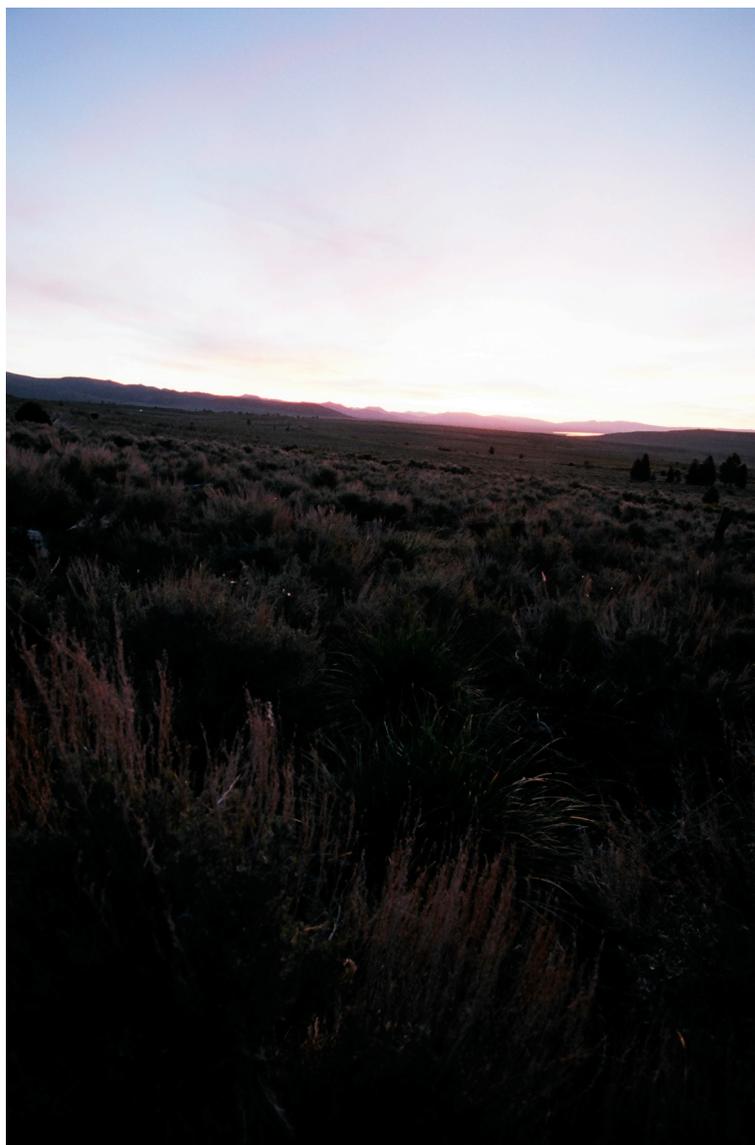


THE LOST CREEK OF MONO



A Homegrown Struggle for Eastern Sierra Water

A SENIOR THESIS BY SARAH CARVILL • THE UNIVERSITY OF CALIFORNIA, SANTA CRUZ

THE LOST CREEK OF MONO

A Homegrown Struggle for Eastern Sierra Water

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SARAH CARVILL

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A FEW OF THE CHARACTERS

BURT ALMOND began working on the Lundy facilities in 1965. As a hydrographer for Southern California Edison, he monitored flows on North Basin streams, including Mill Creek, until his retirement in 1996. He later joined the Forest Service as an Engineering Technician.

KATIE BELLOMO founded People for Mono Basin Preservation in 1996. A trained attorney, Bellomo spent her summers on Mono Lake as a child and now lives there full time.

JOE BELLOMO, Katie's husband, works for Edison and testified before the State Water Resources Control Board in the 1997 restoration hearings. According to Nelson Mathews, his expertise proved especially helpful in the Conway Ranch Evaluation Workgroups (CREW).

JIM CANADAY is an environmental scientist with the Board and served as its lead staff member on the Mono Lake decision. Canaday loves the Eastern Sierra and has remained involved with the Mono Basin. He proposed CREW as a way to break the logjam over North Basin water use that emerged in the winter of 1996-1997.

LISA CUTTING came to work for the Mono Lake Committee as an intern in 1999 and has served as its Eastern Sierra Policy Director since 2002.

HEIDI HOPKINS preceded Cutting in the Policy Director position. She was hired by the Committee in 1996 and immediately went to work on what she now refers to as "the Mill Creek issue."

DAN LYSTER is the Director of Economic Development for Mono County and a longtime resident of the Eastern Sierra. He participated in CREW and also sought funding to purchase the

property. Lyster's roles are many, but at bottom, according to Canaday, "Dan's trying to herd the cats."

NELSON MATHEWS handled the Conway Ranch acquisition for the Trust for Public Land. His primary worry was that the ensuing controversy would jeopardize TPL's ability to protect the property from development. Now, he says, "[The local people] have control of the resource, so they can make the decisions."

ROGER PORTER is a Planner for Inyo National Forest and a former manager of the Mono Basin Scenic Area.

CRAIG ROECKER joined the Committee's Lee Vining staff in 2000 as Community Outreach Coordinator and later worked as a Policy Coordinator. He now lives and works in Marin County.

SCOTT STINE is a geomorphologist and professor of geography and environmental studies at the California State University East Bay, a longtime Monophile, and an outspoken, energetic advocate of restoring deltaic bottomlands on Mill Creek.

NANCY UPHAM came to the Eastern Sierra in 1985 as the first manager of the Mono Basin Scenic Area. She has worked for the Forest Service since 1974 and is currently a Public Affairs Officer for Inyo National Forest. "Since we have been the colonies of the City of Los Angeles," she says, "there's no water up here that is not controversial."

PETER VORSTER, a consulting hydrologist who has worked for the Committee on and off since the early days, played a peripheral, but not unimportant, role in the Mill Creek controversy.

PROLOGUE

JUNE AND AUGUST

In June of 2006, I traveled to the Eastern Sierra with a college field course. I had been to this high, dry flank of California before: my father is an avid fly fisherman, and the “East Side” is known for its trout streams. Growing up, I spent long afternoons on riverbanks hunting for caddis fly larvae, and many an empty evening straining my eyes against the mountain dark for the circles of rising browns. This time, I had come as part of a group of students— birders- and botanists-in-training— and we stopped to make notes about every green or moving thing we passed. Walking at “Natural History pace,” it took us the better part of the day to climb the three miles from the bottom of Lundy Canyon, where it was spring, into a cirque that cupped an ice-bound Oneida Lake in winter’s hands.

