

3.6 LAND USE AND PLANNING

As a result of the Initial Study, the Great Basin Unified Air Pollution Control District (District) determined that 2008 Owens Valley PM₁₀ Planning Area Demonstration of Attainment State Implementation Plan (proposed project) had the potential to result in significant impacts to land use and planning, thus requiring the consideration of mitigation measures or alternatives, in accordance with Section 15063 of the State of California Environmental Quality Act Guidelines (State CEQA Guidelines).¹ Therefore, this issue has been carried forward for detailed analysis in this Subsequent Environmental Impact Report (EIR). This analysis was undertaken to identify opportunities to avoid, reduce, or otherwise mitigate potential significant impacts to land use and planning and to identify potential alternatives.

The analysis of land use and planning consists of a summary of the regulatory framework that guides the decision-making process, a description of the existing conditions at the proposed project area, thresholds for determining if the proposed project would result in significant impacts, anticipated impacts (direct, indirect, and cumulative), mitigation measures, and level of significance after mitigation. Land use and planning at the proposed project site was evaluated in light of the Conservation and Open Space element and the Land Use element of the Inyo County General Plan,^{2,3} previously completed environmental documentation,^{4,5,6,7,8} and review of the U.S. Geological Survey (USGS) 7.5-minute series topographic quadrangles of Lone Pine,⁹ Dolomite,¹⁰ Cerro Gordo Peak,¹¹ Bartlett,¹² Owens Lake,¹³ Keeler,¹⁴ Olancha,¹⁵ Vermillion Canyon,¹⁶ and Centennial Canyon¹⁷ for the proposed project area.

¹ Great Basin Unified Air Pollution Control District. 27 February 2007. *2008 Owens Valley PM₁₀ Planning Area Demonstration of Attainment State Implementation Plan Initial Study*. State Clearinghouse Number 2007021127. Bishop, CA.

² Inyo County Planning Department. December 2001. *Inyo County General Plan, Conservation, and Open Space Element*. Independence, CA.

³ Inyo County Planning Department. December 2001. *Inyo County General Plan, Land Use Element*. Independence, CA.

⁴ Great Basin Unified Air Pollution Control District. 2 July 1997. *Owens Valley PM₁₀ Planning Area Demonstration of Attainment State Implementation Plan Final Environmental Impact Report*. State Clearinghouse Number 96122077. Bishop, CA.

⁵ Great Basin Unified Air Pollution Control District. 1998. *Owens Valley PM₁₀ Planning Area Demonstration of Attainment State Implementation Plan, Addendum No. 1 to the Final Environmental Impact Report*. State Clearinghouse Number 96122077. Bishop, CA.

⁶ City of Los Angeles Department of Water and Power. February 2000. *Initial Study for North Sand Sheet Shallow Flooding Project; Owens Lake Dust Mitigation Program, Owens Lake, California*. Prepared by: CH2M HILL, Santa Ana, CA.

⁷ City of Los Angeles Department of Water and Power. August 2001. *Mitigated Negative Declaration Southern Zones Dust Control Project, Owens Lake Dust Mitigation Program, Owens Lake, California*. Prepared by CH2M HILL, Santa Ana, CA.

⁸ Great Basin Unified Air Pollution Control District. February 2004. *2003 Owens Valley PM₁₀ Planning Area Demonstration of Attainment State Implementation Plan Integrated Environmental Impact Report*. State Clearinghouse House Number 2002111020. Prepared by: Sapphos Environmental, Inc., Pasadena, CA.

⁹ U.S. Geological Survey. 1994. 7.5-minute series Lone Pine, CA topographic quadrangle. Denver, CO.

¹⁰ U.S. Geological Survey. 1987. 7.5-minute series Dolomite, CA topographic quadrangle. Denver, CO.

¹¹ U.S. Geological Survey. 1987. 7.5-minute series Cerro Gordo Peak, CA topographic quadrangle. Denver, CO. The proposed project does not fall within this quadrangle, but it covers part of the surrounding area.

