

# DWP Weighs In On Mill Creek Settlement

*The Department Asserts Its Mill Creek Water Right—Mill Creek To Benefit*

by Lisa Cutting

In a December letter submitted to the Federal Energy Regulatory Commission (FERC), the Los Angeles Department of Water and Power (DWP) provided comment on the planned Lundy Hydroelectric Project Settlement Agreement. The letter expresses DWP's desire to protect its Mill Creek water right and keep its allocated water in Mill Creek to benefit both Mill Creek and Mono Lake. Although DWP has not been involved in the ongoing settlement negotiations and is not a signatory to the settlement agreement, it has expressed both support for the process and the resulting outcome.



*Mill Creek, December 2004.*

1900s, DWP had plans to extend its existing aqueduct system north to include Mill Creek water in the total amount exported from the Mono Basin to the City of Los Angeles. Due to high cost, plans were aborted, but its water right has remained intact. Through the years DWP has continued to use that water to irrigate their lands, supporting grazing practices and maintaining scenic, historic landscapes.

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## **DWP's Action Timely As Settlement Process Draws To A Close**

DWP's clarifications to FERC by way of this recent letter couldn't have come at a more opportune time. The current settlement only addresses FERC relicensing issues and is not the comprehensive settlement on which the parties had hoped to agree. The near-complete settlement includes a specified amount of water to be released from Lundy Reservoir, a rehabilitated return ditch, and an annual water management planning process, but the document does not address water rights and the lawful delivery of those rights.

DWP's letter clarifies for FERC and the settlement parties exactly what its intentions are related to its Mill Creek water rights. This is significant in that DWP has approximately one-half of the decreed rights on Mill Creek.

## **Parties to the Mill Creek Settlement**

Even though FERC had set a final settlement deadline of June 2004 (see Fall 2004 *Newsletter*) that deadline was extended because such significant progress had been made on the draft settlement. Presumed signatories to the negotiated settlement are the United States Forest Service, Southern California Edison, American Rivers, CalTrout, Bureau of Land Management, California Department of Fish and Game, and the Mono Lake Committee. Two parties from the original settlement process—Mono County and People For Mono Basin Preservation—opted to not participate in the final, limited settlement.

## **DWP's Water Right**

Under the 1914 Mill Creek water rights decree, DWP has rights to approximately 40 cubic feet per second of water. In the early

## **History of DWP's Involvement with the FERC Settlement**

When the settlement parties first convened to begin this most recent series of negotiations in February of 2001, DWP was at the table. It became clear almost immediately that the process would be long and arduous. DWP opted to significantly limit its involvement in the negotiation process. DWP did however continue to receive updates, and at times was asked to clarify certain operating assumptions that the parties were working through.

DWP made it clear from the start that if the parties were able to reach a negotiated settlement, it would support that decision provided the agreement did not compromise its water rights and interests in the Mono Basin. DWP's letter to FERC does just that—supports the negotiated settlement outcome while reinforcing its interests and protecting its Mill Creek water right.

## **Water: A Critical Component to Restoring Mill Creek**

As the Mill Creek settlement document continues to be refined, signed, and submitted to FERC for review and acceptance, the reality of Mill Creek returning to a healthy cottonwood-willow riparian habitat appears more and more certain. DWP's assertion that "it is the City of Los Angeles' desire that its Mill Creek rights be devoted to the environmentally beneficial use of inflow to Mono Lake to the greatest extent possible" and that DWP "believes that release of Southern California Edison's hydropower tailwater down Mill Creek, provides the greatest efficiency in achieving this goal" ensures that as the settlement agreement moves forward, Mill Creek will begin to see the flows necessary to begin the restoration process. ❖

*Lisa Cutting is the Committee's Eastern Sierra Policy Director. This winter she's spent more time in the gym helping out the Lee Vining Lady Tigers with basketball than on her skis.*