, a Federal action involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical and biological features in the adjacent critical habitat.

Likewise, due to past land uses, vegetation changes, or a number of other natural or manmade factors, some areas within the mapped proposed critical habitat may currently lack the site-specific physical and biological features (primary constituent elements) necessary to support bi-state DPS of greater sage-grouse (see section, Primary Constituent Elements for Bi-state DPS of Greater Sage-grouse). If critical habitat is designated, for actions involving lands that lack the primary constituent elements for this species, section 7 consultation as it relates to critical habitat would not be required.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define "reasonable and prudent alternatives" (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinstate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

#### Application of the "Adverse Modification" Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that alter the physical or biological features to an extent that appreciably reduces the conservation value of critical habitat for the Bi-State DPS. As discussed above, the role of critical habitat is to support life-history needs of the species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for the Bi-State

DPS. These activities include, but are not limited to:

(1) Actions that would result in the loss of sagebrush overstory plant cover or height. Such activities could include, but are not limited to, the removal of native shrub vegetation by any means for any infrastructure construction project; direct conversion to agricultural land use; habitat improvement or restoration projects involving actions such as (but not limited to) mowing, brush-beating, disking, plowing, or prescribed burning; and fire suppression activities. These activities could eliminate or reduce the habitat necessary for the growth and reproduction of sage-grouse in the Bi-State area, at least on a short-term basis.

(2) Actions that would result in the loss or reduction in native herbaceous understory plant cover or height; a reduction or loss of associated arthropod communities; or ground disturbance that would result in removal or depletion of surface and ground water resources that impact brood-rearing habitat. Such activities could include, but are not limited to, improper livestock grazing; application of herbicides or insecticides; prescribed burning and fire suppression activities; seeding of nonnative plant species that would compete with native species for water, nutrients, and space; groundwater pumping; and water diversions for irrigation and livestock watering. These activities could eliminate or reduce the quality of the habitat necessary for the growth and reproduction of sage-grouse in the Bi-State area through a reduction in food quality and quantity, and increased exposure to predation.

(3) Actions that would result in the Bi-State DPS's avoidance of an area during one or more seasonal periods. Such activities could include, but are not limited to, the construction of vertical structures such as power lines, fences, communication towers, and buildings; motorized and non-motorized recreational use; and activities such as well drilling, operation, and maintenance, which would entail significant human presence, noise, and infrastructure. These activities could result in the direct and functional loss of habitat if sage-grouse avoid or reduce use of otherwise suitable habitat in the vicinity of these structures or concentrated activity centers throughout the Bi-State area.

#### Exemptions

##### *Application of Section 4(a)(3) of the Act*

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a)

required each military installation that includes land and water suitable for the conservation and management of natural resources to complete an INRMP by November 17, 2001. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes:

(1) An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;

(2) A statement of goals and priorities;

(3) A detailed description of management actions to be implemented to provide for these ecological needs; and

(4) A monitoring and adaptive management plan.

Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management; fish and wildlife habitat enhancement or modification; wetland protection, enhancement, and restoration where necessary to support fish and wildlife; and enforcement of applicable natural resource laws.

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that: "The Secretary shall not designate as critical habitat any lands or other geographic areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation."

We consult with the military on the development and implementation of INRMPs for installations with listed species. We analyzed INRMPs developed by military installations located within the range of the proposed critical habitat designation for the Bi-State DPS to determine if they meet the criteria for exemption from critical habitat under section 4(a)(3) of the Act. Department of Defense lands with a completed, Service-approved INRMP within the proposed critical habitat designation include the Hawthorne Army Depot. The Marine Corps' Mountain Warfare Training Center occurs outside of the proposed critical habitat boundary but conducts training via a 40-year special use permit on U.S. Forest Service lands within the proposed area (see discussion below under the "Exclusions Based on National Security Impacts" section). The Marine Corps does not currently have an INRMP; however, should the

Marine Corps' Mountain Warfare Training Center complete an INRMP, we would conduct an analysis to determine if they meet the criteria for exemption from the final critical habitat designation under section 4(a)(3) of the Act.

#### Approved INRMPs

##### *Hawthorne Army Depot, 5,421 ha (13,397 ac)*

The Hawthorne Army Depot is located on lands in Mineral County surrounding the town of Hawthorne, Nevada, approximately 209 km (130 mi) southeast of Reno, Nevada, on the southern shore of Walker Lake. The 59,584-ha (147,236-ac) installation encompasses lands in the Wassuk Range, centered on Mount Grant, where overlap with the Bi-State DPS distribution occurs. The Hawthorne Army Depot's military mission is to test and demilitarize munitions, maintain equipment, provide high-desert training facilities for military units, and provide tenant support while maintaining ecosystem viability to support the military mission.

The U.S. Army's INRMP is a planning document that guides the management and conservation of natural resources under the installation's control, specifically to guide the natural resources management program from 2013 to 2018, and provide a solid foundation for Hawthorne Army Depot on which to build the program beyond 2018 (DOD 2013, p. ES-1). Implementing this INRMP will allow Hawthorne Army Depot to achieve its goal to ensure the sustainability to test and demilitarize munitions, maintain equipment, and provide tenant support while maintaining ecosystem viability (DOD 2013, p. ES-1). Compliance with this INRMP ensures that natural resource conservation measures and Army activities on Hawthorne Army Depot land are integrated and consistent with Federal stewardship requirements (DOD 2013, p. ES-1). The most recent INRMP (updated from previous versions) was approved by the Service on August 28, 2013 (DOD 2013, entire), is currently being implemented, and provides a conservation benefit to the Bi-State DPS. Approximately 5,421 ha (13,397 ac) of lands (occurring within the footprint of Unit 2) within this installation supports habitat currently occupied by the Bi-State DPS that provides a conservation benefit to the DPS.

The INRMP includes Bi-State DPS management as a high priority project, specifically by implementing conservation strategies as identified

through continued multi-agency coordination. Hawthorne Army Depot's primary objective for managing special-status species (including the Bi-State DPS) is to: (1) Maintain conditions that buffer the effects of the military mission on the species and their habitat, (2) support monitoring efforts to document the health of species, and (3) enhance the habitats of the species (DOD 2013, p. 3-17). Management actions that provide a conservation benefit to the Bi-State DPS (i.e., managing and increasing the population of and habitat quality for sage-grouse) include, but are not limited to:

- (1) Reducing population loss from poachers.
- (2) Improving habitat in the Mount Grant North Cat area by installing rock dikes or similar infrastructure to minimize snowmelt runoff and to create riparian habitat in the meadow area.
- (3) Possible removal of pinyon-juniper communities at higher elevations of Mount Grant to increase sage-grouse populations and minimize predation.
- (4) Preventing hunting on the installation. And
- (5) Implementing conservation strategies identified through multi-agency efforts (e.g., Bi-State Action Plan) (DOD 2013, pp. 3-17-3-18).

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the identified lands are subject to the Hawthorne Army Depot INRMP and that conservation efforts identified in the INRMP will provide a benefit to the Bi-State DPS. Therefore, lands within this installation are exempt from critical habitat designation under section 4(a)(3) of the Act. We are not including 5,421 ha (13,397 ac) of habitat in this proposed critical habitat designation because of this exemption.

#### Exclusions

##### *Application of Section 4(b)(2) of the Act*

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific

data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

In considering whether to exclude a particular area from the designation, we identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and evaluate whether the benefits of exclusion outweigh the benefits of inclusion. If the analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, the Secretary may exercise her discretion to exclude the area only if such exclusion would not result in the extinction of the species.

When identifying the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus, the educational benefits of mapping essential habitat for recovery of the listed species, and any benefits that may result from a designation due to State or Federal laws that may apply to critical habitat.

When identifying the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan that provides equal to or more conservation than a critical habitat designation would provide.

In the case of the Bi-State DPS, the benefits of critical habitat include public awareness of sage-grouse presence and the importance of habitat protection, and in cases where a Federal nexus exists, increased habitat protection for the Bi-State DPS due to the protection from adverse modification or destruction of critical habitat. In practice, a Federal nexus exists primarily on Federal lands or for projects undertaken by Federal agencies. Since the Bi-State DPS and its habitat primarily occur on Federal lands, we have been coordinating with Federal agencies on their efforts to conserve the Bi-State DPS, and we would anticipate a significant amount of coordination via section 7 consultations if the proposed

listing and proposed critical habitat are finalized. The coordination with Federal partners conducted to date has resulted in multiple conservation plans or strategies for Federal lands (and to some extent on private lands) throughout the Bi-State area.

When we evaluate a management plan during our consideration of the benefits of exclusion, we assess a variety of factors, including but not limited to, whether the plan is finalized, how it provides for the conservation of the essential physical or biological features, whether there is a reasonable expectation that the conservation management strategies and actions contained in a management plan will be implemented into the future, whether the conservation strategies in the plan are likely to be effective, and whether the plan contains a monitoring program or adaptive management to ensure that the conservation measures are effective and can be adapted in the future in response to new information.

After identifying the benefits of inclusion and the benefits of exclusion, we carefully weigh the two sides to evaluate whether the benefits of exclusion outweigh those of inclusion. If our analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, we then determine whether exclusion would result in extinction. If exclusion of an area from critical habitat will result in extinction, we will not exclude it from the designation.

Based on the information provided by entities seeking exclusion, as well as any additional public comments we receive, we will evaluate whether certain lands in the proposed critical habitat units are appropriate for exclusion from the final designation under section 4(b)(2) of the Act. If the analysis indicates that the benefits of excluding lands from the final designation outweigh the benefits of designating those lands as critical habitat, then the Secretary may exercise her discretion to exclude the lands from the final designation.

We are considering excluding the following areas under section 4(b)(2) of the Act from the final critical habitat designation for the Bi-State DPS. Table 4 below provides approximate areas (ha, ac) of lands that meet the definition of critical habitat but are under our consideration for possible exclusion under section 4(b)(2) of the Act from the final critical habitat rule.

TABLE 4—AREAS MEETING THE DEFINITION OF CRITICAL HABITAT AND AREAS BEING CONSIDERED FOR EXCLUSION FROM THE CRITICAL HABITAT DESIGNATION FOR THE BI-STATE DPS

Unit	Area considered for exclusion	Areas meeting the definition of critical habitat, in hectares (acres)	Areas being considered for exclusion, in hectares (acres)
Unit 1. Pine Nut .....	None .....	121,744 (300,836)	None
Unit 2. North Mono Lake .....	Department of Defense, Marine Corps Mountain Warfare Training Center.	345,491 (728,404)	9,818 (26,262)
	Los Angeles Department of Water and Power.		1,002 (2,478)
Unit 3. South Mono Lake .....	Los Angeles Department of Water and Power.	161,473 (399,008)	14,533 (35,911)
Unit 4. White Mountains .....	None .....	127,252 (314,448)	None
<b>TOTAL</b> .....	.....	<b>755,960 (1,868,017)</b>	<b>25,353 (64,651)</b>

However, we specifically solicit comments on the inclusion or exclusion of the areas shown in Table 4. In the paragraphs below, we provide an analysis of our considered exclusion of these lands under section 4(b)(2) of the Act.

#### Exclusions Based on Economic Impacts

Under section 4(b)(2) of the Act, we consider the economic impacts of specifying any particular area as critical habitat. In order to consider economic impacts, we are preparing an analysis of the economic impacts of the proposed critical habitat designation and related factors. Although the majority of lands in the proposed critical habitat are federally owned, private lands are also present in all four units. Federal lands include areas with mining leases, geothermal energy development, grazing permits, rights-of-way for utilities and telecommunications, and recreational uses. Several State-owned parcels are included in some units where hunting, wildlife viewing, and other recreational activities occur, and tribal lands are also included. The economic analysis will estimate the economic impact of a potential designation of critical habitat on these activities.

During the development of a final designation, we will consider economic impacts based on information in our economic analysis, public comments, and other new information, and areas may be excluded from the final critical habitat designation under section 4(b)(2) of the Act and our implementing regulations at 50 CFR 424.19.

#### Exclusions Based on National Security Impacts

Under section 4(b)(2) of the Act, we consider whether there are lands owned or managed by the Department of Defense where a national security impact might exist. Lands eligible for

exclusion include those utilized by the Marine Corps (Mountain Warfare Training Center) for military readiness, as discussed above in Application of Section 4(a)(3) of the Act.

The Marine Corps' Mountain Warfare Training Center is located on lands in Mono County near Sonora Junction, California, approximately 160 km (100 mi) south of Reno, Nevada. The approximately 243-ha (600-ac) installation encompasses lands outside the range of the Bi-State DPS, but military training activities occur on U.S. Forest Service lands contained within our proposed critical habitat boundary. Training activities on U.S. Forest Service lands occur via a special use permit (Forest Service 2012a-d, entire). We have been in support of the requirements established under the special use permit and currently operating greater sage-grouse management direction. The Mountain Warfare Training Center is a training site for Marines preparing to serve in mountainous regions, with an emphasis on training for cold weather and high altitudes. Training activity primarily involves limited personnel pedestrian activities, helicopter landing and deployment sites, and vehicle exercises on established roads. Approximately 9,818 ha (26,262 ac) in Unit 2 of Forest Service land utilized by the Marine Corps for the Mountain Warfare Training Center supports habitat currently occupied by the Bi-State DPS that contains the physical and biological features essential to the conservation of the species, including nesting, brood-rearing, and wintering seasonal habitats.

While we do not have information currently indicating that these lands utilized by the Department of Defense for military readiness and the remaining lands within the proposed designation of critical habitat for the Bi-State DPS will have an impact on national

security, we may consider excluding certain lands in the final rule. Consequently, the Secretary does not propose to exert her discretion to exclude any areas from the final designation based on impacts on national security at this time. However, should the Marine Corps' Mountain Warfare Training Center or another entity identify impacts to national security that may result from designating critical habitat on lands owned, managed, or utilized by the Department of Defense, or on the remaining lands within the critical habitat footprint, we may consider excluding those lands in the final rule. Alternatively, should the Marine Corps' Mountain Warfare Training Center complete an INRMP, we would conduct an analysis to determine if it meets the criteria for exemption from the final critical habitat designation under section 4(a)(3) of the Act (see *Application of Section 4(a)(3) of the Act*, above).

#### Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security. We consider a number of factors, including whether the landowners have developed any HCPs or other management plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any tribal issues, and consider the government-to-government relationship of the United States with tribal entities. We also consider any social impacts that might occur because of the designation.

*Land and Resource Management Plans, Conservation Plans, or Agreements Based on Conservation Partnerships*

We consider a current land management or conservation plan (HCPs as well as other types) to provide adequate management or protection if it meets the following criteria:

(1) The plan is complete and provides a conservation benefit for the species and its habitat;

(2) There is a reasonable expectation that the conservation management strategies and actions will be implemented for the foreseeable future, based on past practices, written guidance, or regulations; and

(3) The plan provides conservation strategies and measures consistent with currently accepted principles of conservation biology.

We believe that the Los Angeles Department of Water and Power's (LADWP's) conservation strategy (which includes development of an memorandum of understanding (MOU)), along with our ongoing partnership with this agency, fulfills the above criteria, and we are considering the exclusion of lands covered by this conservation strategy that provides for the conservation of the Bi-State DPS. We are requesting comments on the benefit to the Bi-State DPS from this conservation strategy (see Information Requested section above) for this considered exclusion. At this time, we are not proposing the exclusion of any areas in the proposed critical habitat for the Bi-State DPS.

*Los Angeles Department of Water and Power (LADWP) Conservation Strategy*

The LADWP owns and manages approximately 15,535 ha (38,389 ac) of the Bi-State DPS's habitat within the Bodie and South Mono PMUs (North Mono Lake Unit 2 and South Mono Lake Unit 3) in Mono County, California. The LADWP has been managing their lands for the conservation of the Bi-State DPS, including implementing measures that enhance the habitat and also reduce threats. Additionally, LADWP is developing an HCP that would provide a conservation benefit to the Bi-State DPS and its habitat. The activities we anticipate to be covered in the HCP are fire and weed (i.e., nonnative, invasive plants) management, livestock grazing, irrigated agriculture (i.e., irrigated pasture management), recreation, road maintenance and closures (i.e., infrastructure—roads), power production, and power transmission (i.e., infrastructure—power lines). Past and current beneficial conservation actions implemented to date include (but are not limited to) the following:

(1) **Fire**—A fire management plan has been implemented that emphasizes fire prevention and suppression, and follows guidelines developed by LADWP for lands in Inyo County (LADWP and Ecosystem Sciences 2010). This conservation strategy is important for protecting sagebrush communities (i.e., sage-grouse habitat) from its principle disturbance mechanism and preventing wildfires that can cause large-scale habitat loss that leads to fragmentation and isolation of sage-grouse populations. The wildland fire agencies in the area (i.e., CalFire, BLM, and Forest Service) and LADWP have an agreement in place to collaborate on suppressing fires in the region regardless of where the fire is located. If a wildfire starts on LADWP lands in sage-grouse habitat, the response will be a multi-agency effort to suppress the fire. This multi-agency effort means that potentially fewer acres of sage-grouse habitat will be lost during a wildfire event. Additionally, the LADWP reduces the threat of wildfires through implementation of a no campfire/campstove policy outside established, permitted campgrounds, and implementation of temporary closures of key sage-grouse habitat use areas during the July 4th holiday.

(2) **Nonnative, Invasive Plants**—LADWP has licensed staff that treat noxious weeds. Active treatment of nonnative, invasive plants reduces the likelihood that invasive species will become established in and negatively impact sagebrush ecosystems by altering plant community structure and composition, hydrology, and other aspects of the sage-brush ecosystem on which sage-grouse in the Bi-State area rely.

(3) **Energy Development**—Although there are no plans for energy development on LADWP lands in sage-grouse habitat, any potential future proposals would consider impacts to the DPS and its habitat (which may result in impacts such as, but not limited to, loss of sagebrush habitat from structure development, reduced water supply in brood-rearing habitats, and sage-grouse behavioral impacts from increased human presence).

(4) **Sage-brush Removal**—Although sagebrush removal may have occurred in the past, there are no ongoing or future sage-brush removal projects planned on LADWP land. This is important to ensure adequate sagebrush habitat for sage-grouse occurs on LADWP lands.

(5) **Grazing**—All existing livestock grazing leases have a livestock grazing management plan with upland, riparian, and irrigated pasture management

guidelines and monitoring. Approximately 60 percent (9,261 ha (22,884 ac)) of LADWP lands are located in the South Mono Lake Unit 3. Currently, there are no active livestock grazing leases on the remaining 40 percent (6,275 ha (15,505 ac)) of LADWP lands in the Mono Basin watershed, which is located in North Mono Lake Unit 2 and South Mono Lake Unit 3. The implementation of appropriate livestock grazing management plans on those LADWP lands grazed in the South Mono Lake Unit 3 (i.e., leased and grazed areas totaling 7,986 ha (19,734 ac), most of which is sage-grouse habitat) will prevent further loss of sagebrush habitat and/or the reduction of habitat quality for sage-grouse on LADWP lands.

(a) **Upland Management**—LADWP adopted BLM's livestock forage utilization guidelines for all upland areas (i.e., areas permitted for grazing in the Owens River watershed) in potential sage-grouse habitat (i.e., maximum 40 percent use on perennial bunchgrasses). Additionally, monitoring is conducted using identical protocols to those adapted by the BLM Bishop Field office and NRCS to evaluate land management practices with a focus towards improving sage-grouse habitat.

(b) **Riparian Management**—Riparian pastures were created along the Upper Owens River, Convict Creek, McGee Creek and Mammoth Creek in the early 1990s with the goal of improving riparian habitat and fisheries (Hill *et al.* 2002, entire). For the past 13 years, livestock have grazed each riparian pasture once every three years. Grazing can begin in June on whichever riparian pasture is most suitable at the time given current climatic conditions. Cattle will be removed from riparian pastures at the end of the grazing period or when the average utilization of herbaceous forage has reached 30 percent, whichever comes first. Monitoring conducted in riparian pastures includes utilization, fixed photopoints, permanent riparian monitoring transects, and channel cross-section monitoring.

(c) **Irrigated Pasture Management**—Lessees (in areas permitted for grazing activities in the Owens River watershed) are required to maintain irrigated pastures in good to excellent condition. Pastures are monitored and rated using NRCS's *Guide to Pasture Condition Scoring* system (Cosgrove *et al.* 2001, entire). Pastures in good to excellent condition will continue to provide a diverse variety of forbs and insects during the sage-grouse brood-rearing period, whereas pastures in lower

quality condition would be improved, which would benefit sage-grouse.

(6) Mining—There are no current or proposed areas of mining or reclamation occurring on LADWP land in sage-grouse habitat. Any future proposed mining projects would consider impacts to sage-grouse and their habitat, which can include, but is not limited to, loss of sagebrush habitat, water contamination, and invasion of nonnative species.

(7) Recreation—Recreation management follows the general guidelines and practices outlined in the Owens Valley Land Management Plan (LADWP and Ecosystem Sciences 2010). These guidelines direct various recreational activities to reduce potential impacts to sage-grouse and their habitat, including, but not limited to, requiring permission for individual and group events, developing sage-grouse lek-viewing guidelines through cooperation with BLM, and closing redundant roads or rerouting roads that exist in key sage-grouse habitat areas (e.g., Long Valley).

(8) Urban Development—LADWP policy does not promote new urban or agricultural development in the Plan Area (the area covered in the draft HCP and that includes all of LADWP lands in Inyo and Mono Counties). LADWP is developing an HCP to cover its ongoing activities, which include water gathering, water distribution, hydroelectric power production, power transmission activities, and continuation of other land uses. These other land uses include irrigated agriculture, livestock grazing, recreation, fire and weed management, road maintenance and closures, and habitat enhancements for covered species (those species addressed in the draft HCP). One of the covered species in the draft HCP is the Bi-State DPS; therefore, the HCP would provide a conservation benefit to the Bi-State DPS and its habitat. The current draft HCP proposes to conserve all existing sage-grouse habitat for the life of the permit (i.e., 10 years), and possibly longer if the permit is renewed.

(9) Infrastructure (Roads, Power Lines, and Transmission and Communication Towers)—The development of new infrastructure including roads, power lines, transmission towers, and communication towers within sage-grouse habitat will be avoided to the extent practicable. Impacts to sage-grouse will be considered to reduce effects such as habitat fragmentation and increased predator presence, and minimization measures will be implemented if new infrastructure does occur.

(10) Infrastructure (Fencing)—Fences within 2 km (1.25 mi) of occupied leks are evaluated to determine if collisions are occurring or to determine the potential for collisions (following guidelines presented in the Service's *Greater Sage-grouse Conservation Objectives Team (COT) Final Report* (Service 2013b, p. 52). Future fencing will be evaluated for the potential impacts to sage-grouse. Unnecessary fencing in high-risk areas will be removed. Additionally, LADWP has been installing "let down" fencing (i.e., permanent metal fence posts with horizontal wire strands that can be effectively removed during the sage-grouse breeding season or when cattle are not present), thus reducing the likelihood of sage-grouse collisions. To date, LADWP has installed approximately 3.2 km (2 mi) of let-down fencing in the vicinity of the largest lek in Long Valley; another 0.8 km (0.5 mi) of fencing will be converted to let-down in 2013.

To ensure the continuation of this management, LADWP has committed to developing and implementing a conservation strategy to proactively manage the Bi-State DPS on their lands within the Bodie and South Mono PMUs (B. Tillemans 2013, *in litt.*). To coordinate these efforts, we anticipate co-signing an MOU with LADWP (until such time as an HCP is completed) for implementing a sage-grouse conservation strategy that will address the threats to sage-grouse in the Bi-State area as outlined in the Service's *COT Final Report* (Service 2013b, entire). As a result, we will consider excluding LADWP lands from the final critical habitat designation based on the protections provided through our partnership with LADWP, and to the extent consistent with the requirements of section 4(b)(2) of the Act.

