Special Issue 1994

# MONO



LAIR

NEWSLETTER









- Water Board Vice-chair Marc Del Piero

What next for the Committee?
— see page 11

## Mono Lake Newsletter

Special Celebration Issue, 1994

Volume 17, Number 2A

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### In This Issue



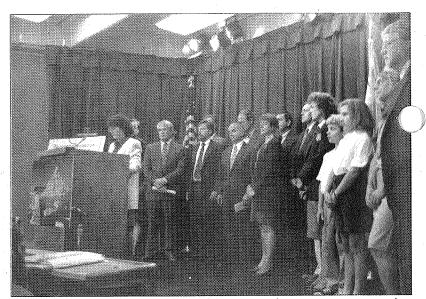
he State Water Resources Control Board is featured on the covthis celebration issue, photographed moments before the history vote to raise Mono Lake.

This special issue of the Newsletter covers that vote and the events surrounding it. Our turnaround time isn't the fastest, but the information contained here should provide the details long-time Mono Lake supporters are fond of—including notes on the future of the Committee on page 11.

What are the highlights of the Board's order? See the chart on page 6. What did the Board have to say about California gulls? See page 10 for the Board's opinions on major issues. How much reclaimed water will be available for Los Angeles, to offset water staying at Mono Lake? See page 7 for the information.

On pages 8 and 9 you'll find excerpts from interviews conducted by documentary filmmaker Stephen Fisher just after the Water Board vote. Enjoy reading them, and thanks to Steve for making them available.

Stepping back, it's hard to remember that the lake will take twenty or more years to rise, and restoration will be a slow process. But here in Lee Vining we already can see one new landscape: Mono Lake has become a part of what Wallace Stegner once called "the geography of hope."



A surprising group: Representatives of the Mono Lake Committee, National Audubon Society, California Trout, State Lands Commission, Department of Parks and Recreation, U. S. Forest Service, and U. S. Bureau of Reclamation are joined by DWP Commission President Dennis Tito and DWP General Manger William McCarley to announce a no-appeal agreement.

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The Mono Lake Committee is a non-profit citizens' group dedicated to saving Mono Lake from the excessive diversion of water from its tributary streams. We seek a solution that will meet the real water needs of Los Angeles and leave our children a living, healthy, and beautiful lake.

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# Restoring the future

by Martha Davis

t is hard to come down from the sky. On September 28, we took a "bite out of the moon," as Eldon Vestal so wonderfully described our Mono Lake victory. Since that day our spirits have soared, circling overhead with the redtailed hawks in the warm fall sun.

Our joy is irrepressible. It dances over the diversion dams and ripples down the sun-dappled creeks. It fills the winds of the sky as they tumble across the lake's surface, leaving a shimmering trail of shooting stars in their wake.

Mono Lake will be saved.

After sixteen years of arguing, defending, lobbying, and litigating, we have prevailed. The State Water Resources Control Board has promised Mono Lake a higher, healthier elevation of 6,392 feet as well as the restoration of its streams

many of its wetlands.

ow we must make it happen.

I recently walked down to the lakeshore to celebrate our victory and contemplate what the decision means for the Mono Lake Committee. My path was the County Park boardwalk on the north shore. Here, the State Reserve staff has placed signs marking the different water levels as the trail descends to the lake.

To tread these boards is to walk through time. The willows arching over the path mark the 6,417 foot lake level—the elevation in 1941 when L.A.'s diversions started. Here is where the people of the Eastern Sierra first protested L.A.'s plans. So much of our current success is built upon their refusal to accept the diversions. Even though these protests did not prevent L.A. from taking Mono's water, they did not go unheeded.

I pass 6,410- and then the 6,400-foot elevation, silently thanking Eldon Vestal, Wally McPherson, August Hess, and the many others for their rich legacy which letar became the basis for our successful before the State Board.

At 6,390, I reach out to touch the tufa towers that stand like sentinels presiding

over Mono Lake's future. I try to imagine the water rising, inundating the salt flats, and re-filling the lakebed. The sound of that water has haunted our dreams. Two decades from now, if we are successful in implementing the Board's order, these towers will be knee deep in brine.