There was water everywhere, and where there wasn’t water there was snow that squeaked and crunched in the particular way of snow about to become water. In many places, the ground was still entirely white. On the way down, I took these stretches of trail at a run, hitting rubbery drifts with the heels of my sneakers at the end of flying leaps and sliding ten or twenty feet before a patch of wet gravel would stop me. Between the skids, in the small meadows, the path was a cold clear stream weaving between the burgundy spears of low, leaf-bare willows— water-lovers. By the time Lundy Lake came into view— a splinter of sky blue in the bottom of the canyon, plugged on its eastern edge by a low concrete dam— the snow was gone from the trail, but water still ran over the rocky bed of the old mining road, and aspens stood knee-deep in the cold lake.

August was different— warmer for one thing, and when I drove over Conway Pass into the Mono Basin, headed south and slowly west from Missoula, Montana, to home in San Francisco, I was traveling alone. I stopped at County Park to swing on the swings, and the blue sweep of Mono Lake was visible at the top of every arc and squeal of the chain. A great day for a swim. Continuing down the road, I pulled over at the graveyard, a little square carved out of the sagebrush by chain link and a few waving poplars— columns to

hold up a ceiling of sky. As close to eternity as you could ever come on earth, and an appropriate place for alabaster.

I jumped the fence and skidded down the dust of the slope. It didn't look far to the lake, but a half a mile can also begin to feel like forever in 85° of dry heat, with rough, Great Basin scrub clawing at one's shins. Increasingly nervous, I tossed glances over my shoulder at the bluff with the poplars, and it occurred to me that one has indeed reached a low point if her reassurance is coming from a graveyard. Then the scrub stopped. I had stumbled into what looked like a dry wash— a wide, bleached sea of cobbles punctuated by clumps of parched willows. I could follow this to the lakeshore, I reasoned, but every step I took seemed to scream in the silence of the still, sweltering afternoon; the rocks ground together like aged porcelain and pumice, and when the noise spooked a buck from the trees, I also jumped. I did not know it then, but I had found my way to the end of Mill Creek— the stream that was fed by the unrelenting rushing and cold over Lundy Canyon in June.

I tell this story for two reasons, the first of which has to do with the water in Mill Creek. Why is there so much at the top, and nearly none at the bottom? As a general rule, Spring in California is wet and Fall is dry, but the situation on Mill Creek, I would later learn, is attributable to more than the changing of seasons: the dam on Lundy Lake is part of a hydroelectric project that has for the past hundred years been taking most of the water out of that stream and releasing it into a different one. On the most fundamental level, this arrangement is the result of a choice. At some point in time, someone— or, more accurately, a group of someones— weighed the pros and cons of making electricity this way and decided that it was worth doing. In 1986, the dam's original license expired, and a new group of someones was given the opportunity to make a different decision. It is now 2007, and the terms of the new license are still under review. The choice, strictly speaking, has not been made. This is my attempt to explain why.

The pronoun in that last sentence is important. It is the other reason I have written about the time I climbed the old mine road to Oneida Lake, and the day I stumbled

through the brush into the Mill Creek delta. My father is a lawyer who went fly-fishing on the weekends; growing up in the city, most of the alpine sunsets I saw were pictures in his copies of *Sierra* magazine. Now, I am an undergraduate in an Environmental Studies department, at a university that sits under the redwoods, overlooking the sea. I have been coming to the Mono Basin from these places, and with a particular set of values— one which, I imagine, has brought many other people to floating in the lake with their sneakers and shorts and organic cotton shirts in neat piles by the lapping water's edge. That's how my sage-y hike out of the cemetery ended, but I did not swim for long. The walk had left me too unsettled— too aware that I was alone.

It has been difficult for me to reconcile my profound love of the outdoors with the embarrassing skittishness I often feel there, but this discomfort forced me to entertain the notion that there might not be one correct way to enjoy nature. I have slowly come to an appreciation for the idea that there are as many ways to love the land as there are people who claim they do. This may seem like a throw-away point, a given, or a platitude, but basic as it might be, it is something many of us take for granted.

The people who love the Mono Basin have not always agreed about what to do with their water. Sometimes, they have disagreed loudly— loudly enough, even, to wake the neighbors: in 1987, the *Reno Gazette-Journal* ran a feature depicting a deeply divided community on the shore of the lake. The little town of Lee Vining was the scene of “a political, philosophical, and cultural clash between two groups whose opinions of each other border on the self-righteous.” The piece goes on to quote an unnamed resident who describes long-time locals as “a bunch of rednecks”; another anonymous source panned new arrivals with comparable fervor: “They're a bunch of hippies, they never take baths, and it upsets people.”¹

“The town really reacted to that,” recalls Nancy Upham, then the manager of the Mono Basin Scenic Area. “It was like, ‘What do you mean talking about us in that light? We're really not like that.’”²

Extreme characterizations are common in media coverage of environmental conflicts, and disagreements over Mill Creek might easily be reduced to bipolar terms: the

Mono Lake Committee, immortalized as the David in the epic struggle to save its namesake from Los Angeles' goliath thirst, would play the role of the granola-munching environmentalists; in 1996, a handful of Lee Vining residents formed another citizens' group, People for Mono Basin Preservation, in order to organize the local opposition to restoration efforts the Committee supported.³ However the response to the *Gazette-Journal* article suggests that the story may not be as simple as locals-versus-greens. My purpose in telling it is not to try to elucidate who is right and who is wrong. I would like to move away from right and wrong, into a more interesting territory: one in which people who disagree passionately about a lot of things might agree on the idea that they don't disagree that much, actually, at all. To get there, though, it is necessary to spend some time in another interesting territory, situated between other extremes— the territory between Lundy Canyon and the dry edge of Mono Lake.

PART I

THE WATERSCAPE

A STREAM IN THREE PARTS

Geomorphologist Scott Stine divides Mill Creek's approximately thirteen mile reach into three geologically distinct segments: the 9.25 mile "bedrock reach," stretching from the stream's headwaters in the Sierra to the opening of Lundy Canyon, 3.25 miles below the present site of Lundy Dam; a 3.45 mile "Pleistocene Delta Reach," demarking the area where the stream emptied into Lake Russell, Mono's ancient, much-larger predecessor; and the "Holocene Delta Reach," a 2.45 mile stretch where Mill Creek fans out and finally meets its modern end.⁴ Stine's divisions are based on analysis of the sediments underlying each part of the stream, but they would be roughly guessable to anyone who has walked Mill Creek with open eyes. In its headwaters and the canyon— a rusty fissure in the side of the Sierra's Eastern wall— Mill is a mountain creek, alternately rushing cold and hard under white firs and aspens and pooling, still and almost green, over pale mica-flecked granite sand and drifts of downed pine needles. These ponds are the work of beavers. Just downstream from them is Lundy Lake, a natural body enlarged by another animal— larger than the beaver, and at least equally notorious for building dams.

