

# Shoreline Highway Construction Still Looms Large

## Federal Law Requires Better Planning

by Lisa Cutting & Geoffrey McQuilkin

As this Newsletter was going to press the Committee received notification that the Draft Environmental Impact Report release date has been delayed until January 2003. The reasons are not yet clear, but the extra time clearly allows for addressing the concerns outlined below.

**A**s plans grind forward for highway widening along the shores of Mono Lake, the standard to which Caltrans must rise remains clear: any highway work must be consistent with the protection plans in place for Mono Lake and be in accordance with the State's clean water laws.

To date, the plans for the 2.9 mile-long project do not meet that standard.

Nonetheless, in September Caltrans requested and received a \$5.5 million

budget increase, indicating the agency's intent to proceed.

### **Precedents for Concern**

When Caltrans embarked on the now halfway-completed "Rush Creek" four-lane project in the south Mono Basin, the plans appeared reasonable. Expanding the number of lanes addressed a significant safety issue; with the death of David Gaines as a result of incomplete road widening in 1988 the Committee knows the importance of building safe roads in the Eastern Sierra.

Yet significant problems emerged when the project was put on the ground. Poor management and sloppy execution led to water quality violations on both Rush and Lee Vining creeks—severe enough for fines totaling \$20,500 to be imposed. The area of disturbance, planned for 80 acres in project documents, has spread to 120 acres with no additional review. Cut slopes, identified at a maximum height of six feet

in project documents, have stretched up to 80 feet. In one particularly egregious departure from the plans, the edge of an entire hillside at the intersection of highways 395 and 120—the gateway to Yosemite—was removed. Caltrans has reviewed and confirmed these and other "inconsistencies" in a letter sent to Mono County on December 5, 2000.

### **Numerous Problems With Shoreline Highway Construction**

Now Caltrans is planning road widening along 2.9 miles of Highway 395 along the west shoreline of Mono Lake. The current project alternatives contain design features that include impacts such as cut and fill slopes very close to the lake and retaining walls on both sides of the highway up to 30 feet high. Valuable near-shore wetland areas will be impacted, and movement of deer and other wildlife will be impaired. Highway realignment will increase traffic speed through this highly scenic area.

A detailed letter from the US Forest Service (USFS) describes the project's failure to comply with federal law, which requires study of all alternatives to impacting public recreational lands, and requests that environmentally sound alternatives be developed (see sidebar).



PHOTO BY GEOFFREY MCQUILKIN

Wetlands between the highway and Mono Lake such as these will be negatively impacted by the highway project as currently proposed.

Many from the community have called for a balanced project that addresses safety while maintaining the qualities of Mono Lake that people travel to experience.

A review of Caltrans' approach to this issue reveals a failure to develop a plan that is consistent with the protection requirements in place today at Mono Lake.

The Regional Water Quality Control Board has also commented, requesting that all alternatives that relocate the highway closer to the lake be abandoned for water quality reasons. Many from the community have called for a balanced project that addresses safety while maintaining the qualities of Mono Lake that people travel to experience.

### **Committee Concerns & Solutions**

The Mono Lake Committee has raised the following specific concerns about the project:

- **Compliance with 4(f) requirements.** (See sidebar)
- **Impacts to wetlands and riparian areas.** The west shore of Mono Lake includes many wetland and riparian areas that are highly productive for wildlife.
- **Impacts to wildlife.** High retaining walls and traffic speed increases will likely lead to more wildlife deaths.
- **Impacts to upland habitat.** The soil in the project area has proven very difficult to revegetate.
- **Impacts to visual resources.** Any new cut slopes, fill slopes, retaining walls, guardrails, or rock-fall netting will have a tremendous visual impact on the visitor experience.
- **Social/economic impacts.** Increasing the design speed from 55 to 60 miles per hour will detract from the unique, tranquil, rural experience that characterizes Mono Lake.
- **Potential public controversy.** Many members of the general public have expressed concern, and a large

number of Mono Lake Committee members—1,895 to be exact—submitted signed letters of concern.

These concerns can be met by a modified, balanced project that addresses key safety issues and key environmental concerns. The variable width shoulders that currently exist are an effective way of making the highway fit with the shoreline landscape. Certainly one solution is to continue the use of variable width shoulders within the project, particularly where the concerns above are strongest. Clearly identifying specific sites of safety concern will be important for solution-oriented discussion to move forward.

There have been extensive efforts to raise these concerns and solutions within the Caltrans planning process. Caltrans has held many meetings and said that problems would be resolved, but only one change—the inclusion of a vista point near Cemetery Road—has resulted, leaving the balance of the ecological and community concerns in limbo. After repeated meetings, including participating in a Project Development Team of agency representatives and interested parties for the last year, the Committee has now been told that these many concerns would be addressed only in the *Final* EIR, after public review and comment is complete. Recently Caltrans indicated that the Draft EIR alternatives remain unchanged.