The Secretary is considering exercising her discretion to exclude 15,535 ha (38,389 ac) that meet the definition of critical habitat for the Bi-State DPS in the North Mono Lake Unit 2 and South Mono Lake Unit 3. Habitat-related threats present on LADWP lands that may require special management considerations or protection include, but are not limited to, recreation, rangeland management, and surface water management (see the proposed listing rule for the Bi-State DPS (published elsewhere in today's *Federal Register*) for additional discussion of threats resulting in the present or threatened destruction, modification, or curtailment of the Bi-State DPS's habitat or range). The existing conservation actions being implemented by the LADWP and the proposed MOU help

address these threats to the Bi-State DPS. We are considering excluding 15,535 ha (38,389 ac) in Units 2 and 3 based on the protections provided through our partnership with LADWP, to the extent consistent with the requirements of section 4(b)(2) of the Act. We encourage any public comment regarding our consideration to exclude this area in the final critical habitat designation (see Information Requested section above).

#### Peer Review

In accordance with our joint policy on peer review published in the *Federal Register* on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. A thorough review of information that we relied on in making this determination—including information on taxonomy, habitat, distribution, population estimates and trends, and potential threats—is presented in the Bi-State DPS Species Report available at <http://www.regulations.gov> (Docket No. FWS-R8-ES-2013-0042). A summary of this analysis is found within the proposed listing rule published elsewhere in today's *Federal Register*. The purpose of peer review is to ensure that our critical habitat designation is based on scientifically sound data, and analyses. We have invited these peer reviewers to comment during this public comment period.

We will consider all comments and information received during this comment period on this proposed rule during our preparation of a final determination. Accordingly, the final decision may differ from this proposal.

#### Public Hearings

Section 4(b)(5) of the Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days after the date of publication of this proposed rule in the *Federal Register*. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the *Federal Register* and local newspapers at least 15 days before the hearing.

#### Required Determinations

*Regulatory Planning and Review*  
(Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of

Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include such businesses as manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than \$5 million in

annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and forestry and logging operations with fewer than 500 employees and annual business less than \$7 million. To determine whether small entities may be affected, we will consider the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term "significant economic impact" is meant to apply to a typical small business firm's business operations.

Importantly, the incremental impacts of a rule must be *both* significant and substantial to prevent certification of the rule under the RFA and to require the preparation of an initial regulatory flexibility analysis. If a substantial number of small entities are affected by the proposed critical habitat designation, but the per-entity economic impact is not significant, the Service may certify. Likewise, if the per-entity economic impact is likely to be significant, but the number of affected entities is not substantial, the Service may also certify.

The Service's current understanding of recent case law is that Federal agencies are only required to evaluate the potential impacts of rulemaking on those entities directly regulated by the rulemaking; therefore, they are not required to evaluate the potential impacts to those entities not directly regulated. The designation of critical habitat for an endangered or threatened species only has a regulatory effect where a Federal action agency is involved in a particular action that may affect the designated critical habitat. Under these circumstances, only the Federal action agency is directly regulated by the designation, and, therefore, consistent with the Service's current interpretation of RFA and recent case law, the Service may limit its evaluation of the potential impacts to those identified for Federal action agencies. Under this interpretation, there is no requirement under the RFA to evaluate the potential impacts to entities not directly regulated, such as small businesses. Therefore, because Federal agencies are not small entities, the Service certifies that the proposed critical habitat rule will not have a significant economic impact on a substantial number of small entities.

However, Executive Orders 12866 and 13563 direct Federal agencies to assess costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. In other

words, while the effects analysis required under the RFA is limited to entities directly regulated by the rulemaking, the effects analysis under the Act, consistent with the E.O. regulatory analysis requirements, can take into consideration impacts to both directly and indirectly impacted entities, including small business entities, where practicable and reasonable. Our draft economic analysis will assess and consider the incremental costs of the proposed designation, to the extent practicable, to fulfill these requirements.

*Energy Supply, Distribution, or Use—Executive Order 13211*

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Energy distribution facilities (i.e., power lines and one geothermal facility) are present within this proposed critical habitat designation, although we do not expect the designation of this proposed critical habitat to significantly affect energy supplies, distribution, or use. This is because, under section 7 of the Act, the lead agency for a proposed project would need to consider project modifications only if the project were to reach a threshold of jeopardizing the continued existence of the DPS or destroy or adversely modify its critical habitat, a scenario that is unlikely within the footprint of the existing power lines and geothermal facility for this DPS. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required. However, we will further evaluate this issue as we conduct our economic analysis, and review and revise this assessment as warranted.

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This rule would not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or tribal governments" with two exceptions. It excludes "a

condition of Federal assistance." It also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding," and the State, local, or tribal governments "lack authority" to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program."

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule would significantly or uniquely affect small governments because the majority of lands (i.e., 86 percent) being proposed for designation are Federal lands (including Humboldt-Toiyaba National Forest, Inyo National Forest, Carson City District BLM, Bishop Field Office-BLM, Tonopah Field Office-BLM, and Stillwater Field Office-BLM) and

State lands (the Slinkard/Little Antelope Valley, Green Creek, East Walker River, and Pickel Meadow Wildlife Areas) in both Nevada and California. None of these government entities fits the definition of "small governmental jurisdiction." Therefore, a Small Government Agency Plan is not required. However, we will further evaluate this issue (including with regards to the tribal lands (Washoe Tribe of Nevada and California, Bridgeport Paiute Indian Colony, Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation (California), and the Death Valley Timbi-sha Shoshone Tribe) and private lands that represent a significantly smaller proportion of the proposed critical habitat designation) as we conduct our economic analysis, and review and revise this assessment as warranted.

#### *Takings—Executive Order 12630*

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), this rule is not anticipated to have significant takings implications. As discussed above, the designation of critical habitat affects only Federal actions. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. Due to current public knowledge of the DPS's protections and, if we list the DPS, the prohibition against take of the DPS both within and outside of the proposed critical habitat units, we do not anticipate that property values will be affected by the critical habitat designation. However, we have not yet completed the economic analysis for this proposed rule. Once the economic analysis is available, we will review and revise this preliminary assessment as warranted, and prepare a takings implication assessment.

#### *Federalism—Executive Order 13132*

In accordance with Executive Order 13132 (Federalism), this proposed rule does not have significant Federalism effects. A Federalism summary impact statement is not required. In keeping with Department of the Interior policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in Nevada and California. The designation of critical habitat in areas currently occupied by the Bi-State DPS

imposes no additional restrictions to those that would be put in place by listing the DPS and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments because the areas that contain the physical or biological features essential to the conservation of the DPS are more clearly defined, and the elements of the features necessary to the conservation of the DPS are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist local governments in long-range planning (rather than having them wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

#### *Civil Justice Reform—Executive Order 12988*

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the DPS, the rule identifies the elements of physical or biological features essential to the conservation of the DPS. The designated areas of critical habitat are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

#### *Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This proposed rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not

conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

**Government-to-Government Relationship With Tribes**

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

There are tribal lands in Nevada and California included in this proposed designation of critical habitat. These include lands owned or managed by the Washoe Tribe of Nevada and California, Bridgeport Paiute Indian Colony, Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, and the Death Valley Timbi-sha Shoshone Tribe. Using the criteria found in the *Criteria Used To Identify Critical Habitat* section above, we have determined that all of the areas proposed for designation on tribal lands are essential to the conservation of the DPS. We will seek government-to-government consultation with these tribes throughout the proposal process and development of

the final designation of critical habitat for the Bi-State DPS. At this time we are not considering any tribal lands for exclusion from final critical habitat designation. We recently informed all four tribes of how we are evaluating section 4(b)(2) of the Act and of our interest in consulting with them on a government-to-government basis.

**Clarity of the Rule**

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

**References Cited**

A complete list of references cited in this rulemaking is available on the Internet at <http://www.regulations.gov> and upon request from the Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

**Authors**

The primary authors of this package are the staff members of the Pacific Southwest Regional Office, Nevada Fish and Wildlife Office, and Ventura Fish and Wildlife Office.

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Proposed Regulation Promulgation**

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

**PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS**

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

■ 2. In § 17.95, amend paragraph (b) by adding an entry for “Bi-State Distinct Population Segment of the Greater Sage-grouse (*Centrocercus urophasianus*),” in the same alphabetical order that the species appears in the table at § 17.11(h), to read as follows:

**§ 17.95 Critical habitat—fish and wildlife.**

\* \* \* \* \*  
(b) *Birds.*  
\* \* \* \* \*

**Bi-State Distinct Population Segment of the Greater Sage-grouse (*Centrocercus urophasianus*)**

(1) Critical habitat units are depicted for Carson City, Douglas, Esmeralda, Lyon, and Mineral Counties, Nevada, and Alpine, Inyo, and Mono Counties, California, on the maps below.

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of the Bi-State DPS of greater sage-grouse consist of four components:

(i) *Landscape-scale Primary Constituent Element 1.* Areas with vegetation composed primarily of sagebrush plant communities of sufficient size and configuration to encompass all seasonal habitats for a given population of greater sage-grouse, or facilitate movements within and among populations. This includes former sagebrush communities in specific locations that are currently primarily woodland encroached sites that potentially provide connectivity between populations.

(ii) *Site-scale Primary Constituent Element 2.* Breeding habitat composed of sagebrush plant communities with structural characteristics within the following ranges (habitat structure values are average values):

Vegetation variable	Amount of occurrence in the habitat
Sagebrush Canopy Cover.	>20 percent.
Non-sagebrush Canopy Cover.	>20 percent.
Total Shrub Canopy Cover.	>40 percent.
Sagebrush Height .....	>30 centimeters (12 inches).
Perennial Grass Cover.	No less than 5 percent but >10 percent if total shrub cover <25 percent.
Annual Grass Cover	<5 percent.
Forb Cover .....	>10 percent.
Grass/Forb Height .....	>18 centimeters (7 inches).

(iii) *Site-scale Primary Constituent Element 3.* Brood-rearing habitat composed of sagebrush plant communities and mesic habitats used primarily in the summer to late fall season. These sites include, but are not limited to, riparian communities, springs, seeps, and mesic meadows, with structural characteristics within the following ranges:

Vegetation variable	Amount of occurrence in the habitat
Sagebrush Canopy Cover.	10 to 25 percent.
Total Shrub Canopy Cover.	14 to 25 percent.
Sagebrush Height .....	>30 cm (12 in).
Perennial Grass Cover.	>7 percent.
Perennial Forb Diversity.	>5 species present.
Forb Cover .....	>7 percent.
Grass/Forb Height .....	18 cm (7 in).
Meadow Edge (ratio perimeter to area).	>0.015.

Vegetation variable	Amount of occurrence in the habitat
Species Richness .....	>5 species.

(iv) *Site-scale Primary Constituent Element 4.* Winter habitat composed of sagebrush plant communities with sagebrush canopy cover greater than 10 percent and sagebrush height of greater than 25 centimeters (9.8 inches) above snow level.

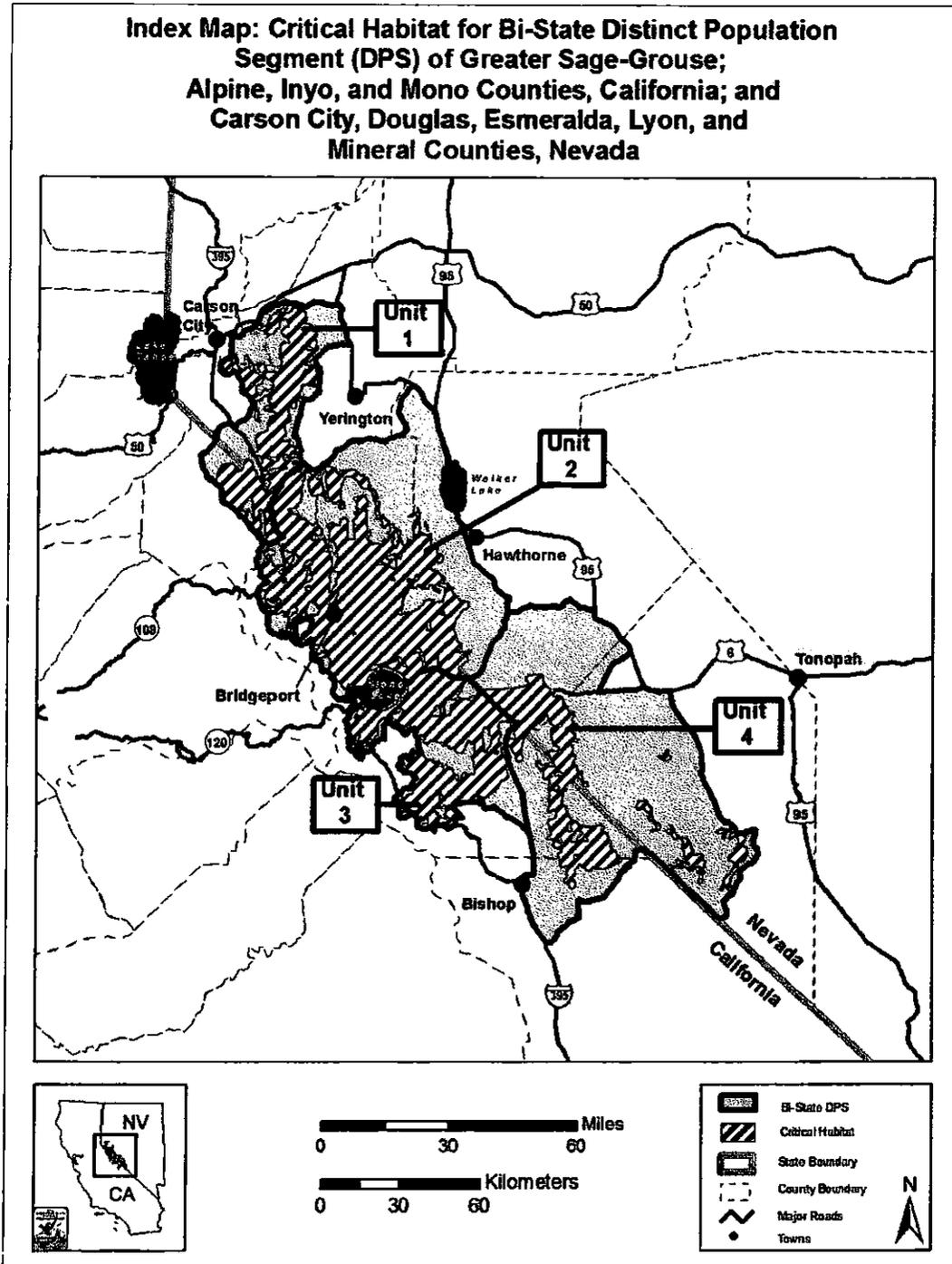
(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on [EFFECTIVE DATE OF FINAL RULE].

(4) *Critical habitat map units.* Data layers defining map units were created from a number of geospatial and informational data, including (but not limited to): The 2012 Bi-State greater sage-grouse Preliminary Priority Habitat (PPH) Map (Bi-State TAC PPH 2012b), a

map product depicting occupied habitat developed by the Bureau of Land Management (BLM) in 2008 (BLM 2008), the 2012 Bi-State Action Plan (Service 2012b), multiple broad-scale vegetation mapping products, and telemetry data sets. Critical habitat units were then mapped as shapefiles using Universal Transverse Mercator (UTM) Zone 11N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's Internet site (<http://www.fws.gov/nevada/> and <http://www.fws.gov/ventura/>), at <http://www.regulations.gov> at Docket No. FWS-R8-ES-2013-0042 and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

BILLING CODE 4310-65-P

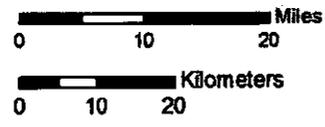
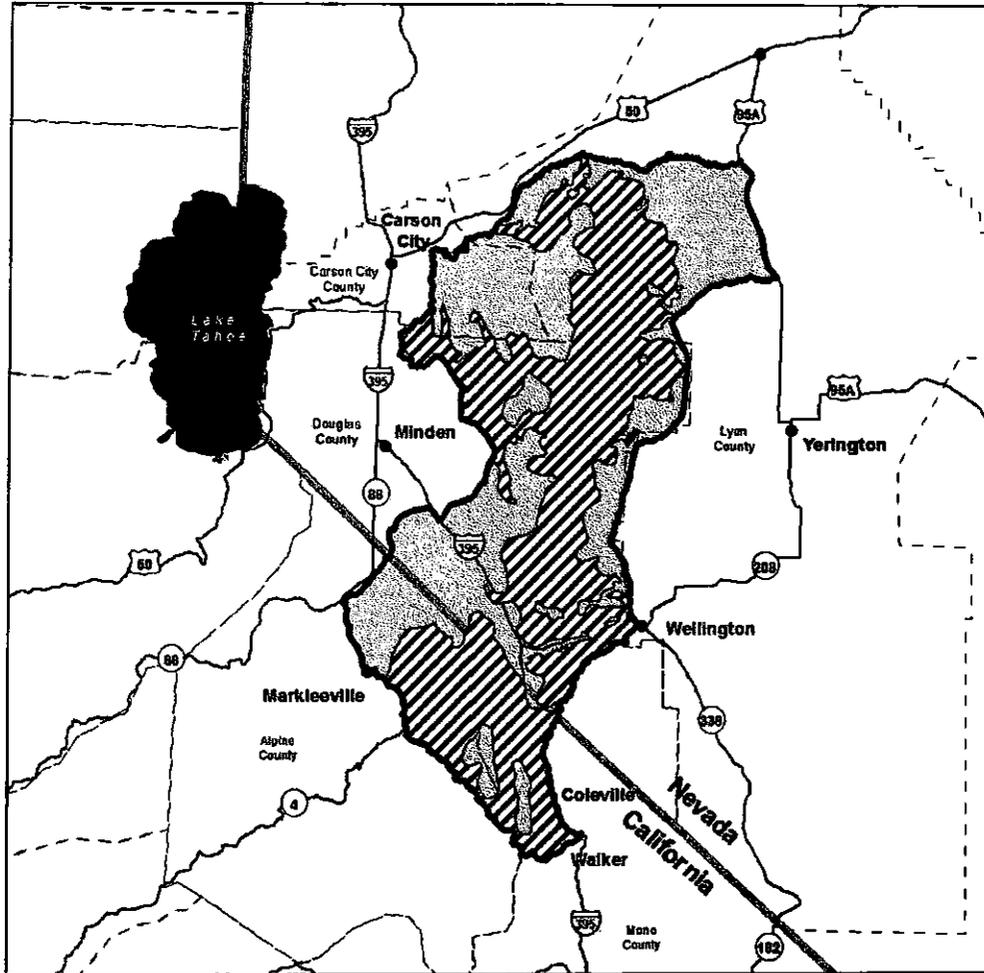
(5) Index map follows:



(6) Unit 1: Pine Nut; Carson City, Douglas, and Lyon Counties, Nevada,

and Alpine and Mono Counties, California. Map of Unit 1 follows:

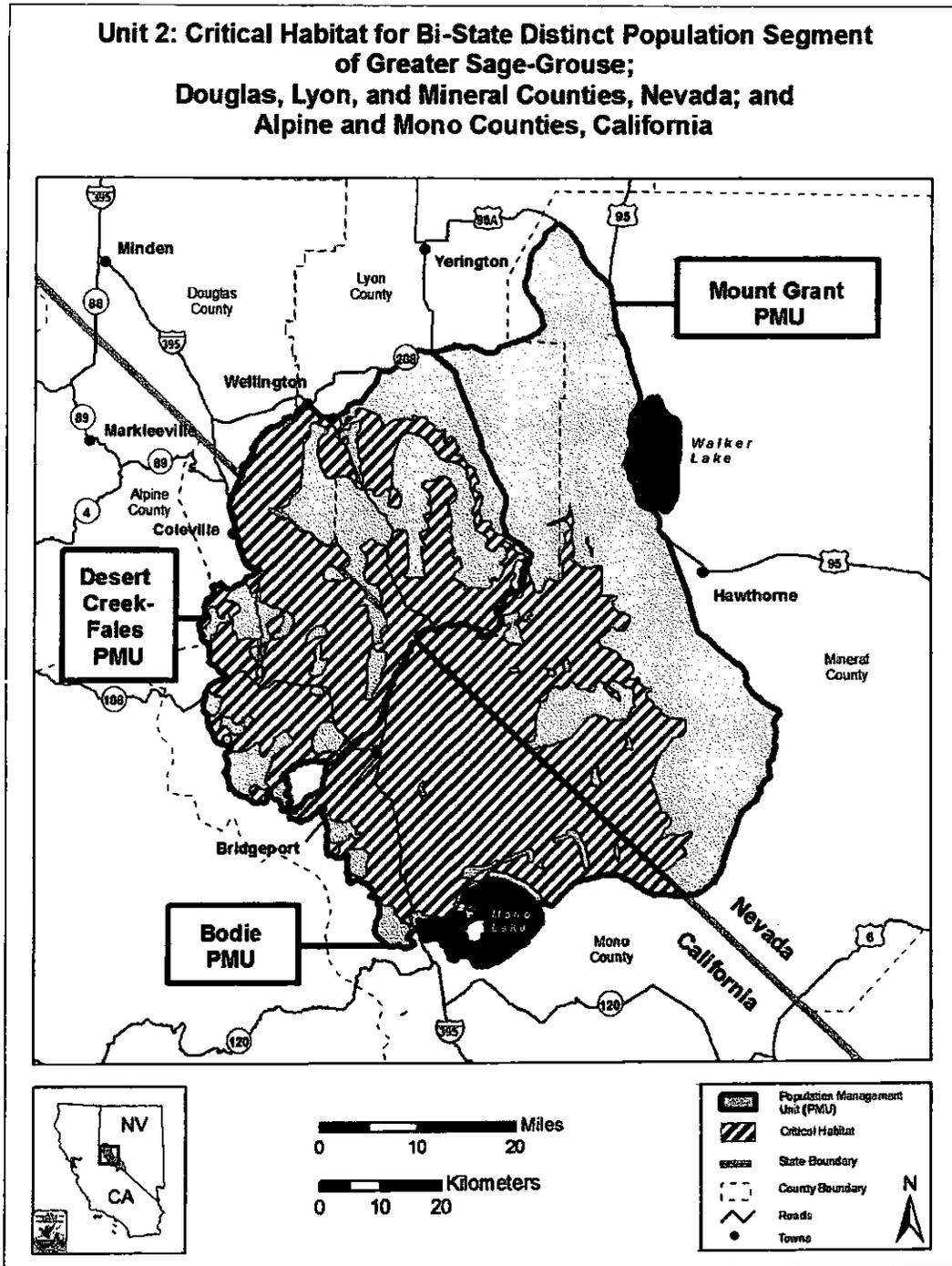
**Unit 1: Critical Habitat for Bi-State Distinct Population Segment of Greater Sage-Grouse; Carson City, Douglas, and Lyon Counties, Nevada; and Alpine and Mono Counties, California**