When Lundy Canyon opens into the Mono Basin, the contours soften, but the ground bristles with antelope brush, rabbitbrush, and buckwheats, signs of a harshly arid climate. Following a seam in the scrub, Mill Creek cuts briskly through subtle undulations of moraine and meadow— a single, steep-banked channel under its own continuous tunnel of tree. In this Pleistocene Delta Reach, the creek reveals itself as a thin ribbon of aspen and cottonwood. Shooting through a culvert under U.S. 395, it hugs the south side of a bluff, on top of which sits Mono City, a subdivision of about a hundred homes. When the houses stop, Mill Creek changes again.

Most people think of a "delta" as the birds-foot shapes at the bottom of Louisiana and on top of Egypt, but these protruding, vaguely triangular fans of channels are only half of what a geomorphologist might mean to suggest by the use of the word. The bayous where the Mississippi extends into the Gulf of Mexico are its "exterior" delta; the "interior" delta reaches upriver to Illinois, and includes all the braided meanders and disappearing islands familiar to readers of Mark Twain's adventure novels.⁵ Mill Creek's interior delta begins

below the last lot on Peeler Lake Drive, where the single channel fans out into multiple branches. Before European settlers carved homesteads out of the lakeshore in the 19th century, these “deltaic bottomlands” were marked by fifty-foot cottonwoods and a riot of birds.⁶ Unlike the forests of the Pleistocene Delta Reach, which follow a single stream channel in a narrow band, the trees in the interior delta spread out over a wide floodplain.⁷

When a river is characterized by multiple, braiding arms— called “distributary channels”— and floods its bank during periods of high flow, more moisture percolates into the soil and the water table rises.⁸ This process is particularly important in arid regions with highly seasonal precipitation, where groundwater may be the only continuously available source of moisture for water-loving tree species.⁹ The forests of willow, aspen, poplar, and particularly cottonwoods that choke streams along the Eastern slope of the Sierra provide a multi-story canopy that shelters a rich diversity of bird species.¹⁰ They also shade pools from the glare of the sun— a necessity for trout that require cold water.¹¹ In short, the geomorphology of an interior delta grabs and holds water— enough water to support what looks rather like a forest in the midst of what looks rather like a desert.

If its entire flow were released from the dam into the natural channel, Mill Creek would deliver about 22,000 acre-feet of water to Mono Lake each year. It is the largest stream in the North Basin; only Rush and Lee Vining Creeks to the south supply the lake with more water.¹²

Instead, most of what comes out of Lundy Lake travels through a penstock to turn the turbines of the Lundy Powerhouse. From there, it is released into Wilson Creek, which follows roughly the same arc Mill makes on its run to Mono, about a mile further north and east. This second stream is, strictly speaking, a naturalized irrigation ditch, part of a network of man-made rills overlaying the North Basin’s historic ranchlands like lace. Tangled for a purpose, the method a bit beyond memory, these ditches carry the discharge from Lundy Dam and the powerhouse to properties bearing the names of Mono’s earliest European settlers: Conway, Thompson, Mattly, Simis, DeChambeau. Most of these diversions are drawn from and eventually return to Wilson Creek, which dumps into the lake a quarter of a mile east of Mill’s dry delta.¹³ There is a “return ditch” for carrying water from Wilson

back to Mill, but it is unlined and small, with a maximum capacity of 12 cubic feet per second (cfs).¹⁴ In winter, the water in the ditch freezes, plugging the channel and impairing deliveries.¹⁵

Between the dam and its juncture with the return ditch, in what's called the "bypass reach," Mill Creek is fed by "accretion" from the groundwater table, one tributary stream, and variable releases from the reservoir.¹⁶ Aside from the occasional wet year "spill" and a period in the 1960s when the powerhouse was taken offline, this hasn't amounted to much.¹⁷

RIGHTS FROM ANOTHER TIME

For more than a century, Wilson Creek has carried most of Mill Creek's natural flow to Mono.¹⁸ The historic ranching economy of the North Mono Basin grew up around this arrangement. Landowners with rights to Mill Creek water either diverted their allotments from Wilson or called for the powerhouse to return the needed quantity to the stream of origin— a model which may be without precedent or analogy in state water law.¹⁹

This novel system was formalized in two court orders issued in 1901 and 1914. The latter of these (variously called "the DeChambeau Decree," "the Mill Creek Decree," and, simply, "the 1914 Decree") is still the authoritative document on who is allowed to draw what from each creek.²⁰ Because the 1914 decree predates the first state agency established to regulate water use in California, the rights delineated in it fall outside the purview of today's State Water Resources Control Board.²¹ If a "pre-1914" water right is contested, only a court can modify the license. In the absence of a legal challenge, the rights are preserved to the original letter— warts and all.

In this case, there's at least one major wart: "The judge awarded water rights that are about five times what the basin actually produces," explains Burt Almond, a longtime resident of the Eastern Sierra. Almond spent 32 years monitoring the Mono-area waterscape for Southern California Edison before joining the Forest Service in 2000. If there is anybody who knows more about how much water actually comes down Lundy Canyon than Almond, it is probably safe to assume that that he or she did not weigh in during the 1914

proceedings. Says Almond, “If you look at that decree, it actually spells out ownership of water to 74 cubic feet per second. The basin produces on an annual basis thirty cfs [per day]— slightly less than 30, 29, something.”²²

Over-allocation is not uncommon in the American West, and it is, unsurprisingly, a formidable obstacle to resolving resource-based conflicts.²³ Still, the 1914 decree served North Basin property owners for a good sixty years. “One guy would take the water for a certain period of time to irrigate and then the next guy would take it,” Almond told me. In other words, the ranchers shared. “Now, what happens is everybody wants that allotment and they want it on an annual basis everyday.”²⁴

It’s not that people have gotten greedier. Until recently, most North Basin ranches supported small grazing operations. Since the late 1980s, however, the demands on the Mill Creek watershed have shifted to other uses— uses which just happen to require more consistent and dependable water supplies. Green meadows, ecosystem restoration, housing developments, and fisheries are, it turns out, more demanding than livestock. Sheep can get by on intermittently watered pastures, but brown trout tend to do poorly in intermittently watered streams.