¹² U.S. Geological Survey. 1987. 7.5-minute series Bartlett, CA topographic quadrangle. Denver, CO.

¹³ U.S. Geological Survey. 1987. 7.5-minute series Owens Lake, CA topographic quadrangle. Denver, CO.

¹⁴ U.S. Geological Survey. 1987. 7.5-minute series Keeler, CA topographic quadrangle. Denver, CO.

Additional applicable land use and planning documentation utilized in the analysis included the State Lands Commission Public Trust Doctrine,¹⁸ the Bishop Resource Management Plan,¹⁹ the California Desert Conservation Area Plan,²⁰ and the California Desert Protection Act.²¹

3.6.1 Regulatory Framework

Federal

National Environmental Policy Act

The National Environmental Policy Act (NEPA) and its supporting federal regulations establish certain requirements that must be adhered to for any project "...financed, assisted, conducted or approved by a federal agency...." In making a decision on the issuance of federal grant monies or a permit to conduct work on federal lands for components of the proposed project, the federally designated lead agency pursuant to NEPA is required to "...determine whether the proposed action may significantly affect the quality of the human environment." Only those portions of the proposed project conducted of Bureau of Land Management (BLM) may require compliance with this regulation.

Bishop Resource Management Plan

The U.S. Department of Interior, BLM controls the 15,790-acre Owens Lake Management Area that surrounds most of Owens Lake. The Owens Lake Management Area is one of nine management areas managed by the BLM pursuant to the Bishop Resource Management Plan (Figure 3.6.1-1, *Existing Land Uses in the Owens Lake Area*).²² The BLM's responsibilities include managing its own land and associated natural resources to provide a variety of uses. The Bishop Resource Management Plan provides guidance and policies for managing BLM land within the nine management areas. The management plan's policies and guidelines applicable to the Owens Lake Management Area address preservation and protection of the environment and archaeological artifacts; and management of domestic sources of minerals, off-highway vehicle use, grazing, and recreation on public lands.

¹⁵ U.S. Geological Survey. 1994. 7.5-minute series Olancha, CA topographic quadrangle. Denver, CO.

¹⁶ U.S. Geological Survey. 1987. 7.5-minute series Vermillion Canyon, CA topographic quadrangle. Denver, CO.

¹⁷ U.S. Geological Survey. 1987. 7.5-minute series Centennial Canyon, CA topographic quadrangle. Denver, CO. The proposed project does not fall within this quadrangle, but it covers part of the surrounding area.

¹⁸ California State Lands Commission, Undated. "Public Trust Doctrine." Contact: 100 Howe Avenue, Suite 100 South, Sacramento, CA 95825-8202.

¹⁹ U.S. Department of the Interior, Bureau of Land Management, Bakersfield District. 1993. *Bishop Resource Management Plan Record of Decision*. Bakersfield, CA.

²⁰ U.S. Department of the Interior, Bureau of Land Management, California Desert District. 1980. *The California Desert Conservation Area Plan*. Riverside, CA.

²¹ State of California. California Desert Protection Act of 1994, 16 U.S.C. §§ 410aaa to 410aaa-83.

²² U.S. Department of the Interior, Bureau of Land Management, Bakersfield District. 1993. *Bishop Resource Management Plan Record of Decision*. Bakersfield, CA.