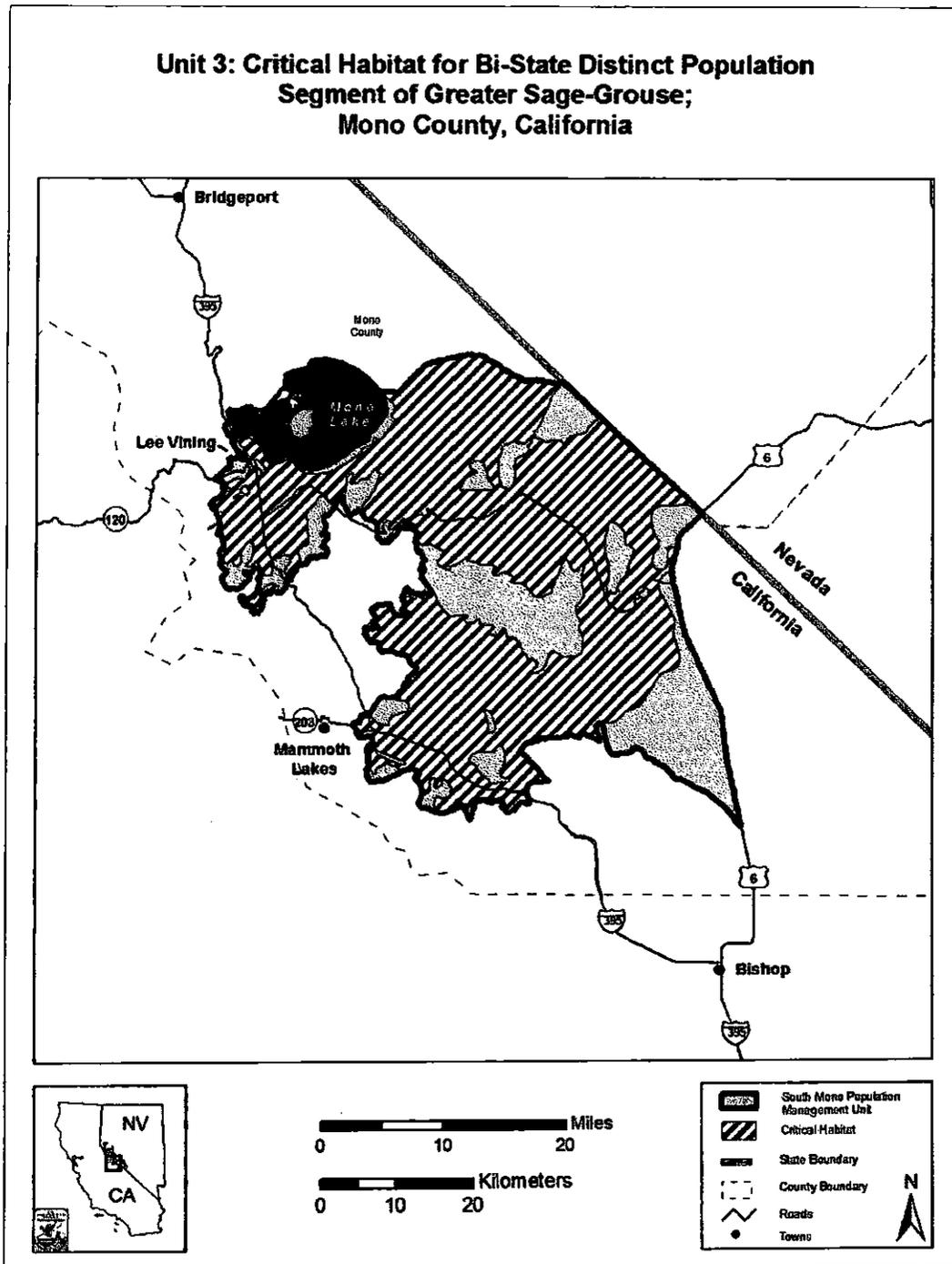
	Pine Nut Population Management Unit
	Critical Habitat
	State Boundary
	County Boundary
	Roads
	Towns

N

(7) Unit 2: North Mono Lake; Douglas, Lyon, and Mineral Counties, Nevada; and Alpine and Mono Counties, California. Map of Unit 2 follows:

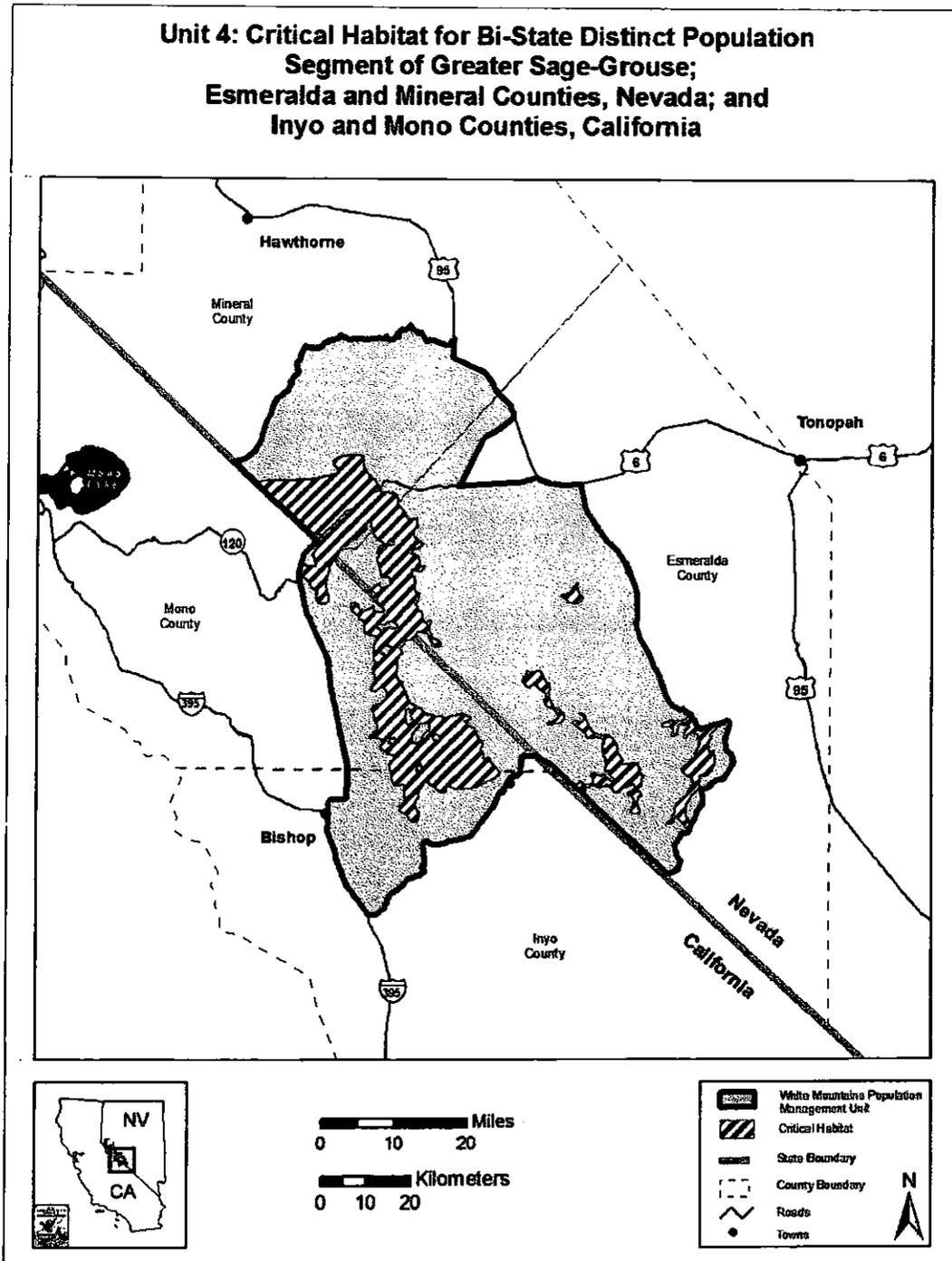


(8) Unit 3: South Mono Lake; Mono County, California. Map of Unit 3 follows:



(9) Unit 4: White Mountains;  
Esmeralda and Mineral Counties,

Nevada, and Inyo and Mono Counties,  
California. Map of Unit 4 follows:



\* \* \* \* \*

Dated: September 26, 2013.  
**Rachel Jacobsen,**  
*Principal Deputy Assistant Secretary for Fish  
and Wildlife and Parks.*  
[FR Doc. 2013-24305 Filed 10-25-13; 8:45 am]  
BILLING CODE 4310-56-C



Larry Johnston ~ District One   Fred Stump ~ District Two   Tim Alpers ~ District Three  
Tim Fesko ~ District Four   Byng Hunt ~ District Five

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**BOARD OF SUPERVISORS  
COUNTY OF MONO**

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P.O. BOX 715, BRIDGEPORT, CALIFORNIA 93517

(760) 932-5538 • FAX (760) 932-5531

*Lynda Roberts, Clerk of the Board*

September 17, 2013

Steve Abele, Wildlife Biologist  
Nevada Fish and Wildlife Office  
U.S. Fish and Wildlife Service  
1340 Financial Blvd., Suite 234  
Reno, Nevada 89502-7147

Dear Mr. Abele:

As the U.S. Fish and Wildlife Service (USFWS) examines the status of the Bi-State Sage-Grouse Distinct Population Segment (DPS) for any proposed listing action, the Mono County Board of Supervisors requests that the past and current efforts of the Bi-State Local Area Working Group (LAWG) be carefully considered. It is the position of our Board that the efforts of the LAWG, including the *2004 Greater Sage Grouse Conservation Plan for the Bi-State Plan Area of Nevada and Eastern California* and the *2012 Bi-State Action Plan*, have the same practical effect as a recovery plan, but with the added value of voluntary collaboration on the part of local landowners, local government, regional agencies, state departments and federal agencies. This remarkable coordination by multiple entities over a number of years should be commended and the value of their actions accepted by the USFWS as evidence that a listing proposal is not warranted at this time.

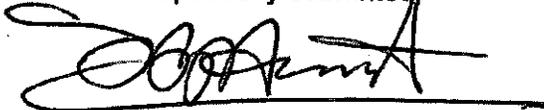
Mono County, which has been regularly attending the LAWG, has also obtained a Sustainable Communities Grant from the California Strategic Growth Council specifically to further support the Bi-State effort via the development of mitigation measures and policies as a part of our general plan update. A letter recently sent by our community development department (attached) reports on this progress and provides science-based support for accepting the equivalent of a recovery plan provided by the LAWG planning and implementation efforts.

Please note that Mono County finds itself in an unenviable position regarding potential cumulative listing actions under the Endangered Species Act (ESA). If the current Yosemite toad and Sierra Nevada yellow-legged frog potential listing is taken together with the Bi-State Sage Grouse DPS potential listing, the cumulative impact of subsequent associated restrictions could cripple our recreation and agricultural economies and severely impact the livelihood of our citizens. The impact of these

multiple ESA actions on the Mono County region should be considered in the USFWS findings regarding the Bi-State Sage Grouse DPS.

Your favorable consideration of Mono County's position regarding the Bi-State Sage Grouse DPS is appreciated. Please contact Jim Leddy, County Administrative Officer, at (760) 932-1703 if you have any questions concerning these comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Byng Hunt', written over a horizontal line.

Byng Hunt  
Chair

**Attachment**

- Mono County Community Development Letter dated August 23, 2013

**Mono County  
Community Development Department**

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P.O. Box 347  
Mammoth Lakes, CA 93546  
(760) 924-1800, fax 924-1801  
[www.monocounty.ca.gov](http://www.monocounty.ca.gov)

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P.O. Box 8  
Bridgeport, CA 93517  
(760) 932-5420, fax 932-5431  
[www.monocounty.ca.gov](http://www.monocounty.ca.gov)

August 23, 2013

Carl Benz, Assistant Field Supervisor  
U.S Fish and Wildlife Service  
Ventura Fish and Wildlife Office  
2493 Portola Road, Suite B  
Ventura, CA 93003

Dear Carl:

As the U.S. Fish and Wildlife Service (FWS) is considering the Bi-State sage grouse listing, we wish to follow up prior conversations and provide an update on Mono County progress. As noted previously, in addition to our participation in the past and more recent Bi-State planning effort, Mono County has obtained a Sustainable Communities Grant from the Strategic Growth Council to update sections of the Mono County General Plan, including policies and mitigation requirements pertaining to sage grouse. The General Plan Update is under way with consulting biologist Dr. James Paulus assisting in the assessment and mitigation strategy development for the Bi-State population in Mono County.

With the Bi-State listing decision under the Endangered Species Act (ESA) approaching, this letter summarizes and updates our local efforts, and includes Dr. Paulus's opinions on the potential listing from a Mono County perspective. We request that this summary be considered in the impending decision, as whatever choice is made will surely have significant impact upon the activities and the prosperity of the people who live and work in Mono County. We have gained considerable knowledge of the ecology and management of grouse through this process, as the known range of the population encompasses nearly the entirety of all lands below 10,000 ft elevation in Mono County.

There is concern that the consequences of a decision to list the Bi-State as Threatened or Endangered will be harmful to the overall health of Mono County and that significant social and economic damage will result if listing occurs. The current and future welfare of Mono County citizens is a major consideration of our General Plan Update. We recognize this update is a significant opportunity to create new protections for sustaining the Bi-State sage grouse in Mono County. Meanwhile, as the following demonstrates, intervention in the form of federal listing intended to remove the danger of species extinction will not add benefits of offsetting magnitude; programs and working groups are already in place, and federal land management agencies' local exercise of regulatory power will be sufficient to attain the goal of saving the species from potential extinction even if federal listing is determined to be unwarranted at this time.

Genetic separation of Bi-State grouse as a Distinct Population Segment (DPS) of the greater sage-grouse species (Oyler-McCance, et al., 2005, Oyler-McCance and Casazza, 2011) provides the basis for evaluating the Bi-State population separately when making regulatory decisions. Proof of separation from the larger taxa known from six states outside California likewise confirms that the threats thought to underlie declines in the Bi-State population must be considered separately. The Bi-State's ecological status with regard to identification of significant threats, threat causes and effective remediation must be treated as unique to the DPS. Furthermore, current successes in stabilizing grouse sub-populations in the Bi-State must be evaluated separately from general trends established with other populations elsewhere.

The identified threat that is most relevant to this distinction is the actual and functional loss of grouse habitat. While often given as the "highest priority threat" for greater sage-grouse at large (e.g., USFWS representative Ted Cooke, presentation at the March 18, 2013, meeting of the Bi-State Local Area Working Group), the available evidence shows that the Bi-State DPS has experienced no significant contraction of its historical range in Mono County (Hall, et al., 2008). Contractions of the range that have been documented are small and localized, and can be attributed to specific, manageable factors that naturally fall under the jurisdiction and interest of local agencies and managers. Another example of a potential listing factor (i.e., threat) identified for greater sage-grouse at large is the inadequacy of the existing regulatory mechanisms (U.S. Fish and Wildlife Service, 2013). This also appears to be largely irrelevant to the Bi-State situation. The state and local regulatory efforts described herein, including some that are currently funded by federal grants, in combination with DPS-specific ecological research, effective site mitigations (many ongoing), development restrictions of Mono County, aggressive application of the California Environmental Quality Act by Mono County, and existing and in-process Conservation Easements, Conservation Plans and programmatic threat controls currently in development at the local level, will be sufficient to remove the real danger of extinction.

Listing Bi-State grouse under ESA unfortunately may cause re-prioritization of effective current and future efforts to conserve the population, and instead may emphasize the actual but lesser threats of habitat loss or inadequacy of the existing regulatory mechanisms. There is concern that risk for Bi-State extinction will be increased dangerously if our locally developed recognition of primary threats or our commensurate concrete and enthusiastic local efforts are superseded, replaced, or interfered with by mandated new, currently undefined federal actions subsequent to listing under ESA.

Bi-State habitat loss is precluded in large part by the expansiveness of federal land holdings across the DPS' known range in Eastern California and Western Nevada. Grouse predominantly use undeveloped lands that are and will continue to be administered by the U.S. Forest Service and Bureau of Land Management. We believe this existing federal jurisdiction explains why the range of the DPS has not significantly contracted from its historic (pre-European settlement) extent (Hall, et al., 2008). Furthermore, these lands are inherently more accessible for ecological researchers. Funding or other agency support for research has been and likely will continue to be available. This preponderance of federal landholdings has already fostered a greater scientific understanding of grouse of the Bi-State than anywhere else within the range of the species at large. Research to date has helped to offset the rush to conclude that

habitat loss and fragmentation are primary threats underlying historical declines in abundance. While this threat may be significant for greater sage-grouse in Wyoming (USFWS, 2013) or elsewhere, Bi-State population maintenance is now thought to be controlled mainly by its predators, whose presence has been on the increase. Cassaza, et al. (2007) concluded that avian and mammalian predation was the greatest threat to Bi-State nest success, brood survival, and even adult survival in every Population Management Unit studied. Most notable among these predators are golden eagles (predation of adults), common ravens (nest and brood predation), and coyotes (nests, broods and adults).

In contrast to habitat loss as a perceived primary threat, one which arguably may be difficult to address effectively without the federal power granted by listing under ESA, increased predation due to greater predator presence may be effectively ameliorated through control strategies that are available to local regulators. In Mono County, the Planning Division now requires that all projects that could provide predatory perches for raptors such as golden eagles or for ravens must implement deterrents to perching (e.g., "raptor spikes"), and also requires follow-up monitoring to ensure effectiveness. Perch deterrence requirement exemplifies the County's self-imposed mandate (as specified in the General Plan – see County of Mono, 2013) that potential impacts to wildlife habitat quality must be quantified by a scientific study funded by the project proponent and assessed in consultation with the California Department of Fish and Wildlife, so as to meet the further requirement that all potential impacts must be brought to below the level of significance for project approval (2012 Conservation/Open Space Element, Biological Resources Objective A).

Revisions recommended for the 2014 General Plan Update include strictly applied Conditions of Approval reducing trash and other attractants for ravens and coyotes and avoiding creation of new nest sites for ravens in grouse habitat. The County's Benton Crossing Landfill, located within the South Mono Population Management Unit in Long Valley, is scheduled to close no later than 2023, at which time existing anthropogenic subsidies will be eliminated. The operation currently implements a mitigation plan to deter ravens and gulls from the site, but the effort does not eliminate ravens or gulls entirely. Since Bi-State listing under ESA would not provide additional support or expansion of mitigation efforts, we believe funding spent on listing would be more effective if granted in support of state/local predator research and control programs, or if the FWS were to exercise its regulatory power to make it easier to reduce raven and coyote population sizes within and near critical Bi-State habitats.

Mono County has been collaborating in the current Forest Plan Amendment of the Humboldt-Toiyabe National Forest, including presentations before local planning committees, the Mono County Collaborative Planning Team and Board of Supervisors. The draft Plan Amendment includes specific goals, objectives standards, guidelines and monitoring indicators to conserve, enhance and/or restore habitats of the Bi-State population in northern Mono County. The intent of the amendment is to provide the regulatory mechanisms needed to respond to the U.S. Fish and Wildlife Service's publishing of a "warranted, but precluded" Endangered Species Act listing petition 12-month finding for the Bi-State sage-grouse. The amendment will improve the ability of land management agencies to conserve, enhance, and/or restore sagebrush and associated habitats to provide for the long-term viability of the Bi-State sage-grouse.

The amendment responds to priority risks such as increasing raven and coyote populations, increasing recreational access to prime habitats, and livestock grazing impacts on habitat. A draft Environmental Impact Statement for the amendment has been released for public review.

Similarly, the Bureau of Land Management/Bishop Field Office, which will be updating its Resource Management Plan, intends to include specific language to add regulatory certainty regarding Bi-State conservation. The Bishop District has a strong track record regarding grouse conservation, due in part to the passion of its staff. But this outcome has been and will continue to be guided by a Resource Management Plan that states very broadly, "Do not adversely affect grouse habitat" (Colleen Stevens, personal communication 3/18/13). This conservative policy powerfully imparts regulatory certainty for ongoing preservation of Bi-State habitat quality and connectivity. We encourage this trend, and believe that local federal agency offices have and will continue to improve and enforce the types of regulatory mechanisms that will effect preservation. Additional, imposed U.S. Fish and Wildlife Service actions that may be intended to bolster federal regulatory power are not needed.

The Bi-State grouse are faced with landscape-level changes in their environment, in addition to increasing raven and coyote populations. These include: creeping sagebrush scrub habitat degradation due to the encroachment of pinyon-juniper woodland trees and non-native cheat grass; loss of meadow habitat as historically established irrigated pastures are withdrawn; the presence of a significant disease threat (West Nile Virus); and the depredative effects of barbed-wire fencing and roads where they cross through remaining habitat. Implementation of the Bi-State 2004 Conservation Plan (Bi-State Local Area Working Group, 2004) and 2012 Action Plan (Bi-State Technical Advisory Committee, 2012) will result in effective remediation of these known threats. Actions already implemented under this guidance have resulted in significant progress in the understanding of these aspects of grouse ecology at the local level and in concrete progress toward conservation. Restoration of prime sagebrush habitat (pinyon-juniper removal) has occurred on more than 14,000 acres of public lands. Nearly 13,000 acres of private lands within the Bi-State's range have come under recorded conservation easements that target grouse habitat preservation and enhancement, with an additional 7,240 acres of easement applications currently in the process of being finalized. Modified livestock grazing allotments totaling more than 1 million acres now include grouse-sensitive seasonal use and stocking limits. Anti-collision marking of fences already accomplished under NRCS direction has resulted in an 83% reduction in post-treatment mortality.

The Bi-State Local Area Working Group has implemented or is currently implementing 293 separate projects in response to specific needs pursuant to preservation as identified in the 2012 Action Plan. The many partners and stakeholders who participated in developing the 2004 Bi-State Conservation Plan sought to prioritize risks, identify strategies for conservation, and specify projects to address the risks as they were understood. But this knowledge and administration have not been static. The emergence of the 2012 Action Plan has occurred because the interest and dedication to Bi-State preservation has continued to grow. Current Action Plan partners include the Natural Resource Conservation Service, U.S. Geological Survey, Bureau of Land Management, U.S. Forest Service, California Department of Fish and Wildlife, Nevada

Department of Wildlife, University of Nevada, The Nature Conservancy, Los Angeles Department of Water and Power, and many other local landowners and land administrators. Meetings of the Local Area Working Group consistently overflow the room, and these are the people who can make and have made preservation happen. It is clear that the local administrative structure for the Bi-State DPS has matured and is today a strong and balanced approach to preservation.

These important policy developments, outreach efforts to secure conservation easements, and on-the-ground habitat enhancement works that add to the quality and extent of available habitat will not be affected should the FWS determine that listing under ESA is currently unwarranted. The trend toward effective population stabilization and away from potential extinction is already established and growing – statistically significant increases have been observed for both number of leks and number of males observed at leks within the Bi-State's range during the period 1995 to 2012 (BLM representative Steve Nelson, 3/5/13 presentation to the Mono County Board of Supervisors). It seems unlikely that the as-yet undefined programs that may be eventually established as a result of listing under the ESA would justifiably render a more effective trend. We believe it more likely that efforts on the part of the FWS to ease the NEPA requirements (specifically, cultural resource clearance) for the existing Bi-State Local Area Working Group programs – for example, local meadow habitat restoration and removal of encroaching conifers and junipers from sagebrush scrub habitat – would go much farther and faster toward preservation of the Bi-State.

Mono County is committed to the 2012 Action Plan goal of stabilizing grouse populations through preservation and enhancement of their habitat. County policy and ongoing involvement in the Bi-State effort reflects this commitment, and we are taking advantage of the General Plan Update to bring grouse to the forefront in future planning decisions. Lands outside existing communities are now largely subject to Resource Management designation, as specified in the Land Use Element of the General Plan. This designation specifically calls for preservation of the habitat of sensitive species "permanently" (County of Mono, 2013). Increased recreation, and development outside existing communities, are unequivocally identified as threats to wildlife habitat sustainability, with established policy calling for the protection and enhancement of these habitats as a basic guideline for regulating such activities where the County has jurisdiction, and calling for cooperation with federal and state agencies toward the goal of preservation of the extensive grouse habitats where these agencies have jurisdiction. Policies also direct County facilitation of habitat acquisition as a result of land exchanges with federal or state land management agencies or by the purchase by land preservation organizations (Policy 6 of the Mono County Conservation/Open Space Element). It is anticipated that the update of the General Plan currently under way and scheduled for adoption in 2014 will provide new lek setbacks, requirements for fence collision-avoidance markers on all new fencing, escape ramps for new troughs and ponds, revegetation standards for restoration of disturbed sagebrush habitat, and new restrictions on road building in grouse habitat for projects on private lands.

We believe that this intensity of local preservation effort is unprecedented for any Candidate species. It reflects our shared concern for our environment, a stewardship which naturally arises from the realization that we are fortunate to live and work in such a bountiful place. In Mono County, efforts now under way to preserve the Bi-State will

continue, and will continue to expand, even should the FWS decide against listing under ESA. Listing would surely impose another gauntlet for the Bi-State's sustainability – administrative confusion, as federal and local experience and priority actions will differ. Even if listing is well-meaning for the species, delay or setback while a new administrative layer is integrated would deal a serious blow to the Bi-State DPS, possibly even to the point of allowing the current threats to extirpate the DPS or some of the sub-populations from their current range. As an alternative to listing, U.S. Fish and Wildlife Service assistance in implementing the locally crafted set of programs, especially help in institutionalizing new, effective predator control and help with burdensome cultural resource requirements under NEPA, would be more justifiable in the case of the Bi-State DPS.

To summarize, we sincerely believe the available evidence supports our position that recovery has already been assured by positive changes in the sentiments of the populace, by the policies we have adopted and are updating, and by the current and planned actions of landowners, volunteers, and agency personnel acting under the guidance of the 2012 Action Plan.