Another important thing about grazing— and, for that matter, agriculture— is that the associated water demand is highly seasonal. Apple orchards don’t need to be irrigated in December, and in January, when the view from Conway Pass is a picture of snow and ice, sheep are served a supper of summer hay. Since water rights in California are and always have been use-based, and no one in the Mono Basin has ever used water for irrigation during the colder months, one could make the argument that the entitlements dictated to irrigators in the 1914 decree hold only in the irrigation season.²⁵

One could say, then, by way of summary, that the legal and physical foundations of water use in the North Mono Basin are relics of another time. Applying them to present conditions raises questions whose answers are very much open to interpretation. Wilson Creek, the functional lynchpin of the distribution network, is a sort of hydrological chimera: tented with brushy willows and teeming with trout, it looks— and, to an extent, behaves— like a natural stream. It might seem unnecessarily pejorative to call it a “ditch,”

but in the strictest sense, that's what it is. The 1914 decree is no less difficult to pin down, and as water right-holders enter an economy based on eco-tourism, sight-seeing, and fly-fishing with laws tailored to the needs of irrigators, the consequences of this ambiguity are potentially even more vexing.

“Years ago, I was at some national meeting, [and] they wanted us to reflect on water and what water meant to us. People were going around the table and talking about ‘the essence of life,’ you know, swimming, waterfalls, beauty, refreshment— all of that.” This was how Nancy Upham began to answer the question of whether the Mill Creek situation was doomed to trigger a controversy. She finished: “The very first word that came to my mind was ‘lawsuit.’”²⁶

Of course, the lawsuit is not an inexpensive way to address problems, nor is it a solution conducive to good feelings among neighbors. For many years, water users in the North Basin made due with their imperfect arrangement in hopes of avoiding a court battle. As an environmental scientist with the State Water Resources Control Board and lead staff on the agency's work in the Mono Basin, Jim Canaday was, like Upham, afforded with a comprehensive perspective on the situation. His summary is tidy and appropriately ominous: “Everybody was trying to let sleeping dogs lie.”²⁷

THE WATERFOWL PLAN: GETTING THE DUCKS IN A ROW

The countdown to the inevitable renegotiation of North Basin water may have begun in 1941. This was the year that the Los Angeles Department of Water and Power (LADWP) blasted its tunnel under the volcanic peaks south of Mono Lake and began diverting water from four South Basin streams, including Rush and Lee Vining Creeks.²⁸ Deprived of its primary and secondary water sources, Mono Lake began to dry up. As the water level dropped, streams feeding the lake had to fall further to reach it. Rather than spreading out and pooling in their interior deltas, Rush and Lee Vining Creeks carved their main channels deeper to make up the difference between the old lake level and the new. Predictably, the combination of less water and “incised” streambeds lowered the water table in the interior deltas, and the cottonwoods began to die. For the time being, at least, the bottomland forests in the South Basin were gone.²⁹

By 1976, Mono had dropped forty feet below its pre-diversion level.³⁰ If Los Angeles continued to draw water from the tributary streams, the lake would fall another fifty feet, and its dissolved salt content would triple. These were some of the findings published by a team of undergraduates who conducted an ecological assessment of the lake in that year.³¹ When the major national environmental groups would not make Mono a priority, the students organized to fight LADWP.³² Against nearly everyone's expectations, their Mono Lake Committee and its allies— most prominently California Trout (CalTrout) and the National Audubon Society— went on to achieve a series of stunning legal victories against the thirsty Southern California metropolis.³³ In 1994, the Board issued Decision 1631 (D-1631), which required LADWP to moderate its diversions— and clean up the mess it had made out of Mono.³⁴ What exactly this clean-up would entail would be delineated in two comprehensive restoration plans: one for the streams and one for waterfowl habitat around the lake. LADWP hired consultants to draft the plans; their staff scientists worked closely with the environmental column and the land management agencies with jurisdiction in the Basin, including the Department of Fish and Game, the Forest Service, the Bureau of Land Management, and the California State Parks. The aim was to create a settlement— a consensus on restoration that would be submitted to the Board for final review.³⁵ The streams plan focused on Rush and Lee Vining Creeks, as well as Rush's tributaries, Parker and Walker.

The waterfowl plan covered a broader geographical range. Naturally hypersaline Mono Lake is attractive to birds because it provides food in two unique but abundant forms: the brine shrimp and the pupae of the alkali fly. Both species have adapted to the specific biochemistry of the lake, so as the water level dropped in the 1970s and 1980s, there was substantial concern that increased salt concentrations would decimate the birds' food supply.³⁶ In addition, the retreating lake turned its islands into peninsulas, exposing California gull colonies to coyotes and other terrestrial predators. By 1994, the first priority for restoring waterfowl habitat was clear: LADWP had to let Mono rise.³⁷

But the birds would require more than that. Those that spent most of their time afloat— ducks, phalaropes, and the gulls, to name a few— would need water they could actually *drink*. Before the diversions, they found it in Mono's many shoreline lagoons, but

the 6,392.6 foot average lake level mandated by the Board in 1994 was just shy of the 6,405 feet above sea level necessary to re-hydrate those historic wetlands.³⁸ The best alternative was the stream outlets, where freshwater pools naturally over the saline lake water, forming what are technically referred to as “hypopycnal lenses”; the deltaic bottomlands, in turn, could provide marshes and multi-tiered forests.³⁹ Restoration on Rush and Lee Vining Creek would eventually create this kind of habitat, but it would take decades for those streams to rebuild their gouged out floodplains.⁴⁰

The same was not necessarily so on Mill Creek, however. Precisely because the Lundy diversions had caused the North Basin stream to go dry, the bottomlands there had been spared the degree of incision Rush and Lee Vining Creeks suffered. “The beauty of the current situation at Mill Creek,” an article in Mono Lake Committee’s newsletter explained, “is that restoration could be accomplished by simply restoring the creek’s natural hydrology.”⁴¹ Some believed the stream could support a cottonwood forest in fifty years.⁴² LADWP already owned the property with the most senior right to Mill Creek water. It wasn’t much, just one cubic foot per second, but it was at least dependable— a good starting place for restoring flows to Mill, particularly if additional rights could be purchased from other water users in the North Basin.⁴³ The idea gained traction in the wake of D-1631, and when the scientists charged with writing LADWP’s waterfowl plan released their preliminary report in 1995, re-watering the Mill Creek bottomlands was classified as the single most effective action the city could take to restore habitat in the Basin second to raising the level of the lake itself.⁴⁴

All they would need was a bit more water.