A glance back at the willows reminds me that the Board's lake level is a compromise. It does not return Mono to a pristine condition. At the same time, it marks an honorable victory for all sides. The Committee has always sought a solution that would meet the joint needs of Mono Lake and Los Angeles. We held to our principles: real protection for Mono Lake, replacement water for Los Angeles, and the assurance that L.A.'s problem would not be transferred to any other region of the

state or country. Our work is a model for ecosystem management and responsible citizen action.

My stop at 6,380 is a long one. This is the era of the Mono Lake Committee. Six feet lower marks the elevation when David and Sally Gaines formed the Committee; a slightly

higher level is when David died. Our history floats beneath these boards: the court battles we fought, the preliminary injunctions we won, the legislation we passed, the community groups we united. I wish I could thank each one of you personally for all that you have done for Mono Lake.

Beyond, the lake is painfully low. The final flat of the boardwalk lodges in yards of exposed mud—one more reminder of the drought and the price Mono Lake has paid for decades of diversions.

Staring at the mud, it is hard to imagine how a small group of citizens, sup-

ported by scientists and lawyers, could hope to turn back the clock. I bless every one of them for their courage and commitment. Today's victory is an affirmation that we all can make a difference—if we care enough to follow our hearts.

Behind me, the tufa towers that mark the 6,390-foot elevation are just visible. It is a long walk back into the future now promised to Mono Lake. Restoring Mono's health will require more than just adding water. It will be the work of decades.

But, oh, what joy there will be in that work. We will plant trees and rewater stream channels. We will re-create wetlands for Mono's migrating birds and watch life return to this remarkable ecosystem. A day will come when we will even pull up the boardwalk where I stand because it will no longer be needed.

The birds and animals, trees and grass, rocks, water and wind are our allies. They waken our senses, rouse our passions, renew our spirits and fill us with vision, courage, and joy. . . . We are Mono Lake.

—David Gaines, Mono Lake Newsletter, Autumn, 1987

David Gaines once wrote that we should think of ourselves not as fighters but as healers. Our real work lies before us—healing these streams, this lake, this land.

As I walked back to my car, I stopped to touch the tufa towers one more time. Once, these towers were described as tombstones for a dying lake. Today, they are the benchmarks against which, over time, we will measure our united success in fulfilling the promise: saving Mono Lake.

Martha Davis is the Executive Director of the Mono Lake Committee.



# Water Board sets lake at 6,392; DWP promises no appeal

n a historic decision that caps fifteen years of litigation by the Mono Lake Committee, National Audubon Society, California Trout, and others, the State Water Resources Control Board voted unanimously on September 28 to modify the City of Los Angeles' rights to divert water from Mono Lake. After almost fifty years of unrestricted diversions, the City's Department of Water and Power (DWP) must now allow the lake to rise over seventeen feet and conduct restoration of damaged streams and wetlands.

The Water Board adopted a plan for managing the lake, on average, at 6,392 feet above sea level, slightly higher than the minimum level advocated by the Mono Lake Committee.

The Board estimates it will take twenty years for the lake to rise to that level. Diversions will then be limited to roughly one third of historical amounts.

## "Genuine change" at DWP

In an equally historic—and far less expected—move, DWP Commission President Dennis Tito promised that the water agency would not appeal the decision. Tito and DWP General Manager William McCarley joined the Mono Lake Committee (MLC) and other parties at a press conference to make the announcement. "The time has come to accept the state's judgment and move on, to



Mono Lake Committee Executive Director Martha Davis announced that a no-appeal agreement had been reached with DWP at a press conference in Sacramento just before the Water Board voted.

work constructively to establish reliable supplies to replace the water that is being dedicated to preserve the Mono Basin environment," said Tito. "We can now look ahead toward ... the restoration of the streams and environment in the Mono Basin."

Los Angeles Councilwoman Ruth Galanter, representing the City of Los Angeles at the press conference, termed DWP's new spirit of cooperation a sign "of genuine change in the Department."

The no-appeal assurance was worked out only days before the Water Board vote. MLC Executive Director Martha Davis met with Tito and McCarley in Los Angeles for a

discussion of their concerns and emerged with the promise of a new era of cooperation between DWP and the MLC.

The agreement marks a significant change in the Department's approach to Mono Lake. Bill Hasencamp, manager of Mono Basin studies for DWP, expressed some disappointment at the decision but looked to the future. "I think the time for arguing is through," he told the Mono County Review Herald. "The best way to move on is to work together with groups to find out what best for the Mono Basin and what's best for Los Angeles."