Your favorable consideration of these comments is appreciated. Please call me at (760) 924-1807 if you have questions concerning this matter; technical questions can be directed to consulting biologist, Dr. James Paulus at (760) 937-7177.

Respectfully submitted,



Scott Burns  
Director

cc Jim Leddy, County Administrative Officer  
Dr. James Paulus, Consulting Biologist  
Tony Dublino, Solid Waste Superintendent

#### ATTACHMENTS

- Evaluation of Genetic Distinctiveness
- Multilocus Population Genetic Survey
- California Bird Species of Special Concern
- Ecology of Greater Sage-Grouse.

## REFERENCES

- Bi-State Local Area Working Group, 2004. Greater Sage-Grouse Conservation Plan for the Bi-State Plan Area of Nevada and Eastern California. Nevada Governor's Sage Grouse Conservation Team.
- Bi-State Technical Advisory Committee, 2012. Bi-State Action Plan: Past, Present and Future Actions for Conservation of the Greater Sage-Grouse Bi-State Distinct Population Segment. Bi-State Executive Oversight Committee for Conservation of Greater Sage-Grouse. Report date March 15, 2012.
- Casazza, ML, Overton, CT, Farinha, MA, Torregrosa, A, Fleskes, JP, Miller, MM, Sedinger, JS, and E. Kolada. 2007. Ecology of Greater Sage-Grouse in the Bi-State Planning Area Final Report, September 2007. USGS Open File Report 2009-1113.
- County of Mono, 2013. General Plan. <http://monocounty.ca.gov/planning/page/general-plan>.
- Hall, FA, Gardner, SC, and DS Blankenship, 2008. Greater sage-grouse (*Centrocercus urophasianus*), pp. 96-101 in Shuford, WD and T Gardali (Eds.), California Bird Species of Special Concern: A Ranked Assessment of Species, Subspecies, and Distinct Populations of Birds of Immediate Conservation Concern in California. California Department of Fish and Wildlife, Sacramento.
- Oyler-McCance, SJ, Taylor, SE, and TW Quinn, 2005. A multilocus population genetic survey of the greater sage-grouse across their range. *Molecular Ecology* 14:1293-1310.
- Oyler-McCance, SJ, and ML Casazza, 2011. Evaluation of the genetic distinctiveness of greater sage-grouse in the Bi-State Planning Area. USGS Open File Report 2011-1006.
- U.S. Fish and Wildlife Service, 2013. Greater sage-grouse (*Centrocercus urophasianus*) Conservation Objectives: Final Report (February 2013). USFWS, Denver.



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

23

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** Inyo County Planning Department

**FOR THE BOARD MEETING OF:** December 10, 2013

**SUBJECT:** Inyo National Forest Plan Update/Revision – Draft Assessment

**RECOMMENDATION:** Review draft correspondence to the Forest Service regarding the draft Assessment for the Inyo National Forest Plan and provide input.

**SUMMARY DISCUSSION:** The Inyo National Forest (INF) is working on updating its Forest Plan.<sup>1</sup> A draft Assessment for the Update is available for public review, and comments are due December 16. Staff has prepared draft correspondence for the Board's consideration, which is included in Attachment 1. Staff requests that the Board consider the draft correspondence and provide direction for any revisions prior to the public meeting that will be held during the evening.

The draft Assessment summarizes the Topic Papers for the INF, for which the County previously provided input (refer to Attachment 2). The Assessment is organized as follows:

- Chapter 1:** Terrestrial, Aquatic, and Riparian Ecosystems
- Chapter 2:** Assessing Air, Water, and Soil Resources
- Chapter 3:** Assessing System Drivers and Stressors
- Chapter 4:** Assessing Carbon Stocks
- Chapter 5:** At-Risk Species
- Chapter 6:** Assessing Social, Cultural, and Economic Conditions
- Chapter 7:** Benefits to People
- Chapter 8:** Assessing Multiple Uses – Water; Fish, Plants and Wildlife; Range, and; Timber
- Chapter 9:** Recreation Settings, Opportunities and Access, and Scenic Character
- Chapter 10:** Energy and Minerals
- Chapter 11:** Infrastructure
- Chapter 12:** Areas of Tribal Importance
- Chapter 13:** Cultural and Historic Resources and Uses
- Chapter 14:** Lands
- Chapter 15:** Designated Areas
- Conclusions**

Staff's review of the draft Assessment indicates that much of the input regarding the Topic Papers remains an issue for the Assessment. In particular, staff has identified concerns about amphibians, grazing, financing, public/private partnerships, socioeconomics, infrastructure, services, local planning, and the proposed species of conservation concern. However, staff notes that much of the input from the Topic Papers and staff's coordination effort has been at least addressed.

<sup>1</sup> Refer to <http://inyoplanning.org/InyoNationalForest.htm> for more information about the County's participation in the Plan Update/Revision, including links to the Forest Service's relevant online references.



December 10, 2013

Forest Plan Revision  
Inyo National Forest  
351 Pacu Lane, Suite 200  
Bishop, CA, 93514

**Re: Draft Assessment for Inyo National Forest Plan Update/Revision**

Ms. Joyce,

On behalf of the Inyo County Board of Supervisors, thank you for the opportunity to review the draft Assessment. We are pleased that Forest Service staff is working with our staff in the spirit of coordination, and we continue to look forward to expeditious execution of the cooperating agency Memorandum of Understanding to solidify this relationship. We feel that our participation has facilitated development of an Assessment that is more representative of the people that live in and around the Inyo National Forest. We understand that Forest Service staff has considered our staff's input and incorporated where there was agreement. We wish to thank and acknowledge the Forest Service's staff for its efforts to include us in this process.

Our staff has transmitted comments to you regarding the draft Assessment under separate cover, and in general we do not repeat these comments herein. With this in mind, we offer the following additional perspectives regarding the documents, which are similar to our input regarding the Topic Papers:

1. We continue to believe that the Plan Update should focus on multiple uses per the Multiple Use Sustained Yield Act as one of the main themes. We support the people's beneficial uses of the Forest in a sustainable and wise manner pursuant to the Act. In particular, Chapters 3 (Drivers and Stressors) and 8 (Multiple Uses) should better emphasize this concept. The continued reduction in access to the Forest and related multiple uses must be addressed. We repeat our observation that in less than 50 years vehicular access to more than 80 percent of the Forest in Inyo County has been restricted by Wilderness and Inventoried Roadless Areas, thus eliminating a range of multiple uses in these areas and marginalizing those members of the public who may not have the means to travel via non-vehicular means. We acknowledge that firewood gathering is addressed by the Assessment, and we reiterate its importance to our community.
2. As we have previously requested, the Assessment should describe the Healthy Forest Restoration Act's work to protect communities, watersheds, and certain other at-risk lands from catastrophic wildfire, measures to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and other provisions.
3. We are concerned that the Assessment in several instances attributes fish stocking to the amphibians' decline – we reiterate our staff's request to correct these statements. We believe that a variety of factors are contributing to the decline of the species (as documented in the literature), and that the cited references do not support these statements.
4. As we have previously opined, the recreation discussion in Chapter 9 minimally addresses permitting issues. As mandated by the concept of multiple uses, we believe that recreation should be encouraged and that the permitting process should be streamlined.
5. As discussed in Chapter 8, we understand that grazing and other agricultural uses in the Forests have positive impacts on natural resources, not just adverse. We believe that elaboration of

- these benefits should be undertaken to provide balance to the document, particularly in Chapter Nos. 1, 2, and 3. We are concerned that the citations our staff previously provided for these concepts have not been included, and that instead more citations to the contrary were incorporated – at the very least, the disagreement in the literature should be acknowledged.
6. As you know, socioeconomic issues are of utmost importance to us, and while we are pleased to note that extensive resources have been allocated to such topics, we request that continued emphasis be focused on the Forest's positive and negative impacts to our society, culture, and economy.
    - a. We believe that the private sector has an important role to play in the vibrancy of our Forests. We are pleased that the concept of public/private partnerships has been accentuated in Chapter 6 and request that it continue to be emphasized.
    - b. We believe that Chapter 6 should be enhanced to further analyze the macroeconomic trends that are leading to socioeconomic changes in the Forest. We request that particular attention be paid to the fragility of small rural economies such as ours, as has been conveyed by our staff with a specific reference. We acknowledge the work describing the differences between higher-paying resource extraction employment versus lower-paying service employment, and references to specialization of our economy, and request that these topics continue to be considered in this planning process.
    - c. We reiterate our request that the discussion about Payment in lieu of taxes (PILT) and Secure Rural Schools (SRS) in Chapter 6 address the variability in PILT and SRS funding as well as analyzing property tax receipts relative to these payments if the Forests were in private ownership.
    - d. Several references in Chapter 6 continue to quote data about population growth and social view of conservation that are inappropriate to the east side (refer to page 109). We believe that these discussions should be revised to include more relevant information, such as from the Sierra Business Council's Eastern Sierra Innovation and Prosperity Report (2012).
    - e. Our staff will continue to work with you to identify important historical data to enlighten the Update effort.
  7. We continue to be concerned about statements that attribute significant environmental impacts to roads and trails. Given that more than 80 percent of the Forest in Inyo County has been made roadless, and the relative minor disturbances caused by most trails, we believe that these impacts are in general overstated.
  8. We acknowledge the brief references to smoke impacts to communities in Chapter 2; we request that a short subsection be added to further elaborate and summarize issues related to fire management activities and impacts to downwind communities.
  9. Our staff continues to work with you regarding the proposed Species of Conservation Concern. We reiterate our alarm about the vast scale of this new category of special status species, and we will continue our efforts to work to ensure that an appropriate species list is ultimately selected.
  10. We continue to be concerned about the lack of specificity regarding public services and infrastructure, and request that the decision to not include these details in the Plan documents be revisited. Our staff has provided such an inventory for our County, and at the very least a stand-alone document or appendix could be created to describe these resources to better understand relationships and issues.

11. We acknowledge that you have included a discussion of our General Plan in Chapter 14 and repeat our suggestion that references to our County Code be added there, and also in other relevant chapters.
12. We continue to hear from our constituents that the Plan should be attainable and sustainable, and we strongly urge the Forest Service to begin tackling this issue and prioritizing to inform the next phase (i.e., need for change).

Thank you again for the opportunity to comment on the draft Assessment. We look forward to working with you throughout this process. If you have any questions, please contact the County Administrative Officer, Kevin Carunchio, at (760) 878-0292 or at [kcarunchio@inyocounty.us](mailto:kcarunchio@inyocounty.us).

Sincerely,

Linda Arcularius, Chair  
Inyo County Board of Supervisors

cc: Board of Supervisors  
County Administrative Officer  
County Counsel  
Planning Department  
Doug Wilson, Willdan  
Regional Council of Rural Counties  
California State Association of Counties  
National Association of Counties  
Ed Armenta, Inyo National Forest  
Randy Moore, Region 5 Forester



## BOARD OF SUPERVISORS COUNTY OF INYO

P. O. BOX N • INDEPENDENCE, CALIFORNIA 93526  
TELEPHONE (760) 878-0373 • FAX (760) 878-2241  
e-mail: [pgunsolley@inyocounty.us](mailto:pgunsolley@inyocounty.us)

MEMBERS OF THE BOARD  
LINDA ARCULARIUS  
JEFF GRIFFITHS  
RICK PUCCI  
MARK TILLEMANS  
MATT KINGSLEY

KEVIN D. CARUNCHIO  
*Clerk of the Board*

PATRICIA GUNSOLLEY  
*Assistant Clerk of the Board*

August 27, 2013

Ms. Susan Joyce  
Inyo National Forest All Units  
351 Pacu Lane Suite 200  
Bishop, CA, 93514

**Re: Draft Topic Papers**

Dear Ms. Joyce,

On behalf of the Inyo County Board of Supervisors, thank you for the opportunity to review the draft Topic Papers. We are pleased that you are working with our staff in the spirit of coordination, and we continue to look forward to expeditious execution of the cooperating agency Memorandum of Understanding to solidify this relationship. Our staff has transmitted comments to you regarding the draft Topic Papers under separate cover, and in general we do not repeat these comments herein. With this in mind, we offer the following additional perspectives regarding the documents:

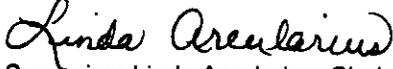
1. The documents should focus on multiple uses per the Multiple Use Sustained Yield Act as one of the main themes. We support the people's beneficial uses of the Forest in a sustainable and wise manner pursuant to the Act. In particular, Chapters 3 (Drivers and Stressors) and 8 (Multiple Uses) should refer to this concept. The continued reduction in access to the Forest and related multiple uses must be addressed. We note that in less than 50 years vehicular access to more than 80 percent of the Forest in Inyo County has been restricted by Wilderness and Inventoried Roadless Areas, thus eliminating a range of multiple uses in these areas and marginalizing those members of the public who may not have the means to travel via non-vehicular means. Firewood gathering is another multiple use aspect of the Forest, and we request that the discussions regarding this activity with strong cultural history in Inyo County and importance to those with limited means be accentuated.
2. The Healthy Forest Restoration Act's work to protect communities, watersheds, and certain other at-risk lands from catastrophic wildfire, measures to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and other provisions should be described in the documents.
3. We believe that the private sector has an important role to play in the vibrancy of our Forests, and greater emphasis on public/private partnerships should be included in the documents. In particular, a clear link exists between strong local economies and activities on the Forest, and engagement with the private sector can address declining public resources, attract private investment, and benefit nearby economic development. This concept can enhance the discussions in Chapters 3 and 6.
4. The recreation discussion in Chapter 9 minimally addresses permitting issues. As mandated by the concept of multiple uses, we believe that recreation should be encouraged and that the permitting process should be streamlined. Of particular importance to us are the economic benefits that Forest recreation provides to our local economy, such as from hiking guides, porters, packers, fishing guides, motorized recreation, and researchers. References to local volunteer groups should also be expanded to include the Eastern Sierra Four-Wheel Drive Club, the rotaries, and other local service clubs. We also request that the value of these groups be highlighted, and that volunteerism be encouraged and accommodated. One particularly intriguing opportunity is to recruit volunteers to camp at unutilized fire lookouts and watch for fires.

5. We suggest that a concerted effort be taken to identify positive activities taking place on the Forest, emphasizing what's working. In particular, we hope that mitigation measures that are particularly cost effective and consistent with the doctrine of multiple use be described, including potential implementation in various settings. Good examples of this approach in the documents include mitigation measures that are being implemented to reduce erosion from roads and timber thinning activities.
6. We understand that grazing and other agricultural uses in the Forests have positive impacts on natural resources, not just adverse. We believe that elaboration of these benefits should be undertaken to provide balance to the document, particularly in Chapter 8.
7. Socioeconomic issues are of utmost importance to us, and while we are pleased to note that extensive resources have been allocated to such topics, we request that continued emphasis be focused on the Forest's positive and negative impacts to our society, culture, and economy. The discussion about Payment in Lieu of Taxes (PILT) and Secure Rural Schools (SRS) in Chapter 6 should address the variability in PILT and SRS funding as well as analyzing property tax receipts relative to these payments if the Forests were in private ownership. We suggest that additional analysis about the value in terms of average salaries and benefits of resource extraction employment relative to lower paying recreation jobs be better addressed and an analysis conducted to demonstrate how the compensation of these jobs changes with different Plan alternatives. We are also surprised that the analysis indicates that our economy is not highly specialized, as we believe we are highly dependent on Forest-related economic activities, and suggest that the analysis be revisited and elaborated. We believe that additional data regarding historic uses of the Forest should be included to analyze trends, and we understand that the Forest has access to such data. We also suggest that permitting issues be described as a burden to economic development activities, as well as existing uses of the Forest.
8. We acknowledge that the documents address the Inyo Complex fire and mudflow. Based on our experience from that disaster, we suggest that the lack of Forest Service resources to address hazards be addressed, particularly in Chapter 10.
9. We acknowledge that you have included a discussion of our General Plan in Chapter 14 and suggest that references to our County Code be added there, and also in other relevant chapters.
10. We suggest that specific discussions about pesticides, herbicides, and other chemicals utilized in the Forest be added.
11. Our staff has transmitted a critique about the Species of Conservation Concern to you under separate cover. We wish to point out our alarm at the vast scale of this new category of special status species, and request that care be taken in selection of the list.
12. Our staff also has transmitted to you concerns about the lack of discussion about public services and infrastructure for our communities in the Forest. We reiterate this alarm, and request that descriptions of public safety (including search and rescue) services and community infrastructure in the Forest be augmented. Additionally, the Forest's fire protection infrastructure provides an opportunity to benefit local communities that may not be included in local fire protection districts through dispersed or shared facilities that also service communities landlocked or in the vicinity of the Forest.
13. Lastly, the Plan should be attainable and sustainable. The lack of staff and fiscal resources are discussed throughout the Topic Papers. The Plan should be developed to minimize the ability of fiscal and staff resource shortages to prevent implementation. Also, some discussion of how such resources will be prioritized and allocated with respect to the Planning process should be included. We note that significant resources are now allocated to fire management, planning, and legal services that previously were utilized for on-the-ground projects in the Forest and revenue generation for the people, and that the prioritization of these services has been to the detriment of Forest health and sustainability.

Ms. Susan Joyce  
August 27, 2013  
PageTHREE

Thank you again for the opportunity to comment on the draft Topic Papers. We look forward to working with you throughout this process. If you have any questions, please contact the County Administrative Officer, Kevin Carunchio, at (760) 878-0292 or at [kcarunchio@inyocounty.us](mailto:kcarunchio@inyocounty.us).

Sincerely,



Supervisor Linda Arcularius, Chairperson  
Inyo County Board of Supervisors

cc: Board of Supervisors  
County Administrative Officer  
County Counsel  
Planning Department  
Doug Wilson, Willdan  
Regional Council of Rural Counties  
California State Association of Counties  
National Association of Counties  
Ed Armenta, Inyo National Forest  
Randy Moore, Region 5 Forester



**AGENDA REQUEST FORM**  
**BOARD OF SUPERVISORS**  
**COUNTY OF INYO**

For Clerk's Use Only:  
**AGENDA NUMBER**

24

- Consent   
  Departmental   
  Correspondence Action   
  Public Hearing  
 Scheduled Time for   
  Closed Session   
  Informational

**FROM:** CLERK OF THE BOARD  
**By:** Patricia Gunsolley, Assistant Clerk of the Board

**FOR THE BOARD MEETING OF:** December 10, 2013

**SUBJECT:** Approval of Minutes

**DEPARTMENTAL RECOMMENDATION:** - Request approval the minutes of the Board of Supervisors Meeting of November 26, 2013.

**SUMMARY DISCUSSION:** - The Board is required to keep minutes of its proceedings. Once the Board has approved the minutes as requested, the minutes will be made available to the public via the County's web page at [www.inyocounty.us](http://www.inyocounty.us).

**ALTERNATIVES:** - Staff awaits your Board's changes and/or corrections.

**OTHER AGENCY INVOLVEMENT:** - n/a

**FINANCING:** n/a

**APPROVALS**

BUDGET OFFICER:	BUDGET AMENDMENTS <i>(Must be reviewed and approved by Budget Officer prior to being approved by others, as needed, and submission to the Assistant Clerk of the Board.)</i>
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the Assistant Clerk of the Board.)</i>  Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the Assistant Clerk of the Board.)</i>  Approved: _____ Date _____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the Assistant Clerk of the Board.)</i>  Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received) \_\_\_\_\_ Date: \_\_\_\_\_  
 (The Original plus 20 copies of this document are required)



**AGENDA REQUEST FORM**  
**BOARD OF SUPERVISORS**  
**COUNTY OF INYO**

For Clerk's Use Only:  <b>AGENDA NUMBER</b>  <i>26</i>
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- Consent    
 Departmental    
 Correspondence Action  
 Public Hearing    
 Schedule time for    
 Closed Session    
 Informational

FROM: CAO, Sheriff, Public Works

FOR THE BOARD MEETING OF: December 10, 2013

SUBJECT: County of Inyo Animal Shelter update

**DEPARTMENTAL RECOMMENDATIONS:**

1.) Respectfully request your Board receive an update regarding the fund raising efforts of the ICARE organization for the construction of new animal shelter facilities; and, 2.) Request your Board provide direction regarding timelines and bidding options for the proposed Inyo County Animal Shelter project.

**CAO RECOMMENDATIONS:**

**SUMMARY DISCUSSION:**

On October 8, 2013 your Board participated in a workshop identifying three potential building plans for the proposed Animal Shelter project. The estimated cost ranging in price from \$450,000 to \$725,000 (excluding site prep, septic system modification, earthquake study and utility improvements). At this time, available funding totalled \$525,000 (County of Inyo \$200,000; Sheriff's Animal Shelter Trust \$175,000 and ICARE 150,000). The workshop concluded with the Board directing staff to return on December 10, 2013 with floorplans and complete engineers estimates for options 1 and 2, which will be provided today. In addition, staff will provide timeline options and potential project bidding strategies.

**ALTERNATIVES:**

**OTHER AGENCY INVOLVEMENT:**

**FINANCING**

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.)	Approved: _____ Date _____
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)	Approved: _____ Date _____
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)	Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)

Date: 12/2/13



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

27

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for 1:30 P.M.     Closed Session     Informational

FROM: Marvin Moskowitz, Director, Environmental Health Services

FOR THE BOARD MEETING OF: **December 10, 2013**

SUBJECT: Amended Environmental Health Permit Fee Ordinance

**DEPARTMENTAL RECOMMENDATION:**

Request Board enact an ordinance entitled "An Ordinance of the Board of Supervisors of the County of Inyo, State of California, amending Inyo County Code, Chapter 7.52, Sections 7.052.010, 7.52.020 and 7.52.040 and adding Section 7.052.130, relating to service and permit fees of the Inyo County Department of Environmental Health Services".

**CAO RECOMMENDATION:**

**SUMMARY DISCUSSION:**

On December 3, 2013, the Board approved the staff recommendation to amend the present Environmental Health permit fee ordinance to waive the temporary food facility permit fees for Cottage Food Operators selling their products adjacent to, and during, certified farmers markets, and to add an "Organized Camps" annual permit fee of \$296 to the Recreational Safety section of the fee schedule and waived the first reading and scheduled December 10, 2013 for the enactment of the amendments to the ordinance. This revised permit fee ordinance includes these provisions. The amendments to the ordinance will take effect thirty (30) days following board adoption.

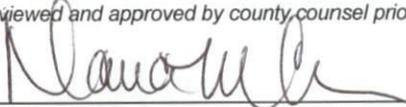
**ALTERNATIVES:**

Not adopt proposed ordinance, allowing Cottage Food permit fees to be excused and organized camp fees to not exist. remain the same.

**OTHER AGENCY INVOLVEMENT:**

**FINANCING:**

There is no net impact to the General Fund resulting from the action.

<b><u>APPROVALS</u></b>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)
	Approved: <u>Yes</u> Date <u>11-22-13</u>

AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)   Approved: <u>yes</u> Date <u>11/22/2013</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:** M. Markowitz by Stuart Date: 11/25/13  
(Not to be signed until all approvals are received)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF INYO, STATE OF CALIFORNIA,  
AMENDING INYO COUNTY CODE, CHAPTER 7.52, SECTIONS 7.052.010, 7.52.020 AND  
7.52.040 AND ADDING SECTION 7.52.130, RELATING TO SERVICE AND PERMIT FEES OF  
THE INYO COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH SERVICES**

The Board of Supervisors of the County of Inyo, State of California, ordains as follows:

**SECTION ONE. PURPOSE.**

The purpose of this Ordinance is to update certain of the fees charged by the Inyo County Environmental Health Services Department pursuant to the applicable Schedule of Fees. Specifically, it is the purpose of this Ordinance to establish a fee for organized camp facilities and to eliminate the temporary food facility fee for cottage food operators selling their products adjacent to and during certified farmers markets.