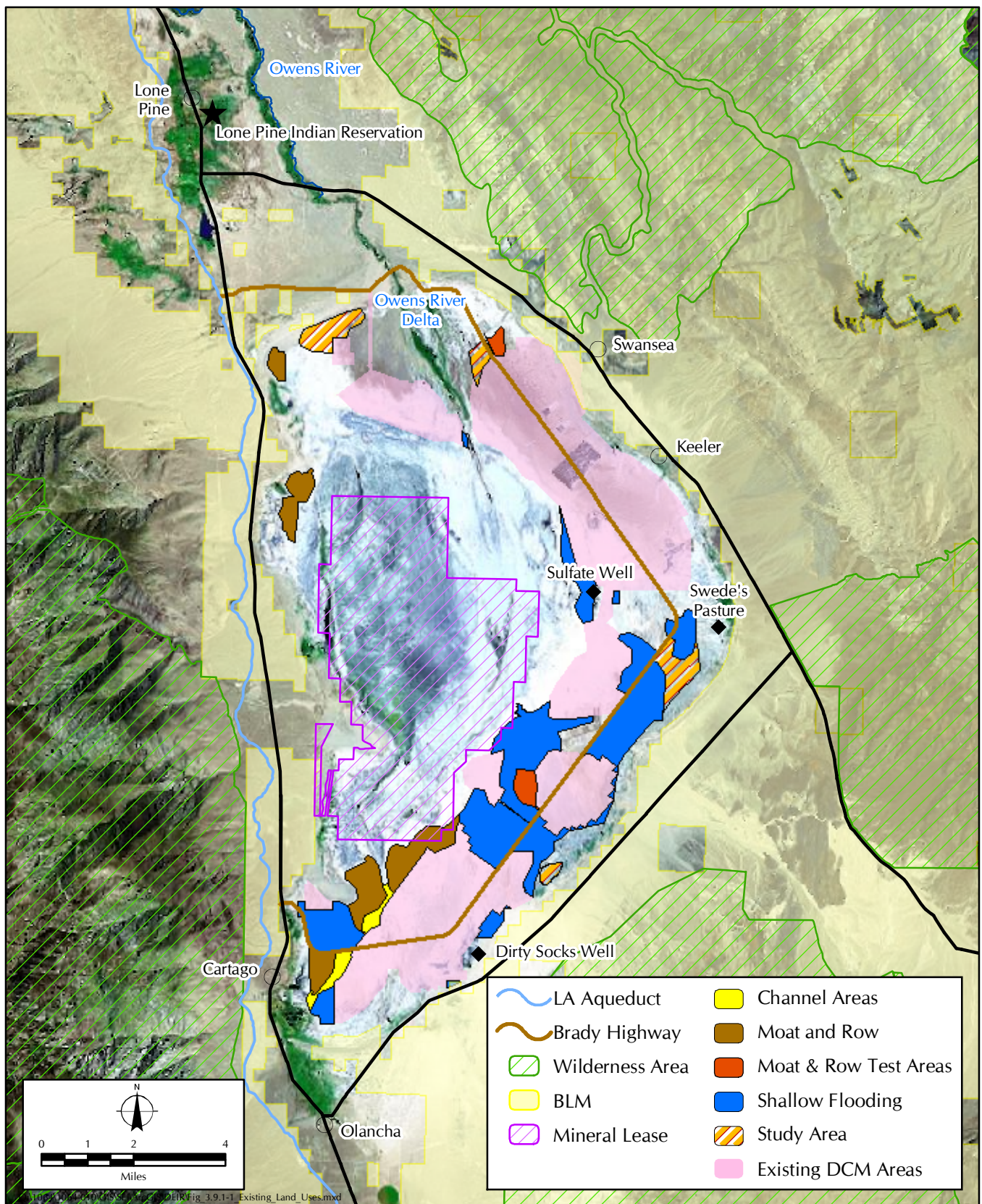


FIGURE 3.6.1-1
Existing Land Uses in the Owens Lake Area

California Desert Conservation Area Plan

Lands within the Ridgecrest Resource Area of the California Desert Conservation Area are located to the south and southeast of Owens (Figure 3.6.1-1). These lands are controlled by the BLM and managed pursuant to the California Desert Conservation Area Plan (CDCAP). The CDCAP includes general guidelines for uses of public desert lands and assigns multiple use classes to describe different types and levels of permitted use. The CDCAP allows for the following uses on BLM land: wilderness management; cultural, ecological, and scenic resource protection; agriculture, mining, livestock grazing, recreation, off-road vehicle use; and energy and utility development. The four multiple-use classes that the Ridgecrest Resource Area is managed under include Class C: Controlled Use, Class L: Limited Use, Class M: Moderate Use, and Class I: Intensive Use.²³