### Science backs order

The 216-page Water Board decision summarizes 43 days of evidentiary testimony by expert witnesses and is accompanied by a final Environmental Impact Report (EIR). The testimony and EIR served as the basis for the Water Board's findings.

The Board assessed evidence on issues such as air quality, riparian vegetation, California Gull habitat, fisheries, waterfowl, aquatic productivity, and visual resources. These findings are summarized on page 10 of this special issue of the *Mono Lake Newsletter*.

The decision also designates Mono
Lake as an Outstanding National
Resource Water. This designation,
created by the Clean Water Act,
recognizes the "exceptional ecologi-

provides strict assurance that the lake's "beneficial uses," such as aquatic productivity, are protected. The Water Board action follows the July endorsement of the designation by the Lahontan Regional Water Quality Control Board, chaired by Mono County Supervisor Tim Alpers.

### Public played key role

Prior to the evidentiary hearings, the Water Board received over 4,000 letters from members of the public and heard three days of public testimony. "While the evidentiary hearings dealt with scientific and legal issues, the public had a tremendous influence on the Water Board as well," comments MLC Eastern Sierra Representative Sally Miller. "A great diversity and number of individuals

essed their love for Mono Lake in their written comments and oral testimony. They touched the hearts of Board members."

### Replacement water funded

Just days before the Water Board released news of their proposed decision, Governor Pete Wilson signed into law AB 3096 (authored by Assemblyman Richard Katz, D—Sylmar), which appropriated \$9 million per year over four years for the construction of water reclamation facilities in Los Angeles. The bill appropriated the money authorized by AB 444 in 1989.

The federal government has also supported the creation of alternative, environmentally-sound water supplies for Los Angeles by allocating funding for the development of water amation facilities. Bureau of clamation Commissioner Daniel Beard addressed the Water Board before their vote. "I am here today to

reaffirm the Federal government's role," he said, "... at a minimum these projects will develop over 135,000 acre-feet of replacement water supplies for the Los Angeles region." Average historic diversions from the Mono Basin were below 100,000 acre-feet.

Beard observed that, during the debate over federal funding, all sides realized that environmental mistakes had been made in the construction of water supply systems. "Not surprisingly, some have been reluctant to confront these mistakes," he concluded. "We almost lost Mono Lake because of that reluctance."

### A bite of the moon

Eldon Vestal, a retired Fish and Game biologist who worked in the Mono Basin from 1939 to 1950, also addressed the Water Board before its vote. Vestal had testified during the Water Board hearings, producing dusty boxes of fifty-year-old field notes which provided valuable information about the pre-diversion conditions of Mono Basin streams.

After urging the Board to adopt the draft resolution before them, Vestal reflected on the destruction he saw beginning in his youth and the unlikely protection the lake was about to receive. "I've been waiting more than fifty years for this moment," he told the Water Board just before their vote. "The City of Los Angeles was a tremendous political power over the years and challenging them seemed like grabbing for a bite out of the moon."

# What do all those numbers mean?

A guide to lake levels and their significance

**6,417** - The level of Mono Lake when diversions began in 1941.

**6,392.6** - The level, on average, of Mono Lake under the Water Board order.

**6,391** - The Water Board's "trigger level" which divides different diversion scenarios; chosen to maintain the lake at 6,392.6 feet on average.

6,388 - After the lake has achieved a level of 6,391 feet, no diversions will be allowed below 6,388; chosen to assure that the lake is almost always above 6,390 feet.

**6,377** – The level below which no diversions are currently allowed.

**6,374.6** – The current level of Mono Lake.

# Highlights of the Water Board order

The Water Board set a lake level goal for Mono Lake of 6,392 feet above sea level, a rise which will take an estimated twenty years. The conditions below will become part of DWP's water license:

- Diversions are allowed as the lake rises according to the following schedule:
  - No diversions below 6,377 feet.
  - Diversions of 4,500 acre-feet allowed between 6,377 and 6,380 feet.
  - Diversions of 16,000 acre-feet allowed between 6,380 and 6,391 feet.
  - 6,391 is the "trigger" level which assures an average lake level of 6,392 feet.
- Once the lake reaches 6,391, the following restrictions are imposed on diversions:
  - No diversions if the lake drops below 6,388 feet.
  - Diversion of 10,000 acre-feet allowed when the lake is between 6,388 and 6,391 feet.
  - At lake levels above 6,391, all water in excess of required stream flows is available for diversion.
  - A Grant Reservoir operations plan will be developed which considers recreational uses and the timing of flow releases to Mono Lake and Los Angeles.
- If the lake fails to achieve 6,392 by the year 2014, the Water Board will re-examine the situation.