**SECTION TWO. AUTHORITY.**

This Ordinance is enacted pursuant to the authority given the Inyo County Board of Supervisors by various provisions of California statutes, including: California Health and Safety Code Sections 101325, and 101280 which permits the County to adopt fees to defray its costs to enforce public health statutes when that cost is not met by the fees prescribed by statute; California Health and Safety Code Division 20, Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), Chapter 6.95 (commencing with Section 25500) and Chapter 6.11 (commencing with Section 25404); part 7 of division 104 of the Health and Safety Code (commencing with Section 13700); California Water Code (commencing with Section 13700) and California Constitution, Article XI, Section 7; Health and Safety Code, Division 13, Part 2.3, Sections 18897-18897.7; Health and Safety Code Sections 116340; 116565; 116570; 116595; and Public Resources Code Section 43213; and Government Code Section 54985 which permits a county to increase the amount of a fee authorized by State law in order to meet the County's actual cost of providing the service associated with the fee.

**SECTION THREE. FINDINGS.**

This Board hereby finds, upon the documentary and oral information presented to it in connection with its consideration of this ordinance, that the fees established herein are fair, reasonable, and exceed neither the actual nor reasonable cost to the County of administering and enforcing the various state statutes, regulations, orders, quarantines, and local laws, relating to public health in Inyo County.

**SECTION FOUR. INYO COUNTY CODE SECTION 7.52.010 AMENDED**

Inyo County Code Section 7.52.010 is amended to read as follows:

**7.52.010 Definitions.**

As used in this Chapter, the following terms have the following meanings:

"Environmental Health service fee" means the fee paid upon application and annually thereafter for permit, service, and inspection fees to operate or engage in the activities defined

in this Chapter, or a one-time fee paid by any person for a plan-check, filing, and/or construction inspections for new construction, expansion, replacement, or modification of any activity as defined in and/or regulated by this Chapter.

“Organized Camp Facility” means a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days or more during one or more seasons of the year.

“Permit” means the public health permit required to operate or engage in any activity as defined in or regulated by this Chapter.

“Person” means any natural person, firm, partnership, corporation, association, club, organization, or political subdivision.

**SECTION FIVE. INYO COUNTY CODE SECTION 7.52.020 AMENDED**

Inyo County Code Section 7.52.020 is amended to read as follows:

**7.52.020 Activities Requiring Permits – Payment of Fees.**

Except as provided elsewhere in this code or state law, it is unlawful for any person to operate any of the following facilities or equipment, or engage in the following activities as defined in this Chapter, unless that person has first applied for and obtained appropriate permit from the Inyo County Department of Environmental Health Services and paid the appropriate permit, inspection, or service fees, unless such fees are waived in accordance with this Chapter:

- A. Retail Food Establishment
- B. Septic System installation/repair/abandonment/pumping vehicles
- C. Small water systems
- D. Well construction/abandonment
- E. Integrated waste disposal/transfer facility
- F. Commercial or public swimming pool, spa, or hot bath
- G. Hazardous materials
- H. Body Art
- I. Organized Camp Facility

**SECTION SIX. INYO COUNTY CODE SECTION 7.52.040(B) AMENDED**

Inyo County Code Section 7.52.040(B) is amended to read as follows:

**B. Annual Operating Permit**

- 1. Restaurants.
  - a. Zero to twenty-four seats: ..... \$179.00
  - b. Twenty-five to fifty seats ..... \$216.00
  - c. Fifty-one to one hundred seats: ..... \$261.00
  - d. More than one hundred seats: ..... \$290.00
- 2. Bar only, no prepared food: ..... \$175.00
- 3. Markets w/food prepared on site, i.e. meat market, bakery and/or deli:
  - a. One to three thousand square feet:..... \$232.00

b. Three thousand one to ten thousand square feet:.....	\$290.00
c. Ten thousand and one to twenty five thousand square feet.....	\$406.00
d. More than twenty five thousand square feet: .....	\$579.00
4. Markets w/no food prepared on site:	
a. One to five hundred square feet: .....	\$115.00
b. Five hundred one to three thousand square feet: .....	\$175.00
c. Three thousand one to ten thousand square feet: .....	\$232.00
d. Greater than ten thousand square feet: .....	\$290.00
5. Produce Stand: .....	\$ 73.00
6. Bakery: .....	\$162.00
7. Bed & Breakfast .....	\$175.00
8. Other Food Related Activities	
a. Mobile Food Facilities (potentially hazardous food).....	\$115.00
b. Mobile Food Facilities (non-potentially hazardous food).....	\$ 73.00
c. Community Event Organizer Application Fee	
1. Community event, one day.....	\$100.00
2. Community event, multiple days.....	\$232.00
d. Temporary Food Facilities: ... ..	\$ 50.00
1. Annual Temporary Food Permit.....	\$150.00
2. Annual Temporary Food Permit for Sale By Class A or B Permitted Cottage Food Facility at Certified Farmers Markets .....	No Charge
e. Caterers.....	\$175.00
f. Cottage Food Facility	
1. Class A Operation - Direct Sales Only.....	\$ 50.00
2. Class B Operation - Direct & Indirect Sales.....	\$146.00

**SECTION SEVEN. INYO COUNTY CODE SECTION 7.52.130 ADDED**

Inyo County Code Section 7.52.130 is added to Inyo County Code Chapter 7.52 to read as follows:

A. Pursuant to the California Organized Camp regulations, every applicant for and every holder of an Environmental Services Department permit to operate an organized camp facility in Inyo County shall, upon application and registration, annually pay the following fees, as adjusted in accordance with section 7.52.030(B):

1. Organized Camp Facilities: .....	\$296.00
-------------------------------------	----------

**SECTION SIX. SEVERABILITY**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the remaining portion of this Ordinance. This Board of Supervisors hereby declares that it would have enacted this Ordinance and every section, subsection, sentence, clause, or phrase hereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

**SECTION SEVEN. EFFECTIVE DATE**

This ordinance shall take effect and be in full force and effect on January 1, 2014. Before the expiration of fifteen (15) days from the adoption hereof, this Ordinance shall be published as required by Government Code Section 25124. The Clerk of the Board is hereby instructed and ordered to so publish this ordinance together with the names of the Board members voting for or against the same.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
LINDA ARCULARIUS, Chairman  
Inyo County Board of Supervisors

ATTEST: Kevin Carunchio  
Clerk of the Board

By \_\_\_\_\_  
Patricia Gunsolley  
Assistant Clerk of the Board



**AGENDA REQUEST FORM**  
**BOARD OF SUPERVISORS**  
**COUNTY OF INYO**

For Clerk's Use Only:  <b>AGENDA NUMBER</b> <span style="font-size: 2em; color: blue;">28</span>
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- Consent   
  Departmental   
  Correspondence Action   
  Public Hearing  
 Schedule time for   
  Closed Session   
  Informational

FROM: Inyo County Road Department

FOR THE BOARD MEETING OF: December 10, 2013

SUBJECT: Avalanche Hazard Workshop

**DEPARTMENTAL RECOMMENDATIONS:**

1. Hold a workshop to discuss avalanche areas and the impacts that avalanches have on county roads and the road crews that perform snow removal work. It will also touch on safety concerns to residents that may live in or be visiting these areas during the winter months.

**CAO RECOMMENDATION:**

**SUMMARY DISCUSSION:**

Inyo County road crews have removed snow in avalanche prone areas for many years. Because some of the areas are notoriously prone to severe avalanche events, the Road Department has worked with Sue Burak to more safely deal with work activities in these areas. Ms. Burak has volunteered to present a workshop that explains some of the work that she does for the Road Department. This workshop will be beneficial to the Board of Supervisors, as well as the general public and the residents that live in these areas.

**ALTERNATIVES:**

The Board could choose not to have this presentation. This is not recommended as this is very useful information that is critical during heavy storm events or seasons when there is an abundance of snow.

**OTHER AGENCY INVOLVEMENT:**

**FINANCING:**

No financial impacts from the workshop at this time.

**APPROVALS**

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) Approved: <u>          N/A          </u> Date _____
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.) Approved: <u>          N/A          </u> Date _____
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: <u>          N/A          </u> Date _____

**DEPARTMENT HEAD SIGNATURE:**

(Not to be signed until all approvals are received)



Date: 11/26/13



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

29

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM: WATER DEPARTMENT**

**FOR THE BOARD MEETING OF: DECEMBER 10, 2013**

**SUBJECT: PRESENTATION AND WORKSHOP TO REVIEW THE STATUS OF THE LORP RECREATIONAL USE PLAN**

**DEPARTMENTAL RECOMMENDATION:** The Water Department requests that your Board receive a workshop on the Lower Owens River Project (LORP) Recreational Use Plan (RUP). The Water Department will provide an overview of the preferred RUP, provide an update on efforts to complete the plan as it stands and seek your direction and ideas on how to proceed.

**SUMMARY DISCUSSION:**

A recreation use plan will provide a mechanism to comprehensively identify resource-appropriate recreational opportunities and evaluate these in relation to environmental and habitat objectives of the LORP, the maintenance of warm water fishery, LADWP operational needs, cultural resource protection, ranching and other agricultural activities. The LORP RUP addresses community concerns that cultural resources and working landscapes be protected; and that the feasibility, cost of implementation and maintenance of new programs, facilities, and uses, be known.

The overall goal of the LORP, as stated in the MOU, is as follows:

*"The goal of the LORP is the establishment of a healthy, functioning Lower Owens River riverine-riparian ecosystem, and the establishment of healthy functioning ecosystems in the other elements of the LORP, for the benefit of biodiversity and threatened and endangered species, while providing for the continuation of sustainable uses including recreation, livestock grazing, agriculture, and other activities."*

The LORP Monitoring and Adaptive Management Plan (MAMP, Section 3.21) addresses both the opportunities and challenges of new recreational uses in the LORP area:

*It is anticipated that the LORP area will be a high-use recreation area that will appeal to recreationists who enjoy bird watching, wildlife viewing, hunting and fishing or many other outdoor activities in a natural and unique ecosystem (LORP MAMP, 3-75). Increases in visitor use are expected each year for the first 10-15 years of the project. It is expected that impacts from visitations will increase, as well. Impacts include road deterioration, waste and litter accumulation, facility and ecological vandalism, fire, unauthorized road use, artifact gathering, vegetation trampling and soil disturbance.*

A recreational use plan is described in the Lower Owens River Project, Post Implementation Agreement (PIA) Section II, C. (1&2):

*Unless otherwise agreed by the Parties, the County will have the sole responsibility for planning, operating, constructing, and maintaining the following activities (should any such activities be planned, constructed and maintained) and for all costs arising from such activities.*

- 1. The development of a recreational use plan for the portion of the Owens River within the project area. (Should any such plan be developed, the implementation of the plan or of any component of the plan will require approval by LADWP before it is implemented.)*
- 2. The development of any campgrounds along the Owens River within the project area. (Should any such campground be proposed for development, the campground will require the approval of LADWP before it is implemented.)*

County efforts to develop a RUP began in June, 2008, when the Sierra Nevada Conservancy (SNC) granted \$95,350 in Proposition 84 funds to complete a phased development of a draft RUP, including this scope of work for Phase I:

1. Hire a facilitator and plan writer;
2. Prepare a Memorandum of Understanding for relevant parties to sign; or deliver a prior agreement which demonstrates relevant parties will cooperate in implementation of projects identified and agreed upon in this planning effort;
3. Conduct stakeholder interviews to get input on recreational uses, impact concerns, and management questions;
4. Conduct two technical review meetings to discuss recreational uses, integration of uses into management plans, and resource protection;
5. Hold public workshops and stakeholder meetings/presentations to disseminate and discuss information gathered in stakeholder interviews and technical review meetings;
6. Prepare a draft Recreational Use Plan that will include potential recreational uses on the LORP, possible enhancement to current recreational uses, identification of potential adverse impacts, and management requirements for recreation uses;
7. Develop a funding plan to estimate the cost and raise the funds to implement the plan;
8. Develop an outline of actions necessary to adopt the plan.

The County hired recreation plan consultant, MIG, Inc. After much research and extensive community involvement the Phase I draft RUP was completed on February 2012. This plan was presented to your Board at a workshop on April 3, 2012. The draft plan contained a conceptual framework for a RUP and offered three development options, representing three levels of increasing infrastructure development. Your Board directed staff to develop a final RUP around Option 1, the least intensive level of development.

On April 17, 2012 the Board authorized staff to seek funding to proceed to Phase II to develop a final RUP.

The development of the LORP RUP was to occur in two phases, where the first concluded with the completion of a draft LORP RUP, and the second ending with the adoption of the final RUP by Inyo County and the LADWP. The project was phased to accommodate the Sierra Nevada Conservancy's (SNC) administrative request that funding span more than one grant cycle (the SNC provided \$94,350, which funded the majority of Phase I work). By agreeing to this arrangement, the County was left with a reasonable expectation that successful completion of the first phase would provide a competitive position for a future round of SNC funding; however, although the County satisfied the obligations of the Phase I grant, the SNC modified their program

focus for fiscal year 2011-2012 such that the second phase in the development of the LORP RUP was ineligible in that fiscal year.

Although the RUP was ineligible for SNC programmatic funding, the Conservancy contracted with the County to complete Phase II work. On June 12, 2012 the Board approved the Contract for Services offered by the SNC in the amount of \$38,000 that provided a portion of the funds needed to complete the RUP. Tasks not covered under the SNC contract were carried out by Water Department and Planning Department staff.

MIG consultants and County staff, informed by the Board's decision, completed the preferred RUP (attached) and presented it to your Board on February 5, 2013, at which time your Board directed Water Department Staff to proceed to complete a final RUP (Phase III), which includes refining project design (locating features, such as trails, fishing access, staging areas, and signage) and completing CEQA environmental review.

On February 8, 2013, the Standing Committee also voted their support for continued planning. This was followed by a letter of support from LADWP (attached).

The plan incorporates the following facilities and ideas:

- Signs along Highway 395 directing people into the recreation area
- Strategically located staging and orientation areas for users
- A multi-use Lower Owens River Trail running most of the length of the river
- Birding/wildlife viewing trails with rustic blinds
- A possible boardwalk trail in the Delta area
- Spot improvements to roads to facilitate recreation users
- Improved River access, including boat put-in and take-out points and marked water trails for non-motorized boating
- Improved fishing access in selected areas
- Wayfinding signage to support users unfamiliar with the area and to direct people to low impact areas and away from potential conflicts
- Installation of additional cattle guards and gates to reduce conflicts with ranching operations
- Virtual interpretation through use of "quick response" codes or other electronic linkages that tell stories about the Lower Owens River

The County's RUP consultant, MIG, has prepared a cost estimate of \$74,840 to complete the design and CEQA phase (attached: Requested Phase 3 Scope of Work); however savings would be realized if County staff was to assist with planning, as they had in Phase II.

The final plan will be brought to your Board and to the LADWP for comment before embarking on CEQA. CEQA will need to be approved by both the Inyo County Water Commissioners and the LADWP Board of Water and Power Commissioners. It not clear who would be the CEQA lead agency.

Water Department staff is now seeking grants to fund the final design work and CEQA, and complete the RUP. As well, the ICWD is organizing efforts to test techniques to control tules in the river, and gauge the level of effort needed to manage emergent vegetation. Managing emergent vegetation would be necessary in order to establish water trails.

**ALTERNATIVES:**

**OTHER AGENCY INVOLVEMENT:** Sierra Nevada Conservancy, Los Angeles Department of Water and Power, California Department of Fish and Wildlife.

**FINANCING:**

<b><u>APPROVALS</u></b>	
COUNTY COUNSEL:  N/A	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>  Approved: _____ Date _____
AUDITOR/CONTROLLER:  N/A	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>  Approved: _____ Date _____
PERSONNEL DIRECTOR:  N/A	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i>  Approved: _____ Date _____

**DEPARTMENT HEAD SIGNATURE:** *Thomas Lopez for Bob Harrington* Date: *12-5-13*  
(Not to be signed until all approvals are received)  
(The Original plus 20 copies of this document are required)

Department of Water and Power



the City of Los Angeles

ANTONIO R. VILLARAIGOSA  
Mayor

Commission  
THOMAS S. SAYLES, *President*  
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RONALD O. NICHOLS  
General Manager

RECEIVED

February 21, 2013

FEB 26 2013

Dr. Robert Harrington, Director  
Inyo County Water Department  
P.O. Box 337  
Independence, CA 93526-0337

Inyo Co. Water Department

Dear Dr. Harrington:

Subject: Support for Lower Owens River Recreational Use Plan

On behalf of the City of Los Angeles Department of Water and Power (LADWP) and the Board of Water and Power Commissioners, I would like to extend our support for the Lower Owens River Project Recreation Use Plan (Plan) that is being developed by the Inyo County Water Department (ICWD) and MIG Consultants. LADWP appreciates the efforts of ICWD and the MIG Consultants to develop this Plan with both public and agency input to benefit recreational opportunities and the local economy. LADWP is committed to upholding the Lower Owens River Project's environmental mitigation goals, and will continue managing City of Los Angeles (City) lands in the Owens Valley for multiple uses including recreation.

*LA's the Place*

Several of the concerns that LADWP previously raised with regard to potential resource issues and conflicts with LADWP's operations and maintenance needs have been resolved by ICWD through the Plan's development. While a few issues remain that need refinement such as enforcement, liability, and maintenance funding of the project; LADWP is optimistic that ICWD and MIG Consultants will address these concerns in the Plan's final form. LADWP looks forward to reviewing the Plan's next draft.

If you have any questions regarding this matter, please contact Ms. Lori Dermody, Watershed Resources Specialist, at (760) 873-0408.

Sincerely,

James G. Yannotta  
Manager of Aqueduct

- c: Mr. Larry Freilich, ICWD
- Ms. Linda Arcularius, Inyo County Board of Supervisors
- Mr. Rick Pucci, Inyo County Board of Supervisors
- Honorable Tom LaBonge, Councilmember, Fourth District
- Commissioner Christina E. Noonan
- Commissioner Jonathan Parfrey
- Ms. Lori Dermody

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Telephone: (213) 367-4211 • Cable address: DEWAPOLA



# LOWER OWENS RIVER RECREATION USE PLAN

Prepared for Inyo County

Prepared by:



DRAFT PLAN  
January 15, 2013

# acknowledgements

## A SPECIAL THANKS TO:

Boulder Creek RV Resort  
California Department of Transportation (Caltrans)  
Eastern California Museum  
Interagency Visitors Center  
Inyo County Board of Supervisors  
Inyo County Planning Department  
Inyo County Public Works  
Inyo County Water Department  
Lone Pine Chamber of Commerce  
Los Angeles Department of Water & Power watershed staff  
Owens Valley Unified School District  
Ranchers of the Lower Owens Valley  
Tribes of the Owens Valley

Additionally, input gathered from residents of Inyo County, area fishing and hunting enthusiasts, conservationists, civic leaders and environmental educators was instrumental in formation of this plan document.

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# executive summary

The Lower Owens River Project is one of the largest river ecosystem restoration projects in the nation, encompassing 77,657 acres of high desert land located between the Sierra Nevada and Inyo Mountains in east-central California. The return of a consistent flow of water to the Lower Owens River since 2005 has created new opportunities to enhance and better manage community and visitor recreation experiences, within a context of ecosystem recovery. To accomplish this, Inyo County has led the development of this Draft Recreation Use Plan for the Lower Owens River.

Los Angeles Department of Water and Power (LADWP), local residents, tribes, and many stakeholders have contributed to the ideas in this plan by taking part in a variety of activities, including interviews and community workshops. An online questionnaire allowed for participation by those who could not attend interviews or workshops. An important goal of public involvement was to try, as much as possible, to match the plan's goals and recommendations with the vision and priorities of community members who will be most affected by the outcome. The public involvement process and results are described in this document and in Appendices A and B.

Why plan for recreation use? Primarily, this plan is needed to minimize conflicts between recreation users, natural resource conservation, cultural resource protection, water facility operations, and ranching. By directing recreation users to lower impact areas, and by establishing rules and responsibilities, this plan allows the community and tourists to enjoy a beautiful and abundant resource while minimizing.

This plan was selected for further development after considering three alternative levels of recreation use. It envisions a natural, low key approach to recreation use and facilities consistent with conservation goals of the Lower Owens River Project area.

Key goals for this recreation plan are:

- Strengthen the tourist economy of local communities
- Enhance user opportunities for low impact exploration
- Improve access and wayfinding
- Strategically improve river and lake access for fishing, canoeing and kayaking
- Inspire cultural and environmental education, learning and stewardship

To achieve these goals, the plan incorporates the following facilities and ideas:

- Signs along Highway 395 directing people into the recreation area
- Strategically located staging and orientation areas for users
- A multi-use Lower Owens River Trail running most of the length of the river
- Birding/wildlife viewing trails with rustic blinds
- A possible boardwalk trail in the Delta area
- Spot improvements to roads to facilitate recreation users
- Improved River access, including put-in and take-out points and marked water trails for non-motorized boating, and improved fishing access in selected areas.
- Wayfinding signage to support users unfamiliar with the area and to direct people to low impact areas and away from potential conflicts
- Installation of additional cattle guards and gates to reduce conflicts with ranching operations
- Virtual interpretation through use of "quick response" codes or other electronic linkages that tell stories about the Lower Owens River

Fishing and hunting will continue as dispersed uses not limited to any specific area, and will remain subject to California Department of Fish and Game regulations. Interpretive amenities that bring focus to local culture, history and environment, and particularly the creation of an interpretive center focused on the story of the Lower Owens River in Independence, could complement other recreation use.

In addition to recreation use and facility recommendations, potential management and operations strategies are included, along with cost estimates for implementation.

Funding for this plan has been provided by the Sierra Nevada Conservancy. The County Board of Supervisors and the land owner, the Los Angeles Department of Water and Power, have the ultimate responsibility to approve and oversee implementation and management. Final plan adoption and implementation will be contingent on a satisfactory environmental review under the California Environmental Quality Act.

# 1 introduction

Inyo County has created the Lower Owens River Recreation Use Plan to enhance and better manage community and visitor recreation experiences. Initiated in Summer 2010, this long-range plan provides direction and guidance for the continued investment and collaboration needed to establish the Lower Owens River as a recreation destination for local and regional outdoor enthusiasts. It presents a preferred level of recreation development for Inyo County and Los Angeles Department of Water and Power (LADWP) to advance together in collaboration with key partners.

Funding for development of the Lower Owens River Recreation Use Plan has been provided by the Sierra Nevada Conservancy, a California State agency. The Conservancy supports efforts that improve the environmental, economic and social well-being of the Sierra Nevada Region.

## 1.1 LOWER OWENS RIVER PROJECT

The Lower Owens River Project (LORP) is one of the largest river ecosystem restoration efforts in the nation, affecting 77,657 acres of high desert land in Inyo County, California. The LORP area includes over 62 miles of sinuous river, more than 1,500 acres of wetlands, and numerous off-river lakes and ponds. It includes the area on both sides of the Owens River, near the towns of Lone Pine and Independence, between the Los Angeles Aqueduct intake to the north and the Owens Dry Lake to the south. The land is owned by the City of Los Angeles and managed by LADWP.

The Lower Owens River was substantially de-watered in 1913 when its flow was diverted to the Los Angeles Aqueduct to augment Los Angeles' water supply. A long process of multi-party negotiations and litigation resulted in a series of agreements to return flow to the river to meet fish and riparian needs. For many years prior to 2006, LADWP maintained off-river lakes and ponds through their watershed management practices. However, the return of a consistent flow of water to the river (since 2006) has opened new opportunities for both habitat conservation and recreation.



*The area near Lone Pine near the old railroad trestle provides good river access.*

The decision to create a recreation plan for the Lower Owens River is a direct outgrowth of a 1997 Memorandum of Understanding (MOU) between Inyo County and LADWP, which states:

*The goal of the LORP is the establishment of a healthy, functioning Lower Owens River riverine-riparian ecosystem, and the establishment of healthy functioning ecosystems in the other elements of the LORP, for the benefit of biodiversity and threatened and endangered species, while providing for the continuation of sustainable uses including recreation, livestock grazing, agriculture, and other activities.*

## 1.2 PURPOSE OF THE RECREATION USE PLAN

The Lower Owens River Project (LORP) area includes ecologically sensitive lands and wildlife habitat that are in early stages of recovery. Ecological issues are complex and still evolving as the Lower Owens River and its associated riparian and wetland ecosystems adapt to an increased flow of water. Cultural resource protection, natural resource conservation, ecosystem recovery, and the continuing productivity of ranching lands and the LORP “working landscape”, remain essential priorities for area managers.