California Desert Protection Act

On October 31, 1994, the California Desert Protection Act (CDPA) of 1994 designated 71 new wilderness areas, two national parks, and one national preserve in California's desert regions.²⁴ The CDPA includes general policies for establishing and managing these areas, and policies on administration, grazing, buffer zones, mining claims, and law enforcement. Three of the new wilderness areas designated by the CDPA, the Malpais Mesa, Coso, and Inyo Mountains Wilderness Areas, are located in the vicinity of the proposed project (Figure 3.6.1-1). The Malpais Mesa, Coso, and Inyo Mountains Wilderness Areas are managed by the BLM's Ridgecrest Resource Area and Bishop Resource Area, respectively.

State

California State Lands Commission Public Trust Doctrine

The State of California owns primarily most of the Owens Lake bed. Owens Lake bed is managed by the California State Lands Commission (SLC) in accord with the Public Trust Doctrine,²⁵ which applies to all lands owned by the State of California. Public trust uses may include, but are not limited to, commerce, navigation, fisheries, scientific research, open space, environmental preservation, and recreation. The SLC seeks to reclaim some of the public trust values associated with state lands and has an obligation to protect those values.

Local

The Inyo County General Plan includes nine elements.²⁶ The Land Use and Conservation and Open Space elements establish goals and policies for the Inyo County land designations within the proposed project area. The Land Use element of the Inyo County General Plan designates the proposed project area as Open Space–Park/Recreation/Natural Resources.²⁷ These land use designations generally allow for passive recreation and mining (Figure 3.6.1-1). Below are the applicable goals and policies for land use and planning relevant to the proposed project.

²³ U.S. Department of the Interior, Bureau of Land Management, California Desert District. 1980. *The California Desert Conservation Area Plan*. Riverside, CA.

²⁴ State of California. California Desert Protection Act of 1994, 16 U.S.C. §§ 410aaa to 410aaa-83.

²⁵ California State Lands Commission, Undated. "Public Trust Doctrine." Contact: 100 Howe Avenue, Suite 100 South, Sacramento, CA 95825-8202

²⁶ Inyo County Planning Department. December 2001. *Inyo County General Plan*. Independence, CA.

²⁷ Inyo County Planning Department. December 2001. *Inyo County General Plan, Land Use Element*. Independence, CA.

Land Use Element of the of Inyo County General Plan

The following goal and policies from the Land Use element of the Inyo County General Plan apply to the proposed project.

Land Use

Goal LU-5. Provide adequate public facilities and services for the existing and/or future needs of communities and their surrounding environs, and conserve natural and managed resources.

Policy LU5.4 Natural Resources Designation. This designation, which is applied to land or water areas that are essentially unimproved and planned to remain open in character, provides for the preservation of natural resources, the managed production of resources, and recreational uses.

Policy LU5.6 State and Federal Lands Designation. This designation applies to those state- and federally owned parks, forests, recreation, and/or management areas that have adopted management plans.

Conservation and Open Space Element of the Inyo County General Plan

The following goals and policies from the Conservation and Open Space element of the Inyo County General Plan apply to the proposed project.

Soils

Goal S-2. Recognize development limitations of soil types in review and approval of future development projects to protect public health and safety.

Policy S-2.1 Soil Erosion. Minimize soil erosion from wind and water related to new development.

Mineral and Energy Resources

Goal MER-1. Protect the current and future extraction of mineral resources that are important to the Inyo County (County) economy while minimizing impacts of this use on the public and the environment.

Policy MER-1.1 Resource Extraction and the Environment. Support the production of mineral resources where it would not significantly impact sensitive resources as defined by CEQA and the Inyo County General Plan.

Policy MER-1.2 Minimize Land Conflicts. New mining operations shall be designed to provide a buffer between existing or likely adjacent uses to minimize incompatibility with nearby uses, and adequately mitigate their environmental and aesthetic impacts.