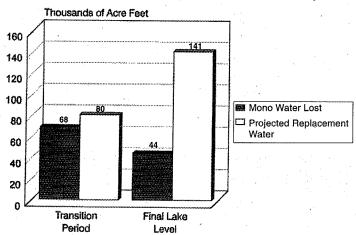
- •Minimum flows are required for all four diverted creeks to protect fish and their habitat.
  - Flows are based on a wet/normal/dry year plan and include flushing flows for channel maintenance and ramping rates to control flow increases.
  - DWP must keep detailed records of flows above and below its dams.
- DWP "shall prepare and submit" a plan for the restoration of stream and wetland habitats affected by diversions.
  - Work already ordered under the courtdirected restoration program will be implemented.
  - Participating parties, including the MLC, are expected to review and comment on DWP's plans.
  - A draft "scope of work" is due on February 1, 1995; final plans are due from DWP by November 30, 1995.
  - Livestock grazing in DWP-owned stream corridors is prohibited for at least ten years to allow recovery of vegetation.
- An upper limit is placed on aqueduct discharge into the Upper Owens river, preventing further damage to that area. Flow releases must mimic the natural flow pattern.
- The Water Board retains continuing authority to review and modify the order.

# Replacement supplies exceed "lost" Mono Lake water

Raising Mono Lake to 6,392 feet means DWP will be able to divert less water to Los Angeles. But reclaimed water projects and conservation will create a drought-proof supply of water for Los Angeles which more than replaces the water "lost" at Mono Lake.

As a result, Mono Lake can be protected without creating new pressures on the San Francisco Bay Delta or other California water resources. Funding from the State of California (through AB 444) and the federal government (through HR 429) will assist Los Angeles in developing the water supplies listed below.

State and Federal Reclamation and Conservation Projects



Replacement water project

Amount created

West Basin reclamation facility

100,000 acre-feet

East Valley reclamation facility

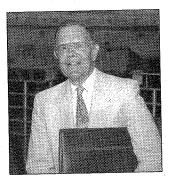
35,000 acre-feet

Conservation, other reclamation sources 6,25

6,250 acre-feet

Total

141,250 acre-feet



Eldon Vestal. Retired Fish and Game biologist who worked in the Mono Basin when diversions began and testified on pre-diversion conditions.

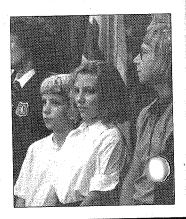
This is a memorable event. It's hard to believe that notes and records and photographs and so on would be of some value more than half a century hence. It's extremely gratifying to have worked with a wonderful team toward giving something back to the State of California

Question: You've watched this issue a long time, haven't you? Yes I have. Hardly could I realize that we would all be here today celebrating this momentous event.

Sally Gaines, with children Sage and Vireo. Co-founded the Mono Lake Committee with David Gaines.

I'm certainly glad DWP has decided to come around and see the wisdom of what we've been telling them all these years. ... This is maybe the best we could have ever hoped for-and now we've achieved it.

Question: What do you think David would be thinking right now? I thought of that today. Although he's long gone for about seven years, I feel his presence has been with all of us fighting for Mono Lake . . . his spirit today is filling the room and is very content and satisfied with what is going on today —very pleased, very proud also. ... We never really discussed [a victory like this]. We just kept going day by day, looking a little ways ahead rather than at what could be down the line fifteen years. But it was certainly our dream.



# The chronology of saving Mono Lake

1941-DWP begins Mono Basin diversions; local residents protest to no avail. Lake level: 6,417 feet

1978-Mono Lake Committee founded

1979-Public Trust lawsuit filed

1981-Tufa State Reserve created

1983-Supreme Court rules Public Trust must be protected at Mono Lake

1984-Congress creates the Mono Basin National Forest Scenic order

Area

1986-First water returned to Lee Vining Creek by temporary court

1989-AB 444 creates \$60 million fund for L.A. to replace Mono Lake water

1979-Landbridge exposed; gulls abandon Negit Island

1981-Mono Lake hits historic low of 6,372 feet

1984-First water returned to Rush Creek by temporary court order

1988-MLC co-founder David Gaines killed in car accident

1989-Preliminary injunction from court prohibits diversions when lake bela feet

1960s-Uncontrolled wet-year water releases cause permanent incision damage on Mono Lake's desiccated tributaries







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**Peter Vorster,** with son Theo. Hydrologist working with the Mono Lake Committee since 1978.