LOS ANGELES IN CONTEXT: THE DEVIL MAKES THREE

While the Committee and LADWP were mired in their legal struggle over South Basin streams in the 1980s, two things happened on the north shore of Mono Lake which would also have tremendous implications for Mill Creek.

The first had to do with the Lundy Dam. In 1986, the project’s operating license expired.⁴⁵ By that time the facility was under the management of Southern California Edison, and the utility owned a handful of other small hydropower plants in the area.

“Edison's management thought well, you know, Lundy is a small dinky little powerhouse, three megawatts, pretty simple, easy, let's start with that,” Almond recalls, “That would be the easiest one.”⁴⁶ But between 1981 and 1999, the Lundy license became the locus of a turf battle between the Federal Energy Regulatory Commission (FERC) and the Forest Service. The latter is permitted to tack its own “conditions” onto licenses issued by the former under a clause in the 1986 amendment to the Federal Power Act.⁴⁷ The extent of the Forest Service’s authority was not clearly defined in the legislation, so when the agency decided to mandate a 7 cfs minimum release from Lundy Dam— a 6 cfs increase from the pittance in the original license— Edison challenged the amendment.⁴⁸ Though nobody could have predicted it at the time, the resultant wrangling pushed what might otherwise have been a relatively uncontroversial public process into an entirely different political landscape than that which had existed in the Mono Basin before 1994.

Meanwhile, in 1987, one of the historic ranches on the north shore of the lake was slated for a major development. The Conway property would be recognizable to anyone who has entered the Mono Basin from the north: cresting Conway Pass, motorists on Highway 395 are afforded with a sweeping vista of the lake and, stretching before it, a lush spread of green meadows— meadows irrigated by a high-priority, high-volume right to Mill Creek water. Of the 18 cfs guaranteed to Conway Ranch, a full two thirds are junior only to the 1 cfs held by LADWP. All the Conway water has traditionally been diverted from Wilson Creek.⁴⁹

The ranch was owned by Arthur Beckman, the wealthy proprietor of a major medical supply company, and he was serious about developing the property.⁵⁰ No one in the Basin particularly wanted a golf course and a subdivision intruding on the view, but in 1990 the County Planning Commission approved the plan anyway, and the Board of Supervisors voted to certify the Environmental Impact Report shortly thereafter, citing the project’s economic benefits.⁵¹ The California Department of Fish and Game promptly sued the County, alleging deficiencies in its response to public comments.⁵² As the proposed development inched through the review process and associated legal challenge, the real estate market softened, and word got around that Beckman might be willing to sell. By

1996, the Trust for Public Land (TPL) had acquired an option to purchase the Conway Ranch, and was beginning the work of transferring the property to public ownership.⁵³

In order to procure the grant money necessary to complete the transaction, Mono County had to delineate its management objectives for the ranch— and for the water that would come with it.⁵⁴ At the same time, LADWP's consultants and the Mono Lake Committee were hammering out a waterfowl plan with Mill Creek as the cornerstone. And FERC, its battle with the Forest Service creeping toward resolution, was busily rewriting the document that would dictate, for the next fifty years, the number of cubic feet per second each stream would regularly receive.

The license renewal, the waterfowl plan, and the Conway Ranch acquisition each could have gone forward had the other two processes not been underway at the same time. The three events were in no way formally connected, but on the eve of the millennium, they arrived together at the edge of Mono Lake. Thanks to this accident of timing, they had everything to do with one another.

TWO HISTORIES, ONE STREAM

The fact that several opportunities to reconfigure water distribution in the North Basin arose more or less at once was a stroke of luck for those who dreamed of seeing a genuine and thorough ecological restoration of Mill Creek: having several options open reduced the number of limitations any one process would have faced had it occurred in isolation from the others. To those who liked the Mill-Wilson system as it was, however, the convergence removed safeguards against dramatic changes. Each of these perspectives makes sense; it is linked to a legacy that Mono nearly lost with its water.

Before LADWP could scour out stream beds, it had to buy out the ranches that depended on the streams' flows— or, at least, it had to buy out their water rights. The city began acquiring property in the Mono Basin as early as 1912, and in 1930, it used the state's eminent domain laws to force other locals to sell.⁵⁵ Just as the North Basin ultimately suffered less ecological degradation than the South, its homesteads are also better preserved. The Conways were one of only a handful of families in the Basin to successfully hold out against Los Angeles, and because the aqueduct was never extended to

the Mill Creek watershed, the property the city was able to purchase there was managed in much the same way it would have been had the original owners remained in control.⁵⁶ The area may have presented the best opportunity for ecological restoration around Mono Lake, but it was already home to the last traces of a way of life that was, by the 1990s, as endangered in the Basin as the deltaic bottomlands— as endangered, and as deeply loved.

To put it another way, LADWP's diversions effaced both human and natural history at Mono Lake. In the North Basin, these two pasts remained within reach of the present. Each had its own set of champions. Both depended on the same overcommitted water source.

In the 1970s and 1980s, the negative impacts of water exports to Los Angeles were urgent and commonly felt in Mono County; drawing distinctions about which prior version of the Basin was most deserving of rescue was probably not high on anyone's priority list. For decades, the potential for conflict over Mill Creek was overshadowed by the immediate and dire threat posed by the falling lake: everyone who cared about the Mono Basin stood to gain from seeing the water returned.

D-1631 checked LADWP's power in the region in 1994— nearly twenty years after the student scientists who would form the nucleus of the Mono Lake Committee arrived in the quiet, rural landscape on the far side of the Sierra. More than half a century had passed since Rush Creek water first sputtered out of Southern California's sprinklers and faucets. In this time, a great deal had changed.

Los Angeles had been Goliath in the Mono Basin. The Committee had attacked Goliath, and it had won the fight.⁵⁷ It did so, in part, by recruiting as many state and federal agencies to the cause of protecting the lake as possible.⁵⁸ Now the Forest Service was there, and California State Parks. These entities were powerful outsiders, like LADWP had been, albeit with quite a different value system— a value system somewhat resembling that of the Mono Lake Committee. And neither the government agencies nor the Committee clearly prioritized the historic attributes of the Mill Creek watershed.

Without the glue of a common enemy, the Committee's coalition was weakening, but its leaders were buoyed by the victory over Los Angeles and freshly confident.⁵⁹ Free from the onus of the lake's near-certain destruction, the Committee could define its

mission in the Basin more broadly, but doing so would mean taking on projects with less universal support— projects like a restoration of Mill Creek.⁶⁰

By the end of 1995, the way forward in the South Basin was clear. Restoration consultants were bringing heavy machinery into the Rush Creek floodplain to open old distributary channels, volunteers had planted 1,500 trees on the banks of Lee Vining Creek, and Mono Lake was finally beginning to rise.⁶¹ Six miles down the road from Mill Creek, the great City of Los Angeles was putting its money on water sharing and ecological restoration.