### **Out of Line with Mono Lake Protections**

The State Reserve, Forest Service Scenic Area, and the State Water Board's Mono Lake decision in 1994 were all responsive to public concern about protecting Mono Lake and came about as the result of significant time and effort from the public and many agencies, including the Department of Fish and Game, State Parks, State Lands Commission, US EPA, US Forest Service, US Fish and Wildlife Service, and the State Water Board. Caltrans' unilateral actions undermine the multi-agency protection plans in place by planning damage to the very public trust resources the Water Board decision and management agencies are seeking to

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## Section 4(f) Basics

### **What is section 4(f)?**

Section 4(f) is the common reference to federal law governing the Department of Transportation. The section requires thorough environmental review if a highway project requires the use of publicly owned land that is a park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance. When a Caltrans highway project depends on federal dollars, section 4(f) imposes substantial duties on Caltrans in its planning.

### **How is section 4(f) engaged?**

The responsible land manager of the affected park, recreation area, wildlife or waterfowl refuge must assert its jurisdictional authority and alert Caltrans to the section 4(f) applicability to the project.

### **What happens once a project is determined to fall under the section 4(f) requirement?**

Ideally, the section 4(f) determination triggers an increased level of dialogue between Caltrans and the responsible agency(s) to do "all possible planning to minimize harm" to the resource. Alternatives should "include measures to maintain or enhance the natural beauty of the lands traversed." These alternatives should be detailed in the EIS/EIR.

### **How has the section 4(f) affected the Mono Lake Widening Project?**

In a letter dated August 3, 2001 the Inyo National Forest submitted a letter to Caltrans asserting the applicability of section 4(f) requirement to this project. Specifically, "additional alternatives need to be developed to the greatest extent possible that would minimize environmental and visual impacts of the highway-widening proposal while maintaining the natural integrity of the Scenic Area."

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protection possible, avoided the Federal listing of *Artemia monica*, Mono's endemic brine shrimp, as an endangered species.

The upshot of the designation is this: right now, local residents and adventurous visitors are free to recreate on the lake as they wish because activity on the lake is at such a low level that the regulatory authorities have not been engaged. But pushing the boundaries of use would trigger immediate, strict water quality regulations.

"The designation does not preclude boats," Del Piero reminded the group, "but it clearly places limits on certain types of boats."

Lake Tahoe is the only other Outstanding National Resource Water in California, and it has strong, detailed water quality protections that protect the lake from hydrocarbon pollution originating with motorized activity.

**Scenic Area Management Plan Seen As a Model**

The Forest Service's Scenic Area Management Plan was frequently referred to in the meeting as the type of comprehensive, clear plan that could help resolve concerns involving the State Reserve. Developing such documents requires time, commitment from stakeholders, and funding. In the case of the Reserve, all three may come together next year to get a discussion process off the ground. ❖

*Geoffrey McQuilkin is the Committee's Co-Executive Director. His new favorite thing is to have his daughter Caelen fall asleep on his chest.*

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protect. A review of Caltrans' approach to this issue reveals a failure to develop a plan that is consistent with the protection requirements in place today at

Mono Lake. This behavior would not be acceptable from any of the parties in the Mono Lake case; it is not acceptable from Caltrans.

The Committee remains committed to working on developing a project that improves safety to the extent possible while maintaining Mono Lake's stunning views and lakeshore habitat. Safety improvements can be made without creating the severe visual and environmental impacts currently in the plans.

**Public Comment Will Be Critical**

Public comment will be critical when a suitable Draft Environmental Impact Report is released—which is currently planned for January 2003. News of the DEIR release will be on the Mono Lake Website [www.monolake.org](http://www.monolake.org) or join the direct alert list by contacting Lisa Cutting ([lisa@monolake.org](mailto:lisa@monolake.org)) at (760) 647-6595. ❖

## North Basin Stream Stays Wet

As summers go these days, it was a good one for Mill Creek, Mono Lake's third largest tributary. Water flowed down the stream channel and reached the lake throughout the entire summer season. Mill Creek has run dry frequently in previous years, despite being the only year-round Mono Basin stream not diverted into the Los Angeles Aqueduct. The reason? Little attention has been paid to the creek while water has been diverted for hydropower, irrigation, fish rearing, and Wilson Creek flows. Ongoing discussions about the management of water in the North Mono Basin offer the potential for a well-planned, water-efficient solution to competing water demands that respects both Mill and Wilson creeks while providing for multiple uses associated with water rights.



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