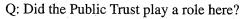
I was thinking about David Gaines when I heard the [Water Board's] closing remarks and saw how people stood up and clapped to what is normally a solemn judiciary proceeding. The decision was made and the passion erupted. Here's an example where, although the science was very key, the passion that people have about the lake, the inspiration they got from the lake carried the day. David always said, let the lake speak for itself. Let the passion the landscape generates for you speak for itself. And we saw it here today, and it's why we're here today with the decison that we got. David would say, "I told you so."

Question: Will Mono Lake ever be the same again?

Of course not. Mono Lake will never be the same in a strictly number-of-feet measure or in terms of the precise processes that were at work and the landscapes that were there, but then, that's O.K. because Mono Lake is a dynamic landscape. It's always changing. The lake levels are always fluctuating due to climate, the volcanos are popping off, the glaciers moving down and back. ... But we've prevented man from making an imprint that doesn't benefit the ecosystem. So Mono Lake will never be the same, but it never was the same as it was before.

**Patrick Flinn.** Attorney with Morrison & Foerster, representing the Mono Lake Committee and National Audubon Society.

What will change as a result of this decision is how the state of California and other states in the West make decisions about water law. This is indeed a model. It is a beacon to the other agencies and other cases that are waiting in the pipeline to decide so many important questions because this case works as a solution. It shows we can make reasonable decisions that we can all get together and agree on.



The public trust played an absolutely critical role. What the Public Trust did in this case was allow us to correct a mistake. One of the hardest things any human being can do, and I think one of the hardest things any human-created institution can do, is admit a mistake. The Public Trust doctrine allows us to second-guess ourselves, and we could all do that a little bit.



1989—Water Board granted four years to complete EIR and conduct hearings on Mono Lake

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1990—Third District Court of Appeals declares DWP's water licenses invalid; orders restoration of fisheries

1992—Federal Government specifies funds through HR 429 for water reclamation in Los Angeles 1993—DWP, MLC reach AB 444 funding agreement

1993—EPA declares Mono Basin in violation of the Clean Air Act Sept 28, 1994— Water Board adopts decision on Mono Lake

1994—State appropriates AB 444 funding; Lake level: 6374.6 feet



### What the Water Board decision means:

## The future of Mono Lake

### The Public Trust

The Water Board concluded that "the higher [lake] level will protect nesting habitat for California gulls and other birds using the islands in Mono Lake, maintain the long-term productivity of the Mono Lake brine shrimp and brine fly populations, enhance the scenic quality of the Mono Basin, meet applicable water quality standards and reduce blowing dust from presently exposed lakebed areas in order to protect health and comply with federal air quality standards."

### **Fisheries**

The Water Board ordered adoption of most of the Department of Fish and Game's streamflow recommendations (supported by the MLC and other parties in the proceedings). The notable exception was Rush Creek, where they adopted lower streamflows. Additionally, "the order ... requires Los Angeles to prepare restoration plans to restore the four streams from which it diverts water."

## Aquatic productivity and migratory birds

The Water Board concluded that maintaining the lake at 6,390 feet or higher will improve the productivity of Mono Lake's brine shrimp, alkali fly, and algal populations. The decision recognizes the critical importance of Mono Lake to migratory birds. Improved productivity of the lake should benefit both resident and migratory bird populations.

### Waterfowl

The Water Board concluded that a rise in lake level to 6,392 feet "would allow for restoration of some of the lost waterfowl habitat." Based on testimony presented in the evidentiary hearings, the Water

Board concluded that areas with the greatest potential for restoration of wetland and waterfowl habitat are Warm Springs, Simon Springs, and the stream corridors and floodplains of Rush and Lee Vining creeks. The Water Board ordered that plans for the restoration of wetland habitat around Mono Lake be prepared by DWP.

### Vegetation

The Water Board concluded that measures taken to help restore fisheries, including the reopening of abandoned historical channels, will also benefit riparian vegetation. The Water Board further concluded that while existing wetlands around Mono Lake will be inundated as the lake rises, they hold little wildlife habitat value and will be replaced by "high value wetland habitat expected to occur at various locations ... above 6,390 feet."

