



Dust storm at Owens Lake

AIR POLLUTION

A Lakebed Reawakens

Dust-control settlement ends a costly conflict.

The strangest thing a visitor used to see when traveling up U.S. 395 through the Owens Valley was a ferry wharf stretching across the crackled high desert. At the peak of the valley's silver boom in the 1870s, a steamer daily carried as much as 70 tons of silver bullion from the Inyo Mountains eight miles across Owens Lake. But the lake vanished almost 90 years ago. An ensuing battle between the Los Angeles Department of Water and Power, on one hand, and regulators, the remote valley's residents, and environmental groups, on the other, ended this winter with a historic settlement.

Most of the valley's small towns were

abandoned by the 1930s. But the homes and gardens and fruit groves in Manzanar and east of Owens Lake might have survived if the lake had. Its transformation started in 1908, when Los Angeles began building the aqueduct that since 1913 has diverted most of the Owens River's flow to serve homes and businesses 223 miles south. Even conservationist President Theodore Roosevelt supported the effort. In all, the city eventually bought 315,551 acres of watershed real estate in Inyo and Mono counties. In 1921, as fictionalized in the movie *Chinatown*, the city also began pumping groundwater from the Owens

continued on next page

GOOD WORKS

Help for SF Tenants Facing Eviction

THE VOLUNTEERS

Attorneys can work pro bono with the Justice and Diversity Center (JDC) at the Bar Association of San Francisco to provide limited-scope representation to tenants in eviction disputes. (The center also welcomes other volunteers fluent in Spanish, Cantonese, or Mandarin.) Training and on-site supervision are provided.

THE OPPORTUNITY

Evictions are at their highest level in more than a decade in San Francisco, even though landlords there who are subject to rent control must identify a just cause for any eviction. About 95 percent of landlords are reportedly represented by counsel, but more than 90 percent of tenants defend themselves. Attorneys with the center's Housing Negotiation Project represent tenants during court-mandated settlement conferences. They also help tenants understand their rights and bargaining power.

THE IMPACT

In many cases, JDC volunteers have helped tenants reach agreements that let them stay in their units. In other cases, they've helped tenants avoid homelessness by reaching settlements to vacate with reasonable time lines. From January 2014 through November, 680 clients each received three and a half hours of legal assistance, on average.

HOW TO HELP

Lawyers and other general volunteers should contact program managers Gloria Chun at gchun@sfbar.org or www.sfbar.org/jdc, or Mairi S. McKeever at 415/782-8980 or mmckeever@sfbar.org.

—KEVIN WOO

BRIAN RUSSELL

“California wouldn’t be what it is today but for the diversion of the Owens River to the city of L.A.”

—PETER HSIAO, PARTNER, MORRISON & FOERSTER

A Lakebed Reawakens, from previous page

Valley. Locals resorted in 1924 to bombing the aqueduct to stop the diversions, but by 1927 the lake had dried up, and its salty bed became the nation's single largest source of particulate air pollution—known in the vernacular as dust.

The lakebed can generate ten to a hundred times more particulates than similar expanses that are naturally dry, because salt water leeches up during cool months from a large underground brine pool, making the surface soil more susceptible to drying out and being carried off by the valley's forceful winds, according to the U.S. Geological Survey. Particulates in the concentrations found at Owens Valley cause or contribute to health problems from asthma to cancer.

Dust storms in the Owens Valley have been comparable to the worst of the 1930s Dustbowl or modern Arizona, says Duane Ono, the acting air pollution control officer of the Great Basin Unified Air Pollution Control District. The development the aqueduct enabled was just as epic: “California wouldn’t be what it is today but for the diversion of the Owens River to the city of L.A.,” says Morrison & Foerster partner Peter Hsiao, who has represented Ono's agency for 16 years. “Addressing impacts of that diversion is what this case is about.”

The Owens River watershed still supplies 34 percent of LADWP water, on average. “This settlement is a victory for L.A.'s ratepayers and for Owens Valley residents,” City Attorney Mike Feuer said in a statement. “By collaborating rather than fighting, we will reduce water usage, contain costs, and improve air quality near Owens Lake.”

The settlement resolves three decades of rulings and appeals under California Health and Safety Code section 42316,

which was enacted in 1983 to resolve disputes between LADWP and the air district. (See *City of Los Angeles v. Calif. Air Res. Bd.*, No. 34-2013-80001451 (Sacramento Super. Ct. stipulated judgment filed Dec. 30, 2014).) The statute specifically lets the agency require L.A. to control Owens Valley dust—and lets the city appeal any measures or fees it finds aren't “reasonable.”

Hsiao applauds the pact for requiring L.A. to finish and permanently maintain dust controls on nearly 49 square miles of lakebed and for letting the air district order controls on another 4.8 square

miles if needed. Stipulated control measures include gravel, specially designed planting, and more of the watering the district has done in recent years. Hsiao is especially glad it's enforceable in court: “There is zero likelihood of appeal.”

Marty Adams, LADWP's water system manager, hails the pact for letting his agency know what to expect and limiting its responsibility: No amount of dust mitigation had ever seemed to be enough, he says. Adams estimates finishing the dust control project will cost LADWP \$100 million to \$150 million, and maintaining it will run another \$75 million a year to start. In contrast, the litigation cost “in the low millions.” But stay tuned for more controversy: LADWP power system official Mike Webster says the agency has only delayed its plan for a solar farm across from Manzanar. —LAURA IMPELLIZZERI

REEL LAW | Legal Moments at the Movie House



“The imputation was totally without basis in fact, and was in no way a fair comment, and was motivated purely by malice, and I deeply regret any distress that my comments may have caused you or your family.”

—Barrister Archie Leach (John Cleese) apologizes under duress to Otto (Kevin Kline) in *A Fish Called Wanda* (1988).

MPTV IMAGES