*Blackrock Wetlands is a popular birding and fishing area.*

The purpose of this Recreation Use Plan is to support LORP goals while creating opportunities for local residents and visitors to experience recreation, learn more about the ecosystem, and become active stewards of the Lower Owens River. This document provides a conceptual framework intended to help protect the area from the unintended consequences of growing use in the absence of a common, balanced recreation vision and management strategy. More specifically, the Plan:

- Defines a recreation vision and community goals for providing ecologically-appropriate recreation opportunities on the Lower Owens River;
- Presents a preferred concept for future recreation development; and
- Addresses feasibility of plan implementation at a high level, including key management considerations, preliminary costs, and discussion of needed environmental analysis in the event of specific project development and implementation.

The Lower Owens River Project is guided by the following objectives:

1. Establishment and maintenance of diverse riverine, riparian, and wetland habitats in a healthy ecological condition.
2. Compliance with state and federal laws (including regulations adopted pursuant to such laws) that protect Threatened and Endangered Species.
3. Management consistent with applicable water quality laws, standards, and objectives.
4. Control of deleterious species whose presence within the Planning Area interferes with the achievement of the goals of the LORP. These control measures will be implemented jointly with other responsible agency programs.
5. Management of livestock.



The May 2011 public workshop in Independence generated many good ideas.

### 1.3 PLANNING BACKGROUND

Over the past two decades, a policy framework for recreation use and management has emerged via a series of planning processes, negotiations, and related guiding documents. The Lower Owens River Recreation Use Plan is intended to be consistent with the directions provided in these documents:

- *1991 Long Term Water Agreement*: This agreement called for LADWP to help fund rehabilitation and new development of County-managed recreation facilities on City-owned land (including day use and camping areas) as well as a recreational use plan for the Owens River. Some funding for operations and maintenance was also to be included. To date, this funding has been spent in its entirety on County recreation projects exclusive of the Recreation Use Plan.
- *1997 Memorandum of Understanding (MOU)*: This guiding document includes recreation as a goal or benefit of the overall project to restore the river. It states that recreation use must be compatible with other LORP goals, particularly ecosystem improvement and recovery. A warm water recreational fishery is called out as a key goal of the project.
- *LORP Ecosystem Management Plan*: This document addresses potential conflicts between ecosystem recovery and recreation, and between ecosystem recovery and aqueduct and ranching operations, by stating that recreation must not negatively impact the natural ecosystem or working landscape. It calls for recreation management including seasonal closures and other methods to prevent and reduce conflicts. It does not call for the development of any specific recreation facilities.



*This view of the upper part of the Lower Owens River includes the beginning of the Los Angeles Aqueduct.*

- *Framework for the Recreation Plan: Technical Memo #10:* This joint project of LADWP and Inyo County identified recreation use patterns prior to river re-watering, issues of concern, constraints and opportunities. The memo includes case study examples of other large natural area recreation issues, and presents some general ideas for types of recreation suited for the Lower Owens River. It does not propose any specific recreation facilities or uses.
- *LORP Monitoring, Adaptive Management and Reporting Plan:* The LORP Monitoring Report includes a brief section on recreation that describes the primary current recreation use as fishing and notes that overnight camping is prohibited. LADWP expects an increase in recreation use, particularly wildlife viewing, bird watching, hunting and fishing over the next 10 to 15 years, and expresses concerns about damage to natural resources.
- *LORP Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS):* This document introduced strategies to mitigate impacts to livestock operations resulting from increased recreation, including but not limited to installation of fences and cattle guards, and signage requesting that recreation users keep cattle gates closed. It also called for the installation of signage and fencing with pass-throughs by LADWP, which were implemented in 2010. Six kiosks were installed to help orient recreation users and establish use rules. The fence pass-throughs allow foot access to the river, primarily for fishing. No additional pass-throughs are planned at this time, but access may be modified if necessary.



*Ranchers have leased most of the Lower Owens River Project area for decades.*

- *LORP Post-Implementation Plan:* This document describes how LADWP and the County will divide financial costs of administering the LORP. It includes language describing the funding of recreational improvements within the LORP.
- *Inyo County General Plan Goals & Policies Report:* This document includes a number of policies that apply to planning in the Lower Owens River region, listed below. Elements of this plan may not necessarily be compatible with LADWP's land management plan.
  - Policy ED - 1.2: The County shall encourage public agencies to develop new tourist serving facilities or otherwise enhance their capacity to serve visitors on the public lands they manage.
  - Policy ED - 1.3: Encourage the LADWP to continue to allow and expand the recreational uses of their land holdings in the Owens Valley.
  - Policy BT - 1.2: Plan for and provide a continuous and easily accessible bikeway and trail system within the region.
  - Policy REC - 1.1: Encourage the use of the natural environment for passive recreational opportunities.
  - Policy REC - 1.2: Encourage the continued management of existing recreational areas and open space, and appropriate expansion of new recreational opportunities on federal, state, and LADWP lands.
  - Recreation Implementation Measure 1.0: Work with federal and state agencies that manage land with Inyo County to ensure that appropriate access to open space and recreational areas is provided.



*This portion of the Lower Owens River is an example of structurally complex habitat.*

- Recreation Implementation Measure 2.0: Work with the LADWP to fully take advantage of the recreational opportunities associated with the Lower Owens River Restoration Project.
- Recreation Implementation Measure 9.0: Work with federal land management agencies and LADWP to coordinate trail efforts and ensure connections between trail systems in federally managed lands and Inyo County communities and locations of interest.

## 1.4 PARTICIPATORY PLANNING PROCESS

The input and direction of community participants, and the management priorities of the County, LADWP and other relevant agencies, provide the foundation for this plan. Beginning in Summer 2010, County staff and the County Board of Supervisors worked with the community to develop a concept for enhancing recreation experiences along the Lower Owens River, conducting a variety of public involvement activities in order to match the Plan's goals and direction with the vision and priorities of key stakeholders and the surrounding community.

The project team conducted interviews and attended and hosted a number of local meetings to gain an understanding of the key planning issues from a local perspective. In December 2010, Team members met with more than 30 community representatives. In May 2011, Inyo County hosted two public workshops in Lone Pine and Independence to explore issues and recreation opportunities for the Recreation Use Plan. To expand project participation, an online questionnaire was made available for several months after the workshops.



*The May 2011 workshops were held in both Independence and Lone Pine.*

The [www.lowerowensriver.org](http://www.lowerowensriver.org) website provided information and updates on the planning process. More than 100 stakeholders, including ranchers, hunters, anglers, birders and kayakers, were contacted and consulted during development of this plan. Many participated in meetings, workshops and charrettes. Tribal governments and other representatives or staff were also consulted and participated in developing this plan.

The preferred concept for recreation, presented in Chapter 3, is the result of a comprehensive and collaborative assessment of three alternative levels of recreation use and investment, and reflects the priorities of participating community members outlined on the following page.

For additional information on the participatory planning process, refer to Appendix A: Community Involvement Findings and Appendix B: August 2012 Charrette Summary Memo.



*Community and consultants discuss the Lower Owens River Recreation Use Plan at the May 2011 workshop.*

## COMMUNITY PRIORITIES

While the community interviews, workshops, questionnaire results, and rolling charrette revealed a wide range of interests and concerns, participating community members agreed and/or continued to express that future recreation development and management should address the following:

- The economic development potential associated with expanding and enhancing outdoor recreation as a desired and actual use;
- Public information, signage, and outreach around recreation area opportunities, policies and restrictions;
- Area access and wayfinding for multiple users and activities;
- The need to minimize impacts of area visitors and recreation uses on ranching operations and privately managed lands;
- Protection of Native American cultural resources and areas;
- Support for environmental learning, programs and stewardship; and
- Tule growth and its impact on in-stream recreation access and the local ecosystem.

# 2 existing conditions

This chapter describes the Lower Owens River natural environment and current recreation activities in the context of this landscape. Current recreation use levels, with an eye towards potential changes in use levels, are briefly explored. For additional information, please refer to Appendix C: LORP Existing Conditions Memo.

## 2.1 NATURAL SETTING AND IN-STREAM CONDITIONS

The Lower Owens River area is a flat to gently sloping, mid-elevation, north-south valley flanked by two of the highest mountain ranges in North America: the Inyo-White Mountains on the east and the Sierra Nevada on the west. The elevation of the Lower Owens River Valley ranges from a low of 3,620 feet at the Owens River Delta at Owens Lake to a high of 3,820 feet at the Los Angeles Aqueduct (LA Aqueduct) Intake. The bordering mountain peaks rise to more than 14,000 feet and include Mt. Whitney, the highest peak in the lower 48 states.

Several seasonal creeks flow from the Sierra into the valley. While some of these creeks disappear into the ground, others are conveyed to the LA Aqueduct. The Inyo Mountains, which are much drier than the Sierras, have no creeks that flow into the Lower Owens River.

The Owens River ends at Owens Lake, a salt playa that is now mostly dry. Because of the water diversion to the aqueduct, the river itself ran mostly dry from 1913 until 2006, when a minimum, consistent flow of 40 cubic feet per second (cfs) was established, along with annual seasonal habitat flows up to 200 cfs, dependent on forecast runoff from snowmelt. These seasonal flows are meant to inundate floodplain landforms to establish riparian vegetation.

The majority of the LORP area is characterized by dry uplands with a range of desert shrubs and grasses. Most of this area is grazed by cattle and riparian pastures are fenced. The dominant vegetation of the valley floor is a mix of alkali scrub and grassy meadow. Riverine-riparian trees and shrubs are taking root along the river as the shallow water table rises and



*The Delta Wetlands provide important habitat for waterfowl and birdwatching opportunities.*

gradually spreads laterally. This riparian area covers about 6,500 acres, or 8 percent of the total LORP area.

A series of constructed and managed wetlands occur within the approximately 1500-acre Blackrock Waterfowl Management Area (WMA) in the northwest end of the LORP. Water levels are adjusted seasonally to maintain key habitats, particularly for waterfowl.

The Delta Habitat Area encompasses approximately 900 acres where the river meets the northern part of Owens Lake, forming a series of wetlands and shallow pools of water. The Delta wetlands are key habitats for wading and shorebirds, and are reportedly becoming a popular area for bird watching.

A series of off-river lakes and ponds occur along a fault line as a result of a massive 1872 earthquake. They include popular fishing areas, such as Lower Twin Lakes, the Coyote/Grass Lakes complex, Upper and Lower Goose Lakes and Billy Lake. These lie mostly within the Blackrock WMA.

There are few mature stands of trees in the LORP. A few groves of Fremont cottonwood and willows near the river grow up to about 40 feet in height. The open landscape character of the LORP permits outstanding, mostly uninterrupted views of the surrounding mountains, but also provides little shade during the hot summer months. Along margins of the river, ponds, wetlands, and tall, dense bullrushes and cattails limit mountain views for water users.



*Tule growth in the river and lakes inhibits recreation access.*

## 2.2 EXISTING RECREATION ACTIVITIES

Since the return of flowing water to the river in 2006, the resurgence and recovery of the local ecosystem has resulted in a rediscovery of the area by anglers, paddle boaters, bird watchers and other recreationists. Although not well supported by existing recreation facilities, the following recreation activities take place in the LORP area today.

### HIKING, SCENIC DRIVING AND BIKING

There are no established hiking trails or designated paths in the LORP. However, existing roads (with little vehicle traffic) provide access for hikers.

Scenic driving and road biking mostly occur along Highway 395. The portion of Highway 395 from Independence to north of Tinemaha Reservoir is a designated State Scenic Highway. Few drivers and road cyclists travel off the main road because of poor road conditions including a lack of paved roads and directional signage.

Mountain biking may take place along the many unimproved roads in the LORP, but present levels of use are not documented. Constraints include a lack of marked routes, “sand traps” in areas of deep alkali dust, fencing, gates and cattle guards.



*This Great Blue Heron near the Delta illustrates one of many opportunities to experience the area's birds and wildlife.*

## BOATING AND SWIMMING

The return of flowing water to the river created the expectation that non-motorized boating, and particularly canoeing and kayaking, would become significant recreation uses. However, a lack of access points and signage, small culverts under roadways that have restricted passage, and the widespread growth of tules and other aquatic vegetation have limited non-motorized boating. Some canoeing and kayaking does occur, but only along short stretches of the river. If current conditions persist, repeat visits by people other than locals are unlikely.

Local residents currently take advantage of several popular swimming holes on the Lower Owens River, such as one near the old railroad trestle. Tubing opportunities are limited because of the growth of tules and aquatic vegetation that make the shallow river impassible in many places.

## FISHING

Fishing is a well-established use that pre-dates the return of water to the river. Prior to the return of water, most of the fishing occurred in off-river lakes and ponds. Some fishing also occurred in parts of the river channel below Billy Lake, where groundwater and surface flows remained. No native fish are present in the Lower Owens River today. However, most of the river is a productive and highly valued warm-water fishery especially prized for bass.

LADWP has worked with the Warmwater Fishing Association and local anglers to identify important access points, and has provided multiple fence pass-throughs to facilitate access to the river. The LORP Final Environmental Impact Report called for signage describing LADWP policies on recreational uses and showing major access points and where fences cross the



*Tules can be harvested and use to create rustic bird blinds envisioned along the Blackrock Birding Trail.*

river. In 2010, LADWP installed six kiosks in key locations that included this and other relevant information for users.

### **BIRDING, WILDLIFE VIEWING, AND HUNTING**

The addition of water to the Lower Owens River has restored habitat for fish, birds and mammals. As a result, birding and wildlife viewing are growing activities in the LORP area, with birding activities increasing significantly over the past few years. Popular birding areas include the Blackrock Waterfowl Management Area (WMA), the Delta area and the riparian area of the river. Birding is both a self-directed and programmed activity, with the California Audubon leading trips to the area for local and out-of-area visitors.

Waterfowl hunting takes place primarily in the Blackrock WMA, Delta and riparian areas in season. Elk, deer and upland game hunting also takes place along the river.

### **OFF-HIGHWAY VEHICLE (OHV) RIDING**

OHV/ATV use is a popular activity, particularly in the Lone Pine area. OHV use is increasingly restricted on nearby federal lands, while anecdotal evidence suggests that OHV activity has increased in the LORP area. Further, it is anticipated that OHV use will increase in the LORP area as a result of the launch of the Eastern Sierra Adventure Trails System, a State and County supported program that could allow OHV use on main arteries (County roads) within the LORP. While most OHV users drive responsibly, even a small number of irresponsible users can create significant damage to fragile desert and riparian ecosystems.



*LADWP installed information boards to help orient and inform recreation users.*

## CAMPING AND PICNICKING

Camping is prohibited by LADWP, as are all overnight uses. Occasional overnight camping has been reported to occur within the LORP. There are several camping opportunities near the LORP, including private campgrounds, public campgrounds at Diaz Lake and Boulder Creek, as well as dispersed camping allowed on nearby Bureau of Land Management (BLM) lands.

There are no existing picnic facilities in the LORP. Even though several suitable sites exist along the main access roads, the lack of shade and other amenities and facilities (tables, trash receptacles, shelters, etc.) does not encourage the use of these sites for family or group picnics.

## HISTORIC AND CULTURAL TOURISM

Local attractions include the Manzanar National Historic Site and the Lone Pine Film History Museum, both of which are considered attractions of national interest. The Eastern California Museum at Independence draws visitors from around the state and region, as does the Federal Interagency Visitor Center just south of Lone Pine. The County is exploring grant opportunities to fund an interpretive center in Independence focused on the Lower Owens River.

The Lower Owens River area was occupied and used by Native Americans for thousands of years. Local tribal members still use the area for traditional resource gathering. Historic and prehistoric artifacts and sites are a physical and cultural link to the past and must be protected.



*River Road is part of the proposed pathway for the Lower Owens River Trail.*

#### **VOLUNTEER STEWARDSHIP AND ENVIRONMENTAL EDUCATION**

An annual clean-up event in the LORP area has encouraged volunteer support of site maintenance. The recovering ecosystem provides an excellent opportunity for an outdoor laboratory where tourists and local citizens can learn about natural and cultural resources. In addition, local schools have incorporated lessons about the Lower Owens River into their curriculum. At the same time, lack of facilities limits on-site programs. Environmental education will be a focus of the LORP interpretive center that Inyo County plans to develop (noted in discussion of historic and cultural tourism on the previous page).

### **2.3 RECREATION USE LEVELS AND FUTURE POTENTIAL**

The high desert Eastern Sierra landscape in Inyo County is largely in public ownership, managed by federal agencies. Public lands attract millions of visitors, mostly from urban regions of California, but also from across the nation and even the world. Seasonal tourism is increasingly important to the area's economy. The City of Los Angeles owns the land within the LORP area and allows public access with restrictions.

While specific recreation use levels for the Lower Owens River have not been studied, regional visitation and comparisons to nearby recreation areas help to paint a picture of the level of current use and the potential for expanding Lower Owens River recreation activity.



*In some areas, gates will be replaced with cattle guards to reduce user conflicts.*

#### CALTRANS ORIGIN AND DESTINATION STUDY (2000)

The California Department of Transportation (Caltrans) conducted an Origin and Destination study during the months of February, March and August of 2000. The purpose of the study was to obtain information about trip movements and travel patterns on US 395 in Inyo and Mono Counties in order to plan future transportation needs and project future economic growth. Caltrans personnel conducted roadside interviews with vehicle occupants at four major entry points in the winter and six major entry points in the summer both on and feeding into US 395 in Inyo and Mono Counties.

Survey findings help paint a picture of use and visitation in the Lower Owens River area for future, detailed study and projections. Relevant questionnaire findings are shown below:

- Recreation was given as the main purpose of the trip by 55% of the respondents
- Sixty percent of the people named Inyo or Mono County as their destination
- Forty percent of the travelers were driving through the Eastern Sierra to reach their final destination without staying overnight. The majority (69%) of overnight visitors stay in Mono County.
- Thirty-one percent of the traveling public said they always stop in small communities for services other than gas; 48% said they sometimes stop; and, 21% said they never stop
- Thirty-six percent of the vehicles came from Southern California
- One percent of the travelers came from out of the country; Germany was number one foreign country of origin
- Forty-two percent of the overnight visitors were staying in a motel or hotel versus 37% staying in a campground



*The Owens River, Alabama Hills and Sierra Mountains are in close proximity and may draw the same recreation users.*

#### ALABAMA HILLS RECREATION MANAGEMENT AREA

The Alabama Hills Recreation Management Area (AHRMA) is a popular recreation area near the Lower Owens River area, roughly equidistant from Lone Pine. Established in 1969, this 29,920 acre Bureau of Land Management (BLM) recreation area sits just to the west and above the Lower Owens River. Using recent traffic counts (fall 2012), BLM estimates 121,640 visits and 39,317 visitor days.

Like the Lower Owens River area, the AHRMA:

- Boasts wide open lands close to Lone Pine, CA
- Includes a mix of passenger roads, 4WD roads and hiking trails
- Is a “no fee” area
- Boasts scenic vistas of Mt. Whitney and the highest portion of the Sierra Nevada crest
- Has lively indigenous Native American and cattleman histories (AHRMA has the added claim of being a central stage for early television and movie westerns)

Notable differences between the Lower Owens River and AHRMA include the following:

- The Lower Owens River is over twice the size of the AHRMA (77,000 acres vs. 30,000 acres)
- Camping is permitted in AHRMA, but prohibited in the Lower Owens River area
- The local chambers, hotels, and area businesses all promote the AHRMA
- Many state and national publications have written travelogue stories about the area and many well-known photographic images come from the AHRMA. It has long been the setting for commercials and films.

# 3

## preferred concept for enhanced recreation

This chapter presents the recreation-oriented goals that Inyo County seeks to accomplish through the development and implementation of the Lower Owens River Recreation Use Plan. Following the goals, this chapter describes the envisioned recreation enhancements and amenities that together make up the preferred recreation concept. An illustrative map highlights the major physical features.

### 3.1 RECREATION USE PLAN GOALS AND DIRECTIONS

As with the rest of this document, the Recreation Use Plan goals for the Lower Owens River reflect community and agency direction alike, and are intended to focus recreation planning and improvements in a way that both showcases and protects the area's greatest natural and cultural assets.

The preferred concept for enhanced recreation in the Lower Owens River is based on a desire to achieve the following five goals:

1. Strengthen the area's nature-based tourist economy
2. Create opportunities for low-impact exploration and wildlife observation
3. Design a system to improve area access and wayfinding
4. Improve river and lake access for fishing, canoeing and kayaking
5. Inspire cultural and environmental education, learning, and stewardship



*Rather than interpretive panels, which are expensive to make and maintain, this plan envisions “virtual” interpretation and the possible use of Quick Response (QR) codes to provide visitors access to interpretive information using a personal smartphone device.*

### **GOAL 1: STRENGTHEN THE AREA'S NATURE-BASED TOURIST ECONOMY**

While community expectations about the economic development potential of the Lower Owens River range from reserved to ambitious, local businesses stand to benefit from even modest increases in visitation to the river. Promoting the Lower Owens River as a destination for outdoor recreation and making targeted investments will encourage tourists to consider the area a reason to travel, rather than just a stopover. This document is intended to clarify the vision and help create the forward momentum for the County and LADWP to create greater opportunity for nature-based recreation in all seasons; however, from an economic development perspective, increasing shoulder season visitation and recreation (i.e. during the spring and fall) is the most important.

### **GOAL 2: CREATE OPPORTUNITIES FOR LOW-IMPACT EXPLORATION AND WILDLIFE OBSERVATION**

Trail-related recreation is popular among all ages and can be inclusive of many interests and activities. Over 80 percent of online questionnaire participants and three quarters of planning workshop participants (May 2011) expressed a desire to establish a multi-use trail network to facilitate exploration of the Lower Owens River area. The proposed backbone of this network is a length of the river trail open to all recreation activities, including motorized and non-motorized uses alike.



*River access must be compatible with riparian habitat conservation.*

This plan also proposes designation of trails for birders in the Blackrock WMA and Delta habitat area. Observational in nature, birding is a low impact recreation activity, and growing in popularity in the Lower Owens River and the region. Proposed improvements focus on expanding passive enjoyment of the area's natural system, features and wildlife.

The recreation concept for the Lower Owens River hinges on the addition of understated improvements that encourage low-impact recreation, and the integration of clear guidance and cues for visitors that encourage them to tread lightly and leave behind no physical trace of their experience when they go. Amenities will be minimal in nature and common day-use facilities will not be provided.

### **GOAL 3: DESIGN A SYSTEM TO IMPROVE AREA ACCESS AND WAYFINDING**

The Lower Owens River represents a unique recreation destination which, currently, few people know about or can find. The concept for recreation in the Lower Owens River area relies on modest and practical improvements, with directional signage perhaps the most notable need and logical starting place. A four-tiered wayfinding program will encourage visitation by identifying appropriate access points, and will keep visitors on the right path once inside the Lower Owens River area. New signage will also help establish an identity for the Lower Owens River



*This is an example of an existing well designed staging area that includes orientation, a cattle grate and parking.*

that reflects the primitive beauty of the Owens Valley, and the quiet pride and aspirations of the local community and area enthusiasts. The envisioned, tiered approach to signage and wayfinding will be simple, understated, and should be designed so it is relatively cost effective to maintain.

#### **GOAL 4: IMPROVE RIVER AND LAKE ACCESS FOR FISHING, CANOEING AND KAYAKING**

The Lower Owens River and its series of off-shore lakes and ponds are the LOR's central resource and are worthy of becoming a known area attraction. Community members expressed strong support for improving river access for canoes and kayaks; 63 percent (48 people) of May 2011 workshop participants identified improved river access as "extremely important". As noted by one participant, "Without access, people will carve their own paths, leading to stream bank erosion and environmental degradation. Non-motorized river recreation can be very low impact, as long as access issues are addressed, signed and properly managed."