### Visual resources

The Water Board concluded that "a lake level of approximately 6,390 feet would have a number of visually beneficial effects including the following: 1) it would give the visual appearance of a full lake, 2) it would submerge the landbridge to Negit Island and restore Negit Island to its former condition as a true island, 3) it would increase the proportion of water-based tufa, 4) it would greatly reduce the area of dry, sparsely vegetated playa surrounding Mono Lake and 5) it would reduce the severity of dust storms which reduce visibility and interfere with wide open scenic views."

### Gulls

The Water Board concluded that 6,384 feet is the minimum lake level necessary to protect the nesting gull colony at

Mono Lake and that 6,390 will provide additional protection from coyotes while creating an additional buffer against long-term drought.

## Air quality

The Water Board concluded that a rise in lake level to 6,392 feet will comply with federal air quality standards (under the Clean Air Act) and will improve the scenic qualities of the Mono Basin by reducing dust storms.

### Tufa

The Water Board concluded that "maintaining a level of approximately 6,390 feet would retain the accessibility of the South Tufa area to visitors and would increase the proportion of visually appealing water-based tufa." Under all alternatives put forth by the parties, including DWP's plan, currently standing sand tufa will be lost as the lake rises. The decision concludes, however, that the existing sand tufa is subject to erosion and weathering anyway, and that some new sand tufa will be exposed as the lake rises and erodes cliff faces.

### Recreation

The Water Board concludes that a lake level of 6,390 feet or higher "would improve boating access and reduce salinity which would make swimming more enjoyable."

### Feasibility

The Water Board found that it is feasible to protect Mono Lake at an elevation of 6,392 feet: "The evidence shows that there are other sources of water reasonably available to Los Angeles and that the amendments to Los Angeles' licenses are feasible." See page 7 for a chart of replacement water supplies.

### at the Water Board decision means:

# The future of the Mono Lake Committee

"What will the Mono Lake Committee do now?"
"Can I take off my bumpersticker yet?"

hese are the questions we've been hearing frequently since the Water Board issued the order to raise Mono Lake. They follow naturally from that decision, and we'll try to answer them.

The Water Board decision is a landmark victory for Mono Lake. Our efforts in the past few years have centered around the Board because it he authority to reduce diversions from the Basin. And it has done that.

But the Board realized it couldn't heal fifty years of destruction with a vote. Because water alone is not enough to heal the lake, the Board ordered substantial restoration programs to go forward.

So on paper, Mono Lake now looks better than it has for years. But the rising lake and restoration work won't take care of themselves. Healing the damage done by years of water diversions will be complicated, largely because the Water Board left important details to the future.

For example, the Water Board did not specify the scope or details of a stream and wetland restoration plan, although they ordered DWP to produce one. It did not specify how water above and beyond the "fish flows" will be delivered to the lake.

it ordered DWP to draft the specifics of a still-nebulous Grant Reservoir Operations Plan.

Restoring the lake, streams, and wetlands to even a semblance of their former health will take a great amount of work. The Mono Lake Committee is committed to seeing that work accomplished.

work on court-ordered restoration to photo archives, from partnerships with the interested parties to intimate knowledge of our favorite place, Mono Lake. And the Committee's presence is crucial for maintaining

Leading and assuring the transformation of paper into water, words into wetlands, and ecological health back into the landscape is the work ahead.

The Water Board wants interested parties to provide input on the restoration and operations plans. The Mono Lake Committee will be there throughout the process to represent the lake, streams, and wetlands as these plans are constructed. As the plans become clear, and work goes forward, we'll report on them here in the *Mono Lake Newsletter*.

The Mono Lake Committee brings valuable experience and resources to the process, ranging from years of

the momentum public agencies have achieved toward protecting and restoring Mono Lake.

Our most important resource, of course, is our membership: 17,000 people committed to the health of Mono Lake. Working together, we can restore this uniquely beautiful and symbolic desert lake—and its ecosystem. We invite you to polish up your "Long Live Mono Lake" bumpersticker and stay with us for the important, exciting times ahead.



September 28, 1994: The State Water Resources Control Board voted to raise Mono Lake to 6,392 feet above sea level. The audience responded by giving the Water Board their first-ever standing ovation.



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