Biological Resources

Goal BIO-2. Provide a balanced approach to resource protection and recreational use of the natural environment.

Policy BIO-2.1 Coordination on Management of Adjacent Lands. Work with other government land management agencies to preserve and protect biological resources while maintaining the ability to utilize and enjoy the natural resources in the County.

Policy BIO-2.2 Appropriate Access for Recreation. Work with other government land management agencies to preserve and protect biological resources while maintaining the ability to utilize and enjoy the natural resources in the County.

Policy BIO-2.3 Hunting and Fishing. Promote hunting and fishing activities within the County pursuant to appropriate regulations of the California Fish and Game Code.

Recreation

Goal REC-1. Develop a public parks, recreation, and open space system that provides adequate space and facilities to meet the varied needs of County residents and visitors.

Policy REC-1.1 Natural Environment as Recreation. Encourage the use of the natural environment for passive recreational opportunities.

Policy REC-1.2 Recreational Opportunities on Federal, State, and the City of Los Angeles Department of Water and Power Lands. Encourage the continued management of existing recreational areas and open space, and the appropriate expansion of new recreational opportunities on federal, state, and the City of Los Angeles Department of Water and Power (LADWP) lands.

Applicable Local Zoning Ordinances

OS-40 Zoning

The Inyo County Zoning Ordinance designates the proposed project area as predominantly OS-40, Open Space Zone, 40-acre minimum lot size.²⁸ The OS-40 designation encourages the protection of fragile desert areas (Figure 3.6.1-1) and other mandated lands from erosion, pollution, and soil destruction.

3.6.2 Existing Conditions

Existing Land Use

The Owens Lake bed is primarily owned and operated in trust for the people of the State of California by the SLC, and while not subject to local regulatory authority by the Inyo County, the County's General Plan recognizes the location of state and federally owned lands at Owens Lake. In addition, dust control measures will be implemented on approximately 11.4 acres on Federal Land Operated by the Bureau of Land Management. The Land Use element of the Inyo County General Plan designates

²⁸ Inyo County. 30 June 2003. "Zoning Ordinance," of Title 18, *Inyo County Code*.

the proposed project area as Natural Resources and State and Federal Lands.²⁹ Lands adjacent to the lake bed are primarily flat, desert open space with sparse vegetation. The communities nearest the lake bed are Keeler and Cartago, located along the historic shoreline of Owens Lake. The Los Angeles Aqueduct extends parallel to the western shoreline, west of U.S. Highway 395. The town of Olancho is located at the southern end of the lake bed at the junction of U.S. Highway 395 and State Route 190. The second largest community in Inyo County is Lone Pine, which is located northwest of the lake bed.

The proposed project is substantially consistent with the applicable public trust values, as well as the goals and policies of the applicable land use plans. The SLC owns the beds of the Owens Lake and Owens River in trust for the people, and seeks to reclaim some of the public trust values associated with those lands.³⁰ The SLC regulates the use of these lands pursuant to the following statutes:

- Sale, disposal, and lease of lands
- The right to eject trespassers
- Classification of the land for various uses
- The ability to require removal of structures and prescribe regulations for the use of the land, including the issuance of permits to public agencies for occupancy³¹

Land Ownership

The Owens Valley is primarily owned by the U.S. Forest Service, the BLM, and the LADWP. The majority of land ownership within and adjacent to the proposed project boundary includes LADWP, SLC, U.S. Borax Corporation, and BLM. A small percentage of the land in the proposed project boundary is privately owned, and is located near the historic shoreline (Figure 3.6.2-1, *Land Ownership in the Owens Lake Area*).

3.6.3 Significance Threshold

The potential for the proposed project to result in impacts related to land use and planning was analyzed in relation to the questions contained in Appendix G of the State CEQA Guidelines.

The proposed project would normally be considered to have a significant impact to land use and planning when any one of the following three thresholds occurs:

- Physical division of an established community.
- Conflict with applicable land use plans, policies, or regulations of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

²⁹ Inyo County Planning Department. December 2001. *Inyo County General Plan, Land Use Element*. Independence, CA.