In the North Basin, all bets were off.

PART II

THE TROUBLE

FIASCO ON THE FIELD TRIP

In the summer of 1996, the Mono Lake Committee sponsored two tours of the North Basin to inform its members about the changes they hoped to see unfold there. As of this writing, approximately 15,000 people pay annual dues to support the Committee's work and receive action alerts and news about the goings-on in the Eastern Sierra; in the immediate wake of D-1631, it was more like 18,000.⁶² The organization's membership has always been diverse, including residents of the Basins Mono and Los Angeles as well as "Monophiles" from as far away as Germany and Japan, but those who showed for the 1996 tour were mostly local. Burt Almond was there, along with Katie Bellomo, an attorney who grew up spending her summers on the lake and had recently moved to the area as a full-time resident.⁶³ Their guide was another new arrival, Heidi Hopkins, and organizing the field trip had been her first project as Policy Director for the Committee. Along with a love of the Eastern Sierra, Hopkins brought extensive professional experience to her new position, but at that point it was probably unclear even to long-time Committee staff how precarious the situation in the North Basin had become. In that respect, Hopkins was, in her words, "completely naïve."⁶⁴ Naïve, perhaps, but certainly aware of her status as an outsider. Ten years after the field trip, I met Hopkins for breakfast on a rainy day in Big Sur. She described herself to me as "tough," even "cocky," but in conversation she was cautious, reserved, precise.

Scott Stine is a rather different personality. Exuberant, jovial, and blunt, in our first conversation he gleefully lambasted a recent attempt by the Committee and Ducks Unlimited to create freshwater lagoons north of Mono Lake. Sited in loose volcanic soils, the pools drained repeatedly before pumps were installed to re-flood them. "I call it fossil-fuel dependent duck habitat," Stine declared. Of late, he admitted, outspoken promotion of such perspectives has strained his historically cozy relationship with the Committee a wee bit. The folly of the ponds must have overshadowed this unfortunate consequence, however: he didn't seem too upset.⁶⁵ Stine was also on Hopkins' field trip, along with hydrologist Peter Vorster, a former employee of and long-time consultant for the Committee.⁶⁶ Both men are walking encyclopedias of Mono: Vorster's water balance model

for the lake was the “recognized standard” in the proceedings against LADWP; and it was Stine’s study of the Mono shoreline that definitively established that the city’s diversions had caused the lake level to drop below its natural range of variability.⁶⁷ More recently, each had compiled his own report to the waterfowl scientists in charge of drafting the restoration plan for LADWP. And when one of the small group of walkers on Hopkins’ field trip asked what would happen to Wilson Creek if Mill Creek were targeted for restoration, it was probably Stine or Vorster who answered, in as many words, that the ditch could easily be shut off.

This did not go over well with many in the assembled crowd. “There’s a whole lot of people that live in the Mono Basin that think Wilson Creek has a lot of value, from vegetation, from aquatic life, from landscape aesthetic values, from a recreation standpoint,” Almond told me.⁶⁸ Katie Bellomo spoke to another concern— the possibility that irrigation on Conway Meadows would cease if the property’s water right were purchased by LADWP or dedicated to Mill Creek by the County. “We knew it would turn to sagebrush, the trees would die,” Bellomo recalls. Similar concerns quickly arose over the meadows on the Thompson Ranch.⁶⁹ And then there were the North Basin’s legally dubious winter water rights: if LADWP made a play for these allotments, won them, and put all the Conway water back into Mill Creek for part of the year, the Wilson trout fishery would be decimated.

To the Committee, re-watering the most intact bottomland habitat in the Basin was a tentative, a hypothetical— a dream that was, somehow, beginning to look possible. To Bellomo and a number of others, it was a “nightmare” already well on its way to coming true.⁷⁰ Feeling that they been blindsided by the plan, they now perceived that the cards were stacked against any effort to defeat it. LADWP had already commissioned a massive Environmental Impact Report for the Mono Basin, but that was in 1993— before the Board ordered the city to restore the lake and before Mill Creek had been introduced as a possible means for doing so. If the re-watering went forward under the auspices of D-1631, it might not be subject to a separate environmental review.

Then there was the Conway Ranch. The County was pursuing funding from the North American Wetland Conservation Act (NAWCA) to purchase the property. Did the

money carry a stipulation for “wetland conservation” in the Mill Creek delta?⁷¹ Everyone agreed that protecting the Conway Ranch from development was important, but the devil was in the details. “Protection” at the expense of Wilson Creek and the North Basin’s green meadows sounded, to some, like a raw deal.

PEOPLE FOR MONO BASIN PRESERVATION: A SAGEBRUSH-ROOTS REBELLION

The field trip changed Bellomo’s opinion on LADWP’s restoration work in the Basin; she feared that none of the parties to the planning process shared her concerns about the meadows and Wilson Creek.⁷² Along with three other local women, she founded People for Mono Basin Preservation (PMBP) “to ensure that the environmental, historical, cultural and aesthetic values of the area [would be] fully understood and protected adequately.”⁷³ Unlike the Committee, PMBP does not follow the membership model; they keep no official roster, and have never sought non-profit status.⁷⁴ What the organization did do, almost immediately, was begin holding meetings with local residents. The outreach effort culminated in a petition against the restoration plan which garnered approximately 400 signatures— nothing to sneeze at in a Basin of approximately 400 residents.⁷⁵

Almost immediately, the Committee sought to clarify its designs for the North Basin. Though the group supported a reconfiguration of water use in the area, “shutting off” Wilson Creek was by no means viewed as a prerequisite to achieving its goals.⁷⁶ The local outcry was a reaction to misinformation, and the Committee moved quickly to distance itself from the agenda that had been ascribed to it in the wake of the field trip. In an article bearing the urgently unsubtle headline “The Mono Lake Committee’s Position on Mill Creek,” the Winter 1997 edition of the group’s *Mono Lake Newsletter* spoke directly to the fears that precipitated PMBP’s formation: “The Mono Lake Committee strongly supports restoration of natural habitats and ecological processes in the Mono Basin. We concur with the waterfowl scientists’ recommendation that Mill Creek be re-watered sufficient to achieve a multi-channeled bottomland and year-round freshwater conditions at the mouth of Mill Creek,” the statement began. However, “Any reallocation of water from existing uses back to Mill Creek *must* be consistent with environmental review and appropriate protection of habitats currently benefiting from Mill Creek water.”⁷⁷