The preferred concept for water-based recreation includes river and lake access improvements for boaters (non-motorized craft only) and anglers in few, select locations. Physical improvements will be simple, low impact and low cost. Like trail-related improvements, they will reflect



*Directional signs will point people to recreation destinations.*

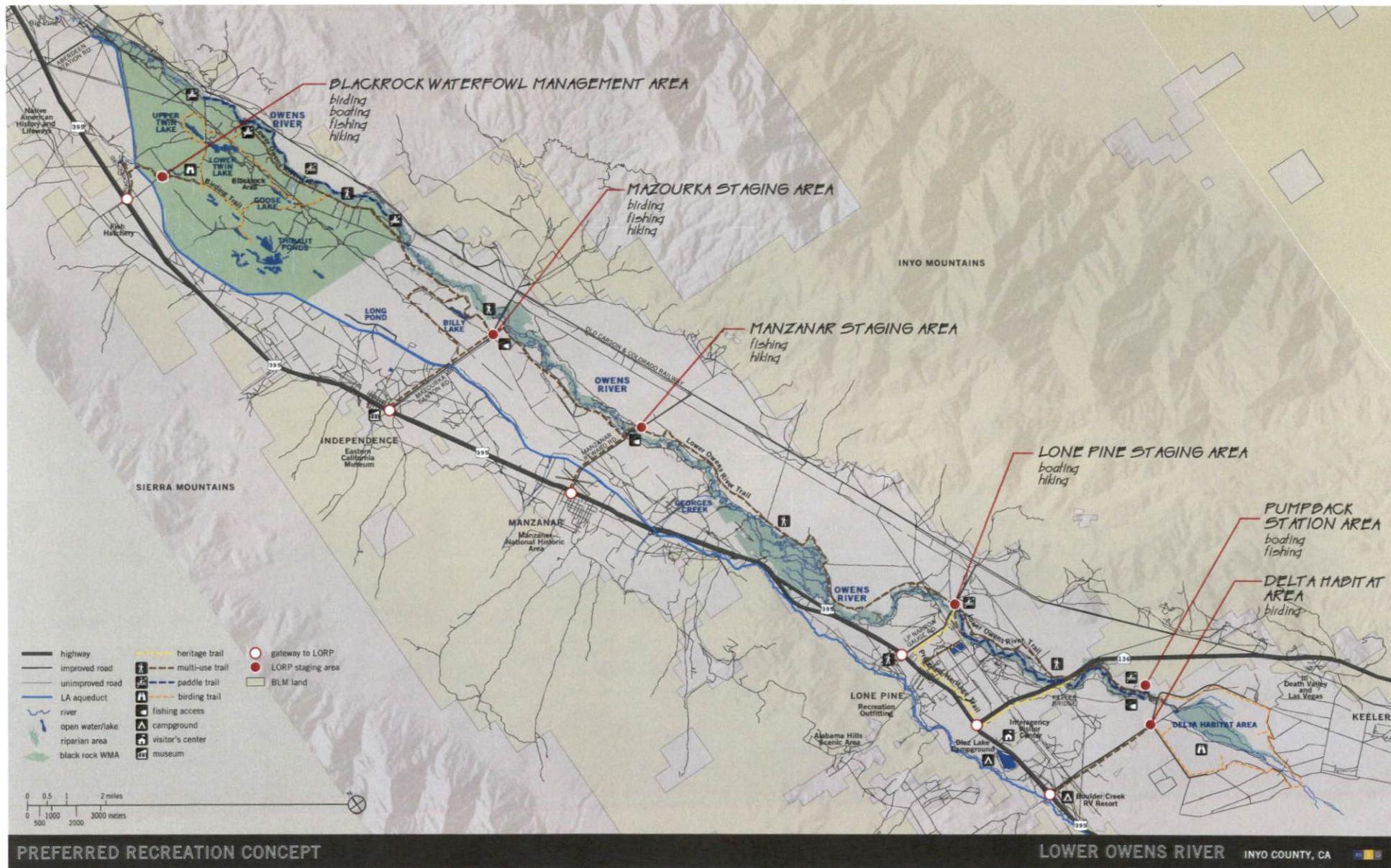
and facilitate a “leave no trace” ethic and experience. The Lower Owens River Paddle Trail, discussed later in this chapter, will begin with two designated stretches, one through the Blackrock WMA and a second that runs from the Lone Pine Staging Area to the Pumpback Station to the south.

#### **GOAL 5: INSPIRE CULTURAL AND ENVIRONMENTAL EDUCATION, LEARNING, AND STEWARDSHIP**

Community members have expressed a strong interest in establishing the Lower Owens River as an accessible resource and center for environmental education and stewardship. One May 2011 workshop participant noted, “Environmental education is a critical component in any management plan. The river provides an outdoor classroom for local and visiting schools, and helps connect people with place.” This plan proposes development of an interpretive program for the LOR to share the many stories and truths surrounding the area’s natural, cultural, social and economic past and current-day significance. A proposal to develop a Lower Owens River interpretive facility in Independence is being considered separately from this plan.

Building partnerships with schools, local tribes, community scientists and stewards will be instrumental to supporting the development of related curriculum and programs and encouraging increased visitation and experiential learning in the LOR area.

# MAP 1 recreation use plan





*Highway 395 is the main artery for recreation visitors. Signage will direct travelers to access the LOR via six different gateways.*

## 3.2 RECREATION ENHANCEMENTS AND AMENITIES

By creating an integrated system for wayfinding, recreation and interpretation that supports a variety of day use activities and visitor experiences, Inyo County and LADWP can better leverage the true value of this unique landscape.

The proposed recreation enhancements represent a minimally scaled, nature-inspired approach to recreation development consistent with the goals of the Lower Owens River Project (LORP) for restoration of the area's ecosystem.

The map on page 27 illustrates the preferred recreation concept for the Lower Owens River. Major elements are described in the pages that follow. Tables 1 through 3, presented later in this chapter, outline key planning and design assumptions and probable project costs for the suite of physical improvements and programmatic responses proposed for the short and mid-term. Formal environmental study will be needed to implement specific projects as part of this effort.

### WAYFINDING AND DIRECTIONAL SIGNAGE

The primary objectives for creating a formal program of wayfinding and directional signage for the Lower Owens River area include:

- Promote recreation area use and exploration;
- Increase confidence and safety in navigating the Lower Owens River and improve the travel experience within and between its destinations;



*The current lack of signage makes orientation and navigation very challenging.*

- Protect the environment and minimize conflicts with current operations by designating specific or preferred routes of travel; and
- Help establish a cohesive and consistent image for the Lower Owens River.

Directional signs and trail markers are envisioned to be harmonious with the surrounding natural environment, and should be designed to reflect the desire of agencies and local communities for a clean and understated approach to branding the LOR. The proposed program for wayfinding and directional signage is based on a four-tier approach that includes the following major features:

### ***HIGHWAY 395 DIRECTIONAL SIGNS***

Strengthening area visibility and access is a critical first step in increasing area visitation. Classic highway directional signs for recreation use areas will be placed along Highway 395 at six LOR gateway locations:

- Blackrock Waterfowl Management Area
- Mazourka Canyon
- Manzanar
- Lone Pine
- Pumpback Station
- Delta

Sign design will conform to Manual on Uniform Traffic Control Devices (MUTCD) 2012 guidelines, which allow for design of the classic “white on brown” directional signs for recreation uses.



*Improving navigation within the LOR is a high priority of this plan.*

### ***INTERIOR GATEWAY SIGNS***

Once visitors turn off of Highway 395, they will be welcomed by and pass through an interior gateway. These interior gateway signs or structures will play an important role in creating an identity for the LOR and should reflect the primitive character, scale and unique attributes of the area. This may be the visitor's first encounter with the LOR logo and use regulations (i.e. "day use only").

### ***INTERIOR DIRECTIONAL SIGNS***

Directional signs placed on LADWP and County roads are intended to direct users to main destinations. Each sign should denote basic direction and distance to signed destinations. Signs would also be placed in key locations where unsafe roads in poor condition exist, or to denote dead-ends.

Key locations for sign placement (angled for visibility) include intersections and major turn-offs, or at strategic locations along long stretches of road. Some roads may be gated, including the Power Line access, the Intake, and roads that access the floodplain.

### ***TRAIL MARKERS***

This wayfinding concept includes the cost-efficient use of Carsonite signs and dolomite cairns to mark the proposed trail routes (Lower Owens River Trail and Blackrock and Delta birding trails). Route markers should be designed to an appropriate scale to encourage pedestrian use. In the case of the Lower Owens River Trail, route markers at major intersections or turn-off



*This image depicts a portion of the proposed Blackrock birding trail.*

**TABLE 1. WAYFINDING AND DIRECTIONAL SIGNAGE: PLANNING ASSUMPTIONS + COST ESTIMATES**

PROPOSED IMPROVEMENT	KEY PLANNING AND DESIGN ASSUMPTIONS	PROJECT COST
NEW PROJECT SIGNAGE DESIGN	<ul style="list-style-type: none"> <li>• Cost for design of three sign types used for wayfinding along highways, interior gateways and trails</li> <li>• Cost includes fabrication research, recommendations, a sign program/schedule, and production-ready artwork</li> </ul>	\$30,000
DIRECTIONAL SIGNS ALONG HIGHWAY 395 (PRODUCTION AND INSTALLATION)	<ul style="list-style-type: none"> <li>• Two at each of six gateway locations</li> <li>• Signs conform with Manual on Uniform Traffic Control Devices (MUTCD, California 2012)</li> <li>• Installation by Caltrans</li> <li>• Cost for sign production only. Installation costs are excluded.</li> </ul>	\$16,000
INTERIOR GATEWAY SIGNS (PRODUCTION AND INSTALLATION)	<ul style="list-style-type: none"> <li>• Six interior County roadway locations</li> <li>• One sign per location</li> <li>• Installation by County staff</li> <li>• Cost for sign production only. Labor costs are excluded.</li> </ul>	\$45,000
INTERIOR DIRECTIONAL SIGNS	<ul style="list-style-type: none"> <li>• Two directional signs at each of 11 key intersections</li> <li>• Installation by County staff</li> <li>• Carsonite or corrugated metal signs</li> </ul>	\$2,500
TRAIL MARKERS	<ul style="list-style-type: none"> <li>• Roughly sixty miles of Lower Owens River Trail</li> <li>• Dolomite cairns with carsonite signs along the trail</li> <li>• Dolomite cairns roughly 2x2 ft (1/3 ton of material per cairn)</li> <li>• 120 total cairns with mileage markers</li> <li>• 98 intersection cairns (2 cairns per intersection)</li> </ul>	\$78,000 (Approximately \$350 per cairn)



*This portion of road could become part of the Lower Owens River Trail.*

points should be designed to improve navigation for the automobile and pedestrians alike. Trail markers are envisioned to include simple decals with: mileage locations noted to the half-mile; a logo or identifiable icon for the Lower Owens River or Lower Owens River Trail; directional cues (arrows), where needed; and, in strategic locations, icons that communicate use regulations or reference notable interpretive features.

## LOWER OWENS RIVER MULTI-USE TRAIL SYSTEM

### ***LOWER OWENS RIVER TRAIL***

The Lower Owens River Trail is the proposed length of river trail envisioned to run on either side of the river from Blackrock WMA in the north to the Delta in the south. The trail, open to motorized and non-motorized trail activities would run along existing roads or tracks. Simple directional signage at key intersections and trail or mileage markers in the form of carsonite signs and dolomite cairns would serve to help keep trail users on the right path.

Over time, side trails or loops may be identified and designated for non-motorized users to access the riparian area; in some cases these may lead all the way to the river's edge. Some of these trails and pathways are envisioned to follow existing roads, while others could follow the carved paths of cattle or wildlife.

Motorized users will be restricted to existing roads and tracks, and will not be allowed in any future riparian zone trails. Staging area kiosks and interior signage should define routes and areas open for automobile and ATV/OHV use; off-limit areas should also be clearly identified.

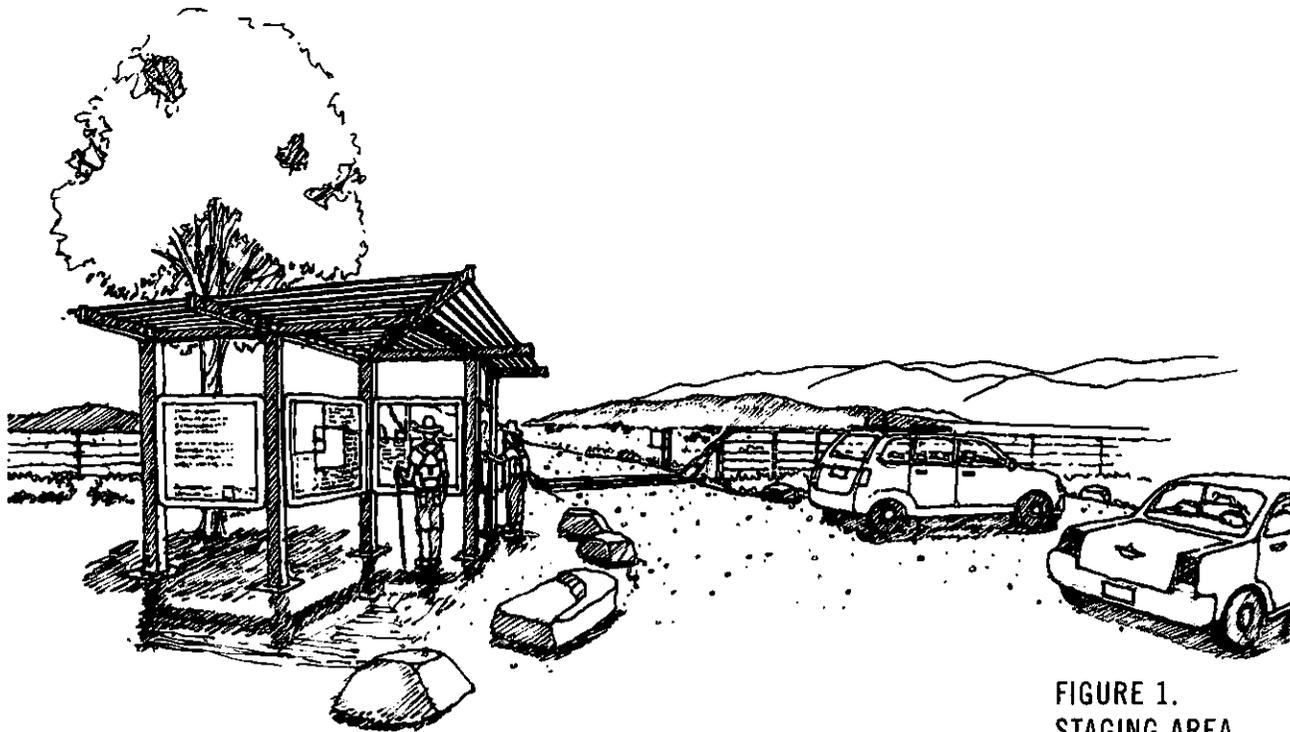


FIGURE 1.  
STAGING AREA  
DESIGN CONCEPT

In order to facilitate trail designation and safe trail use and area access, stretches of roadway that have been subject to water damage may require repair or stabilization. Current damaged sections range from 10 feet to 1,250 feet in length. If sections are not improved, drivers divert from the road and "blowouts" happen, or new roads appear as drivers seek to avoid the mud/powder holes in the road depressions.

LADWP may need to close trails temporarily to allow for necessary operations and maintenance activities.

Horseback riding currently occurs near the river, but the level of interest in riding is not known. If riding is to be encouraged, parking to accommodate horse trailers and other equestrian trailhead amenities should be provided

### ***KIOSKS AND STAGING AREAS***

The preferred plan concept includes six staging areas, one for each corresponding gateway to the LOR. Staging areas are envisioned as recognizable access and orientation points for users, generally associated with one or more trailheads. The Blackrock WMA, Lone Pine and Pumpback Station staging areas would also serve as river access points, with boat access areas located in close proximity (see River Access and Paddle Trail description, below).

Staging area kiosks will welcome and orient visitors with an illustrative LOR map, area use guidelines and regulations, and interpretive information reflective of a theme corresponding with that particular area. Toilets, potable water, and picnic benches would not be provided.



FIGURE 2.  
BOAT LAUNCH  
DESIGN CONCEPT

### ***BLACKROCK AND DELTA BIRDING TRAILS***

The preferred concept for enhanced recreation includes designated birding trails in the Blackrock Waterfowl Management Area and Delta habitat area. These trails would follow existing roads or tracks, accessed primarily via the Lower Owens River Trail and via interior roadways. Rustic viewing blinds made of natural materials like willows or tules would be placed at key points along the trails, along with rustic benches. The birding trails would be subject to seasonal closures due to high water or nesting, where necessary.

A marsh boardwalk could be added to the Delta birding trail in the future.

### ***LONE PINE HERITAGE TRAIL***

The long-term vision includes development of the Lone Pine Heritage Trail. This trail would connect Lone Pine with the river to the east, the Alabama Hills to the west, and possibly to the Interagency Visitor Center and Diaz Lake Recreation area to the south. This trail concept integrates various interpretive, environmental and cultural learning opportunities with trail-based recreation. In one variation, this project proposes redesign of Highway 395 through central Lone Pine with the goal of creating a stronger "main street" atmosphere. The Lone Pine Heritage Trail concept was developed by Lone Pine Economic Development Corporation and several partners, with support from the National Park Service. It is partly in and partly outside of the LORP boundary.



*Improving river access for boating is a priority for local outdoor enthusiasts.*

### **RIVER ACCESS AND PADDLE TRAILS**

The proposed Lower Owens River Paddle Trail includes two paddle segments with signed and improved access to the river from the riparian shore. The south segment would run roughly from the Lone Pine Staging Area to the Pumpback Station. The north paddle trail segment would run much of the length of the Blackrock WMA, beginning just north of Upper Twin Lake and ending near the WMA boundary.

Each segment would have signed put-ins and take-outs, with intermittent signs along the paddle routes. Boat launch and take-out sites are envisioned as simple, level gravel and sand beaches leading to the water's edge from the Lower Owens River Trail or adjacent staging or parking area. No other amenities or facilities would be provided.

To improve access for fishing (discussed in more detail later) this plan proposes formally identifying select fishing locations. The goal is to make fishing more accessible in a few areas, while leaving less familiar or unknown fishing holes to the quiet enjoyment of anglers who prefer to discover the river for themselves. Signed, designated fishing areas are proposed at the Pumpback Station Area, and where Manzanar and Mazourka Roads cross the river. Billy Lake is a logical priority for improved lake fishing access.

Where improved riparian access for fishing is desired, such areas would follow the same general development guidelines as for boat access (a small cleared area and gravel path).

TABLE 2. LOR MULTI-USE TRAIL SYSTEM: PLANNING ASSUMPTIONS + COST ESTIMATES

PROPOSED IMPROVEMENT	KEY PLANNING AND DESIGN ASSUMPTIONS	PROJECT COST
INTERPRETIVE PLANNING AND DESIGN	<ul style="list-style-type: none"> <li>• Develop content for a 4-panel kiosk, including theme, messaging and information for each panel</li> <li>• Back side of panels will be one large graphic</li> <li>• One panel will include an illustrative map of the area</li> <li>• 3 panels will be consistent at all sites</li> <li>• 1 panel will vary by site</li> </ul>	\$30,000
KIOSKS AND STAGING AREA IMPROVEMENTS	<ul style="list-style-type: none"> <li>• Six locations including kiosk with gravel driveway and parking area</li> <li>• Kiosks fabricated offsite by metal fabricator</li> <li>• Permitting is excluded</li> </ul>	\$105,000
LOWER OWENS RIVER TRAIL	<ul style="list-style-type: none"> <li>• Maintenance to 8,500 linear feet total (average 12 ft wide) to achieve USFS Level 2 road maintenance standards</li> <li>• Clearing, minor grading and fill for low areas</li> <li>• Permitting is excluded</li> </ul>	\$70,000
PADDLE TRAIL AND BOATING ACCESS	<ul style="list-style-type: none"> <li>• Includes design of low impact put-in/take-out point</li> <li>• Assumes 3 put-in/take-out points are built</li> <li>• Each site includes approximately 320 square feet and requires only clearing and minor grading</li> <li>• Use of geotextile fabric, sand and gravel mix</li> <li>• Permitting is excluded</li> </ul>	\$23,000
BLACKROCK BIRDING TRAIL	<ul style="list-style-type: none"> <li>• Design (includes preparation of standard cross-section and layout)</li> <li>• Clearing and minor grading along a 3-mile length of 5' wide trail</li> <li>• Use of gravel and sand mix for trail surface</li> <li>• Permitting is excluded</li> </ul>	\$70,000
BIRD BLINDS	<ul style="list-style-type: none"> <li>• Assumes 3 blinds located along birding trail</li> <li>• Includes site clearing, minor grading and gravel and sand surfacing</li> <li>• Blind will be a steel frame with tule bundles used as screens with a wooden viewing bench</li> <li>• Permitting is excluded</li> </ul>	\$30,000
MARSH BOARDWALK AT DELTA	<ul style="list-style-type: none"> <li>• Assumes 1,000 ft long boardwalk</li> <li>• Location to be determined in consultation with DWP</li> <li>• Assumes mitigation will be required</li> </ul>	\$325,000
CEQA ENVIRONMENTAL REVIEW	<ul style="list-style-type: none"> <li>• Preparation of an Initial Study/Mitigated Negative Declaration (IS/MND)</li> <li>• Assumes that biological and cultural resources are the only topics that require preparation of technical memos</li> </ul>	\$50,000



*Accessing virtual information about a site by scanning a Quick Response (QR) code mounted on a small, durable sign can both reduce maintenance costs and minimize impact on the landscape.*

## AREA BRANDING AND INTERPRETATION

Establishing a consistent design character for area signage and amenities is an important step in enhancing the user experience, and doing so in a way that reflects and reinforces the area's true and desired identity. Construction materials, graphics and illustrations can be used to help create a strong yet understated brand and sense of place. Many of these design choices will have practical implications also, which are equally important.

The rich and fabled history of the Owens Valley presents countless opportunities for interpretation. The area's geology and natural history, the story of the area's cultural and working landscapes, the political history of the river, and the challenges and successes associated with one of the largest restoration efforts in the country are all stories that deserve to be told. Staging area kiosks are envisioned as the primary physical platform for sharing information about the different Lower Owens regions (described on page 34). This information will be practical, educational and inspirational.

The Plan also envisions a virtual interpretive element, whereby visitors have opportunity to access information relevant to their current location via the use of Quick Response (QR) codes and personal smartphone devices. The use and placement of virtual interpretive features described in this Plan will depend on the quality of cell signal coverage near LOR destinations. A pilot program can be developed to determine the best locations for QR code-enabled interpretive features.



The proposed Delta birding trail could be enhanced via the creation of a virtual interpretive program that gives visitors online access to fun facts, graphics and other information about the area’s natural history, recent recovery, and key species.

TABLE 3. LOR BRANDING AND INTERPRETATION: PLANNING ASSUMPTIONS + COST ESTIMATES

PROPOSED IMPROVEMENT	KEY PLANNING AND DESIGN ASSUMPTIONS	PROJECT COST
LOR LOGO	<ul style="list-style-type: none"> <li>• Logo design and branding process. Includes 2 options.</li> <li>• Final preferred logo will include a color palette and graphic standard guidance memo</li> </ul>	\$10,000
VIRTUAL INTERPRETIVE PROGRAM	<ul style="list-style-type: none"> <li>• Develop 3 interpretive narratives to address historical, cultural, and environmental topics</li> <li>• Narrative information (text, maps, photos, video) to be accessed by scanning a Quick Response (QR) code with a personal smart phone device or typing in a URL</li> <li>• Design of physical e-sign will identify the feature, location, and feature number within the narrative series</li> <li>• Cost includes e-sign design and production-ready artwork only. Production and installation costs are excluded.</li> <li>• HTML files will be housed on a County website</li> </ul>	\$18,000

# 4

## plan implementation and area management

This chapter outlines management priorities and principles for the Lower Owens River area, which are based on the collective priorities of LADWP, Inyo County, the Tribes, local ranchers and other participating community members. The chapter concludes with a discussion of environmental constraints that need to be considered prior to plan implementation.

### 4.1 COMMUNITY PERSPECTIVE ON LOWER OWENS RIVER MANAGEMENT

Community members and plan stakeholders revealed a wide range of interests and concerns over the course of plan development. However, there was substantial agreement that future LOR management and operations address the following issues.