³⁰ State Lands Commission, Sacramento, CA. 7 October 1991. Letter to Dr. Ellen Hardebeck, Air Pollution Control Officer, Great Basin Unified Air Pollution Control District, Bishop, CA.

³¹ State Lands Commission, Sacramento, CA. 2 August 1993. Letter to Dr. Ellen Hardebeck, Air Pollution Control Officer, Great Basin Unified Air Pollution Control District, Bishop, CA.

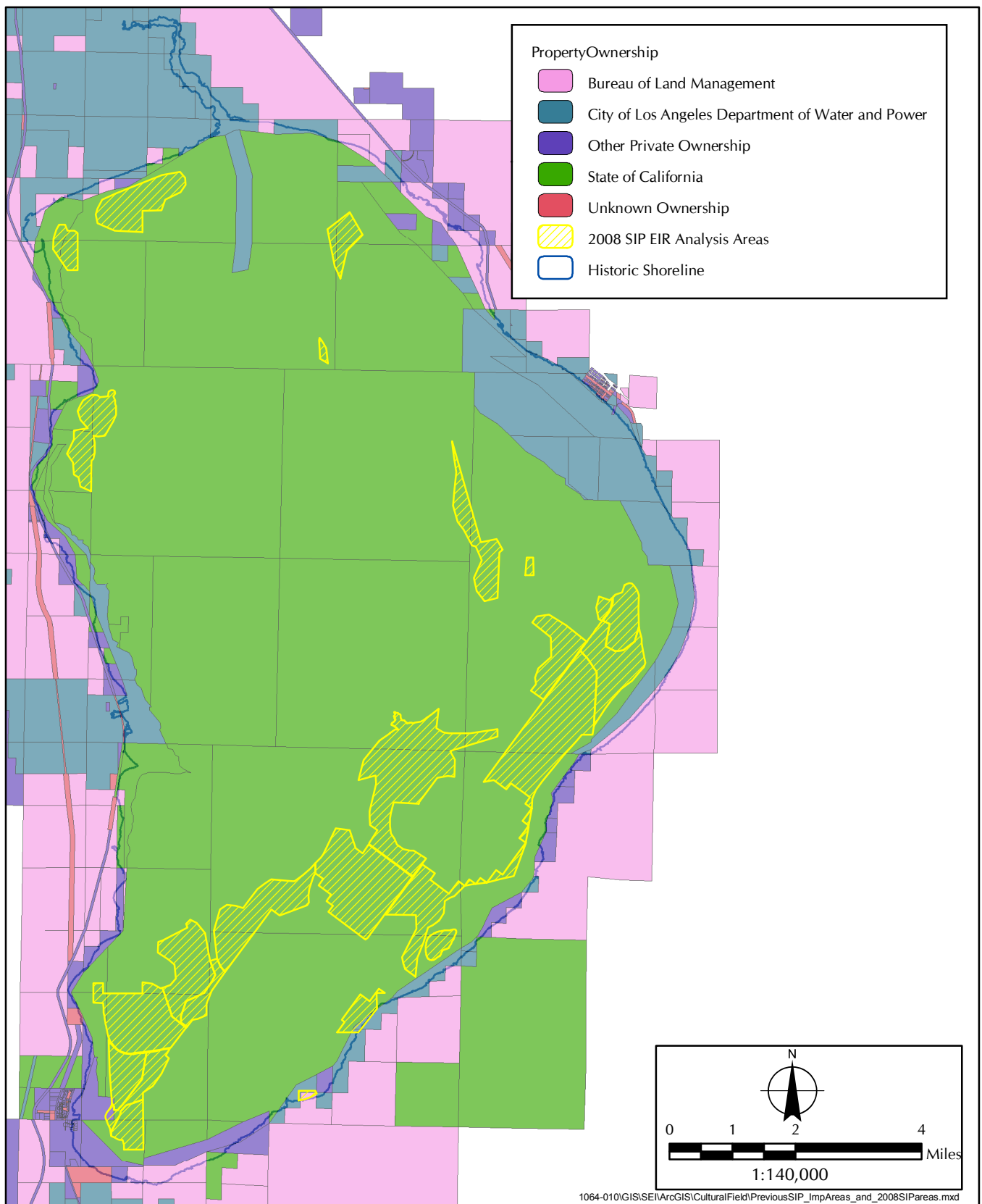


FIGURE 3.6.2-1
Land Ownership in the Owens Lake Area

- Conflict with any applicable habitat conservation plan or natural community conservation plan.

3.6.4 Impact Analysis

The Initial Study identified a potentially significant impact to land use due to the proposed project conflicting with an applicable land use plan, policy, or regulation.³² This impact analysis concludes that no potentially significant impact would occur due to the implementation of the proposed project.

Physical Division of an Established Community

There would be no significant impact due to the physical division of an established community. Implementation of the proposed project would not physically divide an established community, because all of the dust control measures (DCMs) are outside of the communities within the vicinity of the project.

Conflict with Adopted Relevant Plans and Policies in the Proposed Project Area

Direct and Indirect Impacts

There would be no significant impact associated with the project due to conflicts with environmentally related plans and policies in the proposed project area. The proposed DCMs would be consistent with public trust values of the SLC's Public Trust Doctrine. The proposed project would maintain the current open space and assist in the natural resource preservation, while maintaining recreational opportunities. However, the construction of the DCMs does have the potential to lead to a land use conflict between operation of the DCMs and hunting activities.

The proposed project is consistent with the Land Use element of the Inyo County General Plan,³³ and in particular with Goal LU-5 and Policy LU-5.4 because conservation of the natural resources of the lake bed would occur. In addition, the proposed project is consistent with Inyo County Zoning Ordinance, OS-40, Open Space Zone because the proposed project would assist in the protection of desert areas and other mandated lands from erosion, pollution, and soil destruction.³⁴