The article went on to stress that “green meadows and trees” on the North Basin ranches should be maintained. To make this case, the Committee drew from its experience with Los Angeles. During the struggle with LADWP, the group won the critical support of urban water users by insisting that relatively painless conservation measures could obviate the need for diversions from Mono’s tributaries entirely. By installing low-flush toilets and planting drought-tolerant vegetation in their yards, the Monophiles had argued, Los Angelinos could have the lake and drink it, too.⁷⁸ The Committee adopted the same mantra vis à vis the North Basin in 1996, arguing that improved efficiency in irrigation would free up water for Mill’s bottomlands without sacrificing the pastures to sagebrush. In the fall, the group brought Mark Davis, an employee of the Natural Resources Conservation Service, to Mono for a tour of the waterworks. Hopkins invited Bellomo and another PMBP organizer, Kathy Hansen, to join her and Davis on a walk through Thompson Ranch, but the expert didn’t sell the two women on irrigation efficiency. Davis, Bellomo later testified, “indicated to us that the way the meadow was being irrigated is basically the way irrigation is done. He didn't have any problem with ditch irrigation.”

This is not the same as saying that efficiency on the ranch might have been improved, but by the time Bellomo made these remarks, her concerns had broadened. Lack of knowledge about the precise hydrological workings of the North Basin, in her opinion, underscored the need for comprehensive environmental review; what she really took away from Davis’ visit was, accordingly, his uncertainty. “It’s not possible in his opinion to determine if the irrigation water in the meadow above Thompson Ranch is, in fact, sustaining the habitat on the other side of the road without doing studies,” she warned the Board in 1997. “But he indicated that it’s possible that it could be.”⁷⁹

The Committee continued to stress the role of improved irrigation practices in any North Basin restoration project, but they also knew efficiency was no panacea. Though re-watering Mill Creek would yield excellent trout habitat on the original stream in time, the *Newsletter* article acknowledged that it might not be possible to restore a year-round fishery there without sacrificing the one that already existed on Wilson.⁸⁰ In an economy increasingly dependent on tourism, the destruction of a self-sustaining brown trout fishery is hard to justify, but by winter it was clear that proposals to re-water Mill Creek faced more

pernicious problems still: even trout are easier to replace than trust.

WINTER 1996-1997: “SCREAMING MATCHES OVER RESTORATION”

Before the State Water Resources Control Board could make a final determination on LADWP’s restoration plans, it had to hear oral testimony from scientists, consultants, land managers, and citizen groups, including the Committee and PMBP. Lawyers would be involved. There would be cross-examination of witnesses, and evidence to enter into the record. The Board had the final word on whether or not LADWP could be required to restore Mill Creek, and its decision would indirectly affect junior right-holders— the Conway Ranch among them— but the process would take a while.

The Trust for Public Land didn’t have that kind of time. Its option to purchase Conway was good only until January of 1997— the same month testimony in the LADWP proceeding would begin in Sacramento— and if it expired while the market was hot, there was no guarantee that Beckman wouldn’t resurrect the golf course plan. To secure the open space for perpetuity, TPL needed to secure consensus before the turn of the year. Hoping to hammer out a cursory peace, the organization and the County sponsored a series of public meetings in Lee Vining which quickly devolved into what Hopkins has characterized as “screaming matches over restoration.”⁸¹ Rather than promoting creativity and willingness to compromise, in this case vigorous civic participation seemed only to increase the volume of the cacophony. Dan Lyster, Director of Economic Development for Mono County, insists that the debate did not interfere with his efforts to secure grant money for the purchase, but Nelson Mathews, TPL’s point man on the project, was less confident. As 1996 drew to a close, he found himself losing patience with the escalating conflict. “Everybody was trying to game what the result would be,” he recalled. “It would have been funny if I didn’t have millions of dollars plunked down.”⁸²

It is probably safe to assume that Hopkins was also less than amused: as Policy Director for the Committee, she was often the one taking blows for the group in community meetings.⁸³ “It wasn’t Heidi’s fault,” Canaday said. “She got caught in the crossfire.”⁸⁴ People didn’t mistrust Hopkins specifically, but many had become wary of the Mono Lake Committee. Some local residents were questioning its continued existence:

Now that the lake had been saved, what did the Committee plan to *do* in the Mono Basin?⁸⁵

The Committee itself had no trouble answering that question. Victories in the policy realm are often conditional and frail; holding the ground one wins requires continued vigilance.⁸⁶ This is another way of saying that there is usually no such thing as a “permanent solution.” Professional advocates know this, and advocates of ecological restoration might know it better than anyone else. Ecosystems are even more complex and dynamic than politics: things may look okay in a re-watered stream, but that doesn’t mean they are or will stay that way.⁸⁷ Efforts to repair degraded communities often fail because scientists’ knowledge of the physical processes and species interactions required to support the ecosystem is imperfect and incomplete.⁸⁸ This is one reason the Society for Ecological Restoration stresses ongoing monitoring as a key component of restoration projects.⁸⁹ To many in the field, however, even that isn’t good enough. The gold standard in restoration is adaptive management— an approach in which data on the restored system is regularly collected and analyzed to assess progress toward pre-defined goals. If practitioners find that a project is not moving in the intended direction, they adjust their plans.⁹⁰ This was what LADWP would ultimately be required to do in the Mono Basin, and with headquarters in Lee Vining, the Committee was ideally situated to keep an eye on the city’s work.⁹¹ To further ensure that the area would be protected in perpetuity, the Committee emphasized education: every person it could teach about the wonders of tufa towers and brine shrimp became another “watchdog” for the lake— a person who could be called upon to fight for it should the need arise again.⁹² In short, the duty of guarding Mono was one the Committee had assumed for the long haul; their work didn’t end with D-1631.