- Regulations and public information
- Protection of cultural resources
- Ranching leases and recreation
- Tule growth and management
- Facility maintenance and operations

Notable issues and proposed management approaches related to each are described in more detail below.

#### REGULATIONS AND PUBLIC INFORMATION

Community participants noted a critical need to better publicize recreation opportunities, and to communicate policies and regulations regarding public access and use clearly and consistently. As the number of recreation users increase, clearly defined, enforceable policies will be needed to define allowable activities, overnight use restrictions, OHV/ATV restrictions, gate use, laws protecting cultural artifacts, and “leave no trace” principles.



Local Paiute Tribes and others are concerned about protecting cultural resource sites within the LOR.

## PROTECTION OF CULTURAL RESOURCES

The potential for illegal artifact gathering has been identified as a significant concern of local tribes. Tribal representatives and others fear that increased river recreation will increase the incidence of this damaging and illegal behavior. Historic and prehistoric artifacts are important, irreplaceable resources that must remain undisturbed. Community members expressed a desire that recreation facilities be located away from areas known to have artifacts. Signage and information should remind visitors that found artifacts must be left undisturbed, as per Federal law.

## RANCHING LEASES AND RECREATION

For many years, ranchers have leased most of the Lower Owens River Project area. Lease holders are concerned about the impact that increased recreation will have on their cattle operations, including cattle management and the condition of the rangeland. The City of Los Angeles has a policy to keep at least 75 percent of their lands open to the public. Under this policy, ranchers can post up to 25 percent of leased land as no trespassing; however, few restrict access to more than 10 percent. Ranchers are concerned that recreation users will leave gates open, block gates, and otherwise create conflicts with existing ranching operations.

Local ranchers noted that improvements such as new cattle guards at key locations, directional signage and signs that identify the family ranches on LORP lands could help reduce the possibility of additional financial and maintenance responsibilities associated with disruption or damage to their operations.



*The pumpback station is a popular and easily accessible fishing area.*

## TULE GROWTH AND MANAGEMENT

Tules, large bulrush plants and cattails that are abundant in marshy areas have grown extensively over portions of the Lower Owens River channel since re-watering, significantly reducing recreation access. Tules occupy some areas that were previously open water, reducing fishing and boating access and reducing open water habitats. Several stakeholders noted that tules may create unsafe conditions in portions of the channel and feel that active management of tules is critical to expanding open water habitat and providing needed access for in-stream recreation.

To date, limited mechanical management of tules has occurred in portions of the river, but this has not occurred for the purpose of improving recreation access. Mechanical methods could be used to facilitate creation of paddle routes, but there are no current plans to do so. Currently, the County and LADWP plan to leave tules unmanaged with the exception of manipulating seasonal water levels.

LADWP and Inyo County have recently agreed to study how more variable river flows may help control tules in some areas and improve water quality for fisheries. Variable water flows may be successful in establishing some relatively tule-free river stretches for recreation. However, experts caution that this strategy may have limited effectiveness due to geographic constraints.



*Current regulations prohibit overnight camping or fire.*

## FACILITY MAINTENANCE AND OPERATIONS

Outside contractors currently operate some County facilities, in part due to lack of staff. LADWP does not have park rangers or recreation managers, resulting in limited enforcement of current area use regulations. Facility development and the anticipated increase in number of visitors will inevitably increase the need for facility repair, visitor contact and communication, and site monitoring and maintenance, which is a concern in light of limited agency capacity and resources.

As the landowner and primary manager, LADWP is concerned that increased recreation may interfere with its regular operations. Ongoing maintenance and operations may require temporary road closures, the use or occupation of roads and trails by heavy equipment, and access to water control facilities. It is imperative that LADWP is able to carry out these necessary tasks, irrespective of their potential impact on public recreation opportunities. Further, ecosystem recovery is a primary objective of area management, and one LADWP and the County are mindful of.

The Lower Owens River Project Post Implementation Agreement (PIA) between Inyo County and LADWP provides guidance with respect to planning, approval, construction and maintenance of recreation and other facilities within the planning area.

The current day-use only policy is supported by most community members who have participated in plan development. Concerns exist that any overnight use could increase the risk of fire. Nearby areas provide ample camping opportunities, alleviating strong concerns that prohibited overnight use will become a serious problem. Nevertheless, signage at staging area kiosks that clearly spells out the "no camping" policy is needed.



LADWP, Inyo County staff and project consultants spent time in the field exploring current conditions and project possibilities.

TABLE 4. MINIMIZING AND MITIGATING IMPACT: PLANNING ASSUMPTIONS + COST ESTIMATES

PROPOSED IMPROVEMENT	KEY PLANNING AND DESIGN ASSUMPTIONS	PROJECT COST
"RANCHING FAMILY" SIGNAGE	<ul style="list-style-type: none"> <li>• Classic, understated signs with ranch family names at ranch gates and border provided by Inyo County</li> <li>• Assumes 1-2 signs per ranch</li> <li>• Leasees may supplement sign budget and customize design to meet Inyo County sign regulations and standards</li> <li>• Cost for sign production only. Labor costs are excluded.</li> </ul>	Allow \$2500 each
CATTLE GUARDS WITH SIDE ACCESS GATE	<ul style="list-style-type: none"> <li>• Five new cattle guards needed</li> <li>• Side access gate allows movement of livestock around cattle guard</li> </ul>	\$47,500
POWDER RIVER LIVESTOCK GATES	<ul style="list-style-type: none"> <li>• Tube steel gates installed over roads</li> <li>• Require drivers to open and close gates for through access</li> </ul>	\$10,000 each



LADWP and Inyo County work together to implement the Lower Owens River Project and minimize negative impacts to the recovering ecosystem.

## 4.2 LOWER OWENS RIVER MANAGEMENT PRINCIPLES

In light of the ongoing issues and challenges identified during the plan development process, this plan proposes that future management and development within the Lower Owens River area adhere to the following principles:

- Continue to prioritize Lower Owens River Project (LORP) goals and the ecological restoration of riparian habitat over recreation;
- Minimize conflict between recreation, ranching and LADWP operations by installing signs, cattle guards, and gates where needed and by improving some roads;
- Protect existing cultural resources, artifacts and areas by collaborating with local Tribes and steering recreation away from sensitive areas; and
- Place clear and frequent signage in strategic locations to outline area use guidelines and restrictions, and to share information about existing operations.

## 4.3 ENVIRONMENTAL REVIEW AND DESIGN

The elements described in this Recreation Use Plan are presented to provide direction, but implementation or construction of the elements will not occur until after subsequent review has occurred, as required by the California Environmental Quality Act (CEQA). The next step in the planning process is to analyze environmental impacts associated with the Recreation Use Plan. To meet the requirements of CEQA, it has been determined that, at a minimum, preparation of an Initial Study/Mitigated Negative Declaration (IS/MND) will be necessary to advance implementation of this plan. An IS/MND would describe the project's potential environmental impacts and define feasible mitigations that will reduce impacts to less than significant levels.



*Lower Owens River near Lone Pine.*

For the project to comply with CEQA, mitigations must be incorporated into the project. A preliminary environmental report drafted by Eco Sciences, *LORP Recreation Use Plan, High Level Environmental Review*, is included in Appendix D.



## MEMORANDUM

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from Dean Apostol and Daniel Iacofano  
to Larry Freilich, Project Manager, Inyo County  
re Requested Phase 3 scope of work  
date October 17, 2012

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As requested, MIG has prepared a scope of work for Phase 3 of the Lower Owens Recreation Use Plan to advance high priority recommendations to be implementation-ready. This scope of work will result in further definition of several key projects in the Lower Owens River Recreation Use Plan submitted on October 16, 2102, followed by a CEQA/NEPA process to allow the projects to be implemented. Not all recommendations can be advanced given the available budget and the need for CEQA.

The scope of work is organized into two sections:

- 3A: Design. Three elements are addressed: Signage, Put-in/Takeout Points, and Cattle Guards
- 3B: CEQA/NEPA for the projects in 3A.

### Scope of Work

#### 3A: Design

##### *Task A.1. Signage*

MIG will design three types of signs:

- Highway Signage (designed to meet Caltrans requirements)
- Point of Access Signage (to include identification, area map and rules)
- Trail Marker Signage

As part of this task, MIG will design 2 different design concepts showing one of each sign type. We will research different fabrication methods and present our recommendations and design concepts at an in-person meeting. The client will choose one design concept for MIG to refine and finalize. The final product will be a pdf, and will include sign programming (a sign schedule to identify locations and numbers of signs) and costs per sign. The final product will also include production-ready artwork that can be used to order the signs)

### **Task A.2. Put-in/Takeout Points**

MIG will design put-in/takeout point treatments, following the low impact approach recommended in the Recreation Use Plan. This will result in preparation of a standard detail for use by the County with an opinion of probable construction costs (including likely mitigation). MIG will prepare a draft design and cost, submit it to the County for review by County and LADPW staff, and make one revision based on consolidated comments. No in-person meetings will occur.

### **Task A.3. Cattle Guards**

The Recreation Use Plan identified potential locations for new cattle guards. As part of this task, MIG will coordinate with the County to get information on recently installed cattle guards elsewhere in the County. MIG will then prepare a standard cattle guard detail for use in the CEQA/NEPA analysis, incorporating recommended mitigation measures if needed and develop an opinion of probably construction costs. MIG will prepare a draft design and cost, submit it to the County for review by County and LADPW staff, and make one revision based on consolidated comments. No in-person meetings will occur.

### **3B: CEQA/NEPA**

Task 3b will analyze environmental impacts associated with the three projects implementing Recreation Use Plan recommendations. To meet the requirements of the California Environmental Quality Act (CEQA), MIG has been determined that preparation of an Initial Study/Mitigated Negative Declaration (IS/MND) will be necessary and will suffice, pursuant to sections 15063 (Initial Study) and 15070 (Decision to Prepare a Negative or Mitigated Negative Declaration) of the CEQA Guidelines. The IS/MND will describe the project's potential environmental impacts, and then define feasible mitigations that will reduce potentially significant impacts to less-than-significant levels. For the project to comply with CEQA, those mitigations must be incorporated into the project.

The work scope outlined below will produce an Administrative Draft IS/MND document for County staff review in seven (7) weeks from Notice to Proceed. Specific tasks and subtasks proposed to complete the IS/MND process are outlined below.

### **Task B.1. Project Start-up and Project Description**

#### **1.1 Kickoff Meeting and Site Visit**

MIG staff will attend a kickoff meeting with County staff and visit several locations in the project area where construction activities are anticipated. MIG also will gather any existing relevant information during this visit. MIG understands the County has access to recent biological and cultural resources information from the Bureau of Land Management Field Office in Bishop and assumes this information will be provided. We also understand that the County will provide

traffic count estimates that can be used to guide analysis of impacts for air quality and traffic sections of the IS/MND document.

### *1.2 Complete Technical Memoranda*

MIG will complete technical memoranda for biological and cultural resources. Findings will be based on existing information, observations made during the site reconnaissance visit, and results of database searches.

### *1.3 Finalize Project Description*

MIG's Project Manager will verify with the County the preferred option for the RUP, and obtain relevant drawings and narrative to develop the Project Description. Any occurrences of special status species or cultural resources that overlap with areas of proposed facilities may require relocation of those facilities to avoid significant impacts.

### **Task B.2. Prepare IS/MND**

All environmental topics included in the CEQA Guidelines Appendix G (Environmental Checklist Form) are listed below. Project impacts under each of these required topics will be determined and documented in checklist and narrative format. The topics indicated below as "focus topics" will be evaluated in the most detail, as described below.

The IS/MND will address the following topical areas:

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality (focus topic)
- Biological Resources (focus topic)
- Cultural Resources (focus topic)
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality (focus topic)
- Land Use and Planning
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities and Service Systems

#### Focus Topics:

- Air Quality: The project area is located in the Owens Valley and has the potential to generate fugitive dust, measured as PM10's and PM2.5's. The dry Owens lakebed is a significant contributor of fugitive dust, and the

project area is not in attainment for the state air quality standard for PM10's. Construction and subsequent recreational activity have the potential to generate fugitive dust since many of the access roads are unpaved. However, these impacts can be mitigated to less than significant through dust control measures. Mitigation measures will conform to rules developed by the Great Basin Unified Air District or the California Air Resources Board.

- Biological resources: The project area includes xeric shrub and riparian habitats. Boater put-in and takeout locations may be located in riparian areas, while parking areas would be located in xeric shrub areas. A California Native Diversity Database search (CNDDDB) will be completed for the project area to confirm any documented occurrences of special status species. The IS/MND will include mitigation measures to avoid or reduce to less than significant impacts to any special status species likely to occur in riparian areas.
- Cultural resources: The project area includes areas that were traditionally used by the Paiute tribe. Ground disturbing actions associated with project construction activities have the potential to impact prehistoric resources, including human remains. Illegal artifact gathering has been identified as a significant concern of local tribal members. Tribal representatives and others fear that increased river recreation will increase opportunities for this damaging and illegal behavior.

A California Historic Records Information System (CHRIS) search will be conducted to determine if there are known prehistoric sites in the project areas. Construction of project facilities will avoid any known sites identified in the records search. Mitigation measures will be developed to protect any undiscovered prehistoric resources in the project area that may be encountered during project construction. Mitigation measures will also include signage with information to remind visitors that found artifacts must be left undisturbed.

- Hydrology and Water Quality: Boat launching could affect water quality in the Owens River via sedimentation and erosion. Boater put-in and takeout locations, and associated infrastructure such as access trails and parking areas, will be located in areas that avoid sedimentation and erosion impacts to the Owens River.

MIG will prepare an administrative draft IS/MND for County review. The contents of the IS/MND are provided below.

- Introduction and Project Description
- Environmental Setting

- Environmental Impacts Analysis including mitigation measures
- Mandatory Findings of Significance
- References
- List of Preparers

Within two weeks following MIG's submittal date, the County will send MIG a single, consolidated set of comments from the County. MIG will revise the IS/MND accordingly, and then prepare a screen check draft for County review. Typically few revisions are required to this second draft. Following County review and approval of the screen check draft, MIG will prepare a public review draft IS/MND. MIG assumes the County will be responsible for distributing the public review IS/MND and Notice of Intent to Adopt (NOI) to the appropriate parties.

***Task B.3. Response to Comments Memo for Public Review IS/MND and Mitigation Monitoring Reporting Program***

MIG will prepare a response to comments memo and Mitigation Monitoring and Reporting Program (MMRP) for County. Based on the amount of public outreach conducted for the Recreation Use Plan, MIG anticipates receiving few comments on the IS/MND. We assume the County will provide a single set of consolidated comments, and that MIG will make the appropriate revisions to the memo and MMRP.

***Task B.4. Meetings and Public Hearings***

***4.1 Staff Meetings***

MIG will hold two (2) conference call meetings with County staff to gauge progress on the IS/MND and to discuss County comments on the administrative review draft document.

***4.2 Public Hearings***

MIG's CEQA Specialist or Project Manager will attend a single public hearing on the IS/MND.

***CEQA/NEPA Assumptions:***

MIG's fee for the proposed CEQA/NEPA services is provided in the accompanying budget spreadsheet, and is based on the following assumptions.

- Biological and cultural resources are the only topics that require preparation of technical memos.
- For both biology and cultural resources, only a single day reconnaissance level site visit will be conducted.
- For biological resources, Section 7 consultation if needed would require additional fees.
- For cultural resources, if needed, State Historic Preservation Office or Native American consultation would require additional fees.

- The County will be responsible for printing and distribution of the IS/MND and NOI.
- MIG staff will attend two (2) in-person meetings in Bishop.



**AGENDA REQUEST FORM**  
**BOARD OF SUPERVISORS**  
**COUNTY OF INYO**

For Clerk's Use Only:  
**AGENDA NUMBER**  
 30

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM:** Inyo County Planning Department

**FOR THE BOARD MEETING OF:** December 10, 2013

**SUBJECT:** Inyo National Forest Plan Update/Revision – Draft Assessment

**RECOMMENDATION:** Conduct a public meeting regarding the draft Assessment for the Inyo National Forest Plan Update/Revision, review draft correspondence to the Forest Service in regards thereto, and authorize the Chair to sign.

**SUMMARY DISCUSSION:** The Inyo National Forest (INF) is working on updating its Forest Plan.<sup>1</sup> A draft Assessment for the Update is available for public review, and comments are due December 16. Staff has prepared draft correspondence for the Board's consideration, which is scheduled to be reviewed earlier in the day. The correspondence may be updated and will be distributed for consideration at the public meeting.

**OTHER AGENCY INVOLVEMENT:** Department of Agriculture, U.S. Forest Service; Mono, Fresno, Madera, and Tuolumne counties; other interested persons and organizations.

**FINANCING:** General fund resources are utilized to monitor planning work in the Forest. Resources for consultant assistance with the effort are funded by operating transfer from the Geothermal Royalties fund.

<b>APPROVALS</b>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i>

**DEPARTMENT HEAD SIGNATURE:**  
 (Not to be signed until all approvals are received)

 \_\_\_\_\_ Date: 12/4/13

<sup>1</sup> Refer to <http://inyoplanning.org/InyoNationalForest.htm> for more information about the County's participation in the Plan Update/Revision, including links to the Forest Service's relevant online references.

December 5, 2013

Clerk of the Board  
Inyo County Board of Supervisors

**RE: CERTIFICATION OF LOCAL APPROVAL FOR THE 2013 STATE  
EMERGENCY SOLUTIONS GRANT (ESG) PROGRAM**

Inyo Mono Advocates for Community Action, Inc. (IMACA) and Wild Iris respectfully request Certification of Local Approval from Inyo County to submit funding applications for the 2013 Emergency Solutions Grant (ESG) Program. The ESG Program provides financial assistance to eligible non-profit organizations and government agencies for a wide range of homelessness prevention programs. Eligible application components are: Emergency Shelter (including hotel/motel vouchers); Street Outreach; Homelessness Prevention; Rapid Re-Housing; Homeless Management Information System (HMIS); and local Grant Administration.

The State issued the ESG Notice of Funding Availability (NOFA) on October 18th and applications are due to the Department of Housing and Community Development (HCD) no later than December 17th. The minimum application funding request for homelessness prevention activities is \$50,000 and the maximum is \$168,385. There is also a match requirement equal to or greater than the requested amount which could include cash, donated building(s), donated equipment, donated goods, donated leases, donated services, program income, and volunteers.

Wild Iris and IMACA propose to submit applications to HCD and would like to request funding to provide homelessness prevention services in Inyo County. Approval is required from each jurisdiction in which services and programs are provided with ESG Program. The requested funding will be up to the maximum amount of \$168,385. The State will announce the ESG awards in early April and the contract period is for the 2014/2015 fiscal year.

Based on our experience and comments from community members and organizations, there is a need for these services and programs in Inyo County. Our Agency's would like to provide assistance to homeless individuals/families and those at risk of becoming homeless but require financial assistance through programs such ESG. We would appreciate your support and approval of the Certification of Local Approval.

Sincerely,

*Spain*  
Director of Programs, Wild Iris

Wild Iris

ATTACHMENT F

**CERTIFICATION OF LOCAL APPROVAL**  
(Private Non-Profits Only)

**Instructions**

Applicants may apply for Component/Activities located in more than one eligible City/County. The Certification of Local Approval is required for each City or County, as applicable.

If the Project is located in an ESG-eligible City, the certification of Local Approval must be completed by the City. If the Project is located in the unincorporated area of an ESG-eligible County, the Certification must be from the County.

I, \_\_\_\_\_, Inyo County Supervisor, duly authorized to act on behalf of the County of Inyo, hereby approve of the Operation of the following Component/Activities (see list below) proposed by Wild Iris which is/are to be located in the County of Inyo.

- ✓ Emergency Shelter (Including Transitional Housing)
- ✓ Rapid Re-Housing Assistance
- ✓ Homelessness Prevention

CERTIFICATION OF LOCAL APPROVAL	
PRINTED NAME OF COUNTY OFFICIAL	TITLE
COUNTY OFFICIAL SIGNATURE	
DATE	



INYO  
MONO  
ADVOCATES for  
COMMUNITY  
ACTION, Inc.

*People Helping People*

December 5, 2013

Clerk of the Board  
Inyo County Board of Supervisors

Administration  
Personnel  
Community Services  
Housing  
Weatherization  
224 S. Main St.  
P.O. Box 845  
Bishop, CA 93515  
(760) 873-8557  
(800) 541-1822  
Fax (760) 873-8182  
e-mail: [info@imaca.net](mailto:info@imaca.net)

RE: CERTIFICATION OF LOCAL APPROVAL FOR THE 2013 STATE  
EMERGENCY SOLUTIONS GRANT (ESG) PROGRAM

Community Connections  
for Children  
625 Old Mammoth Rd.  
P.O. Box 8571  
Mammoth Lakes, CA 93546  
(760) 934-3343  
(800) 317-4600  
Fax (760) 934-2075

Inyo Mono Advocates for Community Action, Inc. (IMACA) and Wild Iris respectfully request Certification of Local Approval from Inyo County to submit funding applications for the 2013 Emergency Solutions Grant (ESG) Program. The ESG Program provides financial assistance to eligible non-profit organizations and government agencies for a wide range of homelessness prevention programs. Eligible application components are: Emergency Shelter (including hotel/motel vouchers); Street Outreach; Homelessness Prevention; Rapid Re-Housing; Homeless Management Information System (HMIS); and local Grant Administration.

Child Development &  
Family Services  
Head Start/State Preschool  
Administration Office  
218-A S. Main St.  
Bishop, CA 93514  
(760) 873-3001  
Fax (760) 872-5570

The State issued the ESG Notice of Funding Availability (NOFA) on October 18th and applications are due to the Department of Housing and Community Development (HCD) no later than December 17th.

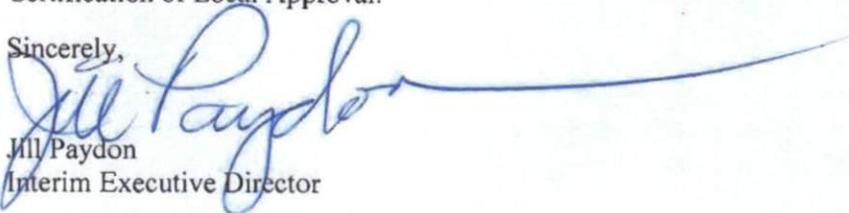
Glass Mountain  
Apartments  
25 Mountain Blvd.  
Mammoth Lakes, CA 93546  
(760) 924-3888

Wild Iris and IMACA propose to submit applications to HCD to request funding to provide homelessness prevention services in Inyo County. Approval is required from each jurisdiction in which services and programs are provided with ESG Program. The requested funding will be up to the maximum amount of \$168,385. The State will announce the ESG awards in early April and the contract period is for the 2014/2015 fiscal year.

Valley Apartments  
156 E. Clarke St.  
Bishop, CA 93514  
(760) 873-8557

Based on our experience and comments from community members and organizations, there is a need for these services and programs in Inyo County. Our Agency's would like to provide assistance to homeless individuals/families and those at risk of becoming homeless but require financial assistance through programs such as ESG. We would appreciate your support and approval of the Certification of Local Approval.

Sincerely,

  
Jill Paydon  
Interim Executive Director

Cc: Susi Bains, Wild Iris

IMACA is a Non-Profit,  
Tax-Exempt Organization  
under Section 501(c)(3),  
Internal Revenue Code.

*Serving Inyo, Mono & Alpine Counties since 1981*  
[www.imaca.net](http://www.imaca.net)

IMACA  
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I, Kevin D. Carunchio, County Administrator, duly Authorized to act on behalf of the County of Inyo, hereby approve of the Operation of the following Component/Activities (see list below) proposed by Inyo Mono Advocates for Community Action, Inc. (IMACA) which is/are to be located/operated in the County of Inyo.

- Emergency Shelter (Including Transitional Housing and Day Center)
- Street Outreach
- Homelessness Prevention
- Rapid Re-Housing Assistance

<b>CERTIFICATION OF LOCAL APPROVAL</b>	
Kevin D. Carunchio	County Administrator
PRINTED NAME OF CITY/COUNTY OFFICIAL	TITLE
CITY/COUNTY OFFICIAL SIGNATURE	
DATE	

IMACA  
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DATE	