The implementation of the DCMs under the proposed project is expected to be consistent with all other existing uses in the proposed project area. All activities related to DCMs, would primarily occur on SLC lands to be leased by the LADWP or areas already covered by agreements between the SLC and the LADWP. Gravel is an approved DCM and is evaluated as an alternative to the proposed project in Section 4.

The implementation of additional Managed Vegetation, Shallow Flooding, and Moat & Row to the Owens Lake bed may lead to an increase in biting insects and mosquitoes to the region. This potential increase in biting insects and mosquitoes may be considered a nuisance and land use conflict to residents in nearby communities, thus requiring mitigation and monitoring.

³² Great Basin Unified Air Pollution Control District. 27 February 2007. *2008 Owens Valley PM₁₀ Planning Area Demonstration of Attainment State Implementation Plan Initial Study*. State Clearinghouse Number 2007021127. Bishop, CA.

³³ Inyo County Planning Department. December 2001. *Inyo County General Plan, Land Use Element*. Independence, CA.

³⁴ Inyo County. 30 June 2003. "Zoning Ordinance," of Title 18, *Inyo County Code*.

SLC issues leases for uses within their jurisdiction, which includes the entire Owens Lake bed below the historic shoreline. The SLC will issue a lease to the LADWP for construction, implementation, and operation of the DCMs on the lake bed. The SLC currently has outstanding leases for mining and cattle grazing in areas proposed for DCMs. The SLC will revise the existing leases to provide LADWP with the exclusive use through a new lease for the proposed DCM areas.

The U.S. Borax Owens Lake Soda Ash Company (U.S. Borax) 16,600-acre area lease for trona mining is located toward the middle of the lake bed (Figure 3.6.1-1). The SLC, U.S. Borax, and LADWP will coordinate to renegotiate the existing U.S. Borax lease. The areas to be subjected to the proposed dust control areas will be removed from the U.S. Borax lease and granted to LADWP. This area does not contain valuable trona material and will not impact the mining operation.