To others, however, the purpose of the organization had become less than obvious. Like many local residents, Bellomo joined the Committee during its battle with LADWP. The importance of curtailing the city’s diversions was never not clear to her. Like many PMBP supporters, she continues to pay dues to the Committee now. She does not personally believe that it has outlived its purpose, as some of her neighbors do, but she does feel that the group has lost its way.⁹³ I spoke with her recently at Nicely’s— the only eatery in Lee Vining that stays open through the winter. A week before our meeting,

LADWP had returned some water to its other Eastern Sierra source, the much-abused Owens River. On December 6, 2006, an estimated 500 people had gathered near the little town of Independence to watch Los Angeles Mayor Antonio Villaraigosa turn a spigot on a steel release gate, allowing a trickle of Sierra snowmelt to flow down a 62-mile stretch of riverbed that had been dry since 1913.⁹⁴ Every newsletter, magazine, and leaflet from Bishop to Bridgeport covered the opening of the Lower Owens River Project, and the event was on the tip of every tongue. “Real restoration occurred there,” Bellomo told me, firm in her approval. What she can’t accept is the notion that the North Basin requires a similar treatment. “It’s not broken,” she says. “It doesn’t need to be fixed.”⁹⁵

INFORMATION PROBLEMS: BELIEVE WHAT YOU WANT

Another source of the distrust the Committee faced would be apparent to anyone who has waded even a few inches into the documentation on North Basin hydrology. Put simply, those who know the Mono Basin well enough to draw meaning from this wet meadow or that silted canal are enmeshed in local politics. Edison employees like Burt Almond and Joe Bellomo, Katie’s husband, make no secret of their attachment to Wilson Creek; Scott Stine and Peter Vorster are outspokenly partial to Mill. Any agency with the resources to commission formal studies of the area— Edison, DWP, the Forest Service, BLM, Fish and Game— has an agenda written into its mandate, and Katie Bellomo is troubled by the fact that people like Stine and Vorster, who have worked for the Committee, have also been called in to consult for public agencies.⁹⁶ Informal, local knowledge is no less immune to interrogation than this allegedly untrustworthy science: though many of Wilson Creek’s champions refer to their rich, long-standing personal acquaintance with the North Basin, it is clear that some do not appreciate the ecological differences between a naturalized ditch overgrown with willows and a natural deltaic bottomland wetland with a multistoried tree canopy.⁹⁷

In other words, every possible source of insight into the plumbing of the Mill Creek drainage is vulnerable to the charge of bias; every piece of datum on the streams has been collected, communicated, and promulgated in a political context. This is never not true. Deborah Stone, a noted policy scholar and author, has employed the model of the “polis”

to describe decision-making in communities as a thoroughly human, limitedly rational process.⁹⁸ Her framework is useful for considering what Hopkins has characterized as the “sociological struggle” over Mill Creek.⁹⁹ “In the polis,” Stone writes, “most information is created from a point of view by real people with personal and institutional loyalties, cultural and social backgrounds, and enduring as well as more temporary interests.”¹⁰⁰ The truth of this observation is perhaps more evident in the small communities of the Eastern Sierra than it is in the wider, more anonymous, and increasingly urban and globalized world: in the North Mono Basin, facts about the streams are apt to come from people whose “institutional loyalties” are transparent and familiar. Where there is even less trust to share than water, information can become a formidable problem.

The local paper didn’t help. With an average circulation of 7,000, the weekly *Mammoth Times* can call itself the largest periodical in Mono and Inyo Counties, but it can’t support much in the way of full-time staff.¹⁰¹ The consequences for what gets printed are stark. Craig Roecker, who came to the Mono Lake Committee as a Community Outreach Coordinator in 2000, soon noticed that press releases issued by all manner of organizations were getting picked up and run in the paper verbatim— “without any fact checking, without any look at an alternative point of view,” he threw in, as if to underscore the point. Again and again, throughout his tenure in the Eastern Sierra, Roecker saw local controversies play out in volleys of contradictory news stories “spoon-fed” to the *Times* by advocacy and affinity groups. “It’s a little bit like some weird amalgam of Fox News,” Roecker joked. Sobering, he added, “It’s not really ‘fair and balanced.’”¹⁰²

In most places, the charge that one is “believing only what one wants to believe” is a serious accusation; it implies the individual lacks integrity, or intellectual mettle. Under these circumstances, however, “believing what one wants to believe” may simply be the best available defense against insanity, or, at the very least, serious cognitive dissonance. Faced with patently contradictory statements about what the Committee actually wanted to do with Mill Creek, or the number of cfs being shunted down Wilson Creek in a particular month, in a given year, it is not difficult to understand why a body might end up basing choices about what to call “truth” on loyalties that predated the conflict entirely— even if

that also meant believing that the Mono Lake Committee was a confederation of shameless liars.

CREW: A LOCAL SOLUTION

The frenzied and increasingly emotional pitch of the disagreement over Mill Creek, while not inexplicable, was not contributing to any kind of progress. As the winter dragged on, so did the bickering. “What happens when one guy is pulling an oar on a boat one way and another is pulling the other way?” Canaday asked me. “The boat goes in a circle.”¹⁰³

With the community deadlocked and time running out, Canaday decided to make a trip to Mono.¹⁰⁴ He was certainly not the only one who appreciated that something needed to be done, but he was, perhaps, uniquely situated to break the logjam: Lisa Cutting, current Policy Director for the Committee and Hopkins’ successor, describes Canaday as “the person everyone could trust.”¹⁰⁵ Sitting in on another contentious community meeting, he realized that the situation was devolving into a war. “So I said, ‘Listen, folks, if you can't resolve this together, and solve it locally, trust me, we'll do it in Sacramento,’” he recalled, “‘But it won't be as wise as if it's done here.’”¹⁰⁶

What Canaday proposed was, in essence, a fact-finding mission, with its own acronym for flair: the Conway Ranch Evaluation Workgroups (CREW) were “formally linked” to the TPL-mediated land acquisition; the goal was to make recommendations to the county about how to manage the property.¹⁰⁷ Interested community members, Mono Lake Committee staff, and representatives of the various land management agencies in the Basin broke into several sub-groups, each of which would study a particular aspect of the Conway property and the North Basin at large. Hydrology, history and culture, stream biology, and land use planning all had subordinate “CREWs.” The groups conducted their own research, sought out experts to weigh in on technical issues, and presented findings to the whole.¹⁰⁸ The beauty of this approach is that it targeted the information problems and mistrust that had paralyzed the decision-making process: if understanding is constructed from scratch by a group in which diverse values and interests are represented, the knowledge that comes out of the process belongs to everyone.

It seemed that CREW would live up to this potential: Canaday was pleased with the way his idea played out; by the end of January, Terry Russi of the Bureau of Land Management (BLM) and Katie Bellomo were firm supporters of the process; Dan Lyster, Director of Economic Development for Mono County, felt the discussions were productive; the Mono Lake Committee praised them effusively in the pages of the *Newsletter*.¹⁰⁹ By the time the Board convened the hearings which would mark the final stage in the LADWP-Mono Lake proceeding, CREW was moving the boat forward.

THE