A small portion of the proposed dust control areas are located on BLM land. The LADWP would need to secure approval from the BLM to implement DCMs on these parcels of land. Securing access approval from the BLM is not considered to be a significant land use impact. The cost for implementation, including all construction and operation of the mandatory DCMs, on the Owens Lake bed would be borne by the LADWP.

Conflict with any Applicable Habitat Conservation Plan or Natural Community Conservation Plan

The proposed project would not be expected to result in any impact related to any applicable Habitat Conservation Plan (HCP) or Natural Community Conservation Plan (NCCP). Implementation of the proposed project would not conflict with any applicable HCP or NCCP because no portion of the proposed project area is included in any applicable plan. The Draft EIR for the Lower Owens River Project discusses the potential to create an HCP for federal listed species with the potential to occur within the area of the Lower Owens River covered by the Draft EIR; however, the goals and objectives of the Draft EIR and any potential HCP that may result will not be in conflict with the proposed dust control project analyzed in this EIR. Therefore, there would be no expected impacts. No further analysis is warranted.

Cumulative Impacts

In consideration of the related past, present, or reasonably foreseeable, probable future projects as listed in Section 2.9-1, *Related Projects*, the incremental impact of the combined components of the proposed project would not lead to a significant impact to land use and planning. The potential impacts of the proposed project can be evaluated within the context of the cumulative impacts of all ongoing and proposed development.

The proposed project, in consideration with the 2003 SIP, would not create considerable cumulative impacts to land use and planning because the SIP contains similar goals and objectives to the proposed project with regards to controlling the dust emissions from the Owens Lake bed. The 2003 SIP would not physically divide an established community, conflict with applicable land use plans, policies or regulations, or conflict with any applicable HCP or NCCP.

The proposed project, in consideration with the Lower Owens River Project (LORP), would not create considerable cumulative impacts to land use and planning because the LORP is consistent with the applicable adopted planning documents, including the Inyo County General Plan. In addition, the restoration of the lower Owens River will not cause any cumulative impact when combined with the proposed project regarding the division of an established community plan or other applicable plans.

Both the control of dust emissions on Owens lake bed and the LORP will increase habitat function along the lake bed.

The proposed project, in consideration with the U.S. Borax, Owens Lake Expansion Project/Conditional Use Permit #02-13/Reclamation Plant #02-1, would not result in considerable cumulative impacts to land use and planning because the U.S. Borax project would occur on an existing lease area of the Owens Lake bed. Where there would be potentially significant cumulative impacts to land use and planning as a result of the implementation of the U.S. Borax project, the project proponent would be required to include appropriate mitigation measures to reduce cumulative impacts to land use and planning to below the level of significance.

In sum, the land use impact of the proposed project would not be considerable when viewed in connection with the related land use effects of the past projects, other current projects, and reasonably foreseeable future projects listed in Section 2 of this EIR.

3.6.5 Mitigation Measures

Implementation of the proposed project would not result in significant impacts to land use and planning. However, in order to continue to lessen and/or alleviate the potential impacts related to land use and planning, as found in the 2003 SIP, that would occur if the proposed project were implemented, the following measure(s) would be required.

Measure Land Use and Planning-1, Resident Insect Control Program

Due to increased areas of potential standing water, to minimize potential impacts to local residents from a potential increase in mosquitoes and other biting insects as a result of dust control measure construction from the proposed project, the City of Los Angeles shall institute a program for nearby resident whereby windows of affected residences will be screened or other insect control devices will be provided to residents to reduce nuisance insect populations in the vicinity of their residence. Residents shall provide proof of residence in identified, potentially affected areas prior to the issuance of screening or insect control devices. In addition, the City of Los Angeles Department of Water and Power shall continue to pay for Inyo County Vector Control treatments on the dust control measure areas as required.

3.6.6 Level of Significance after Mitigation

Incorporation of mitigation measure Land Use and Planning-1 would reduce the impacts related to land use and planning to below the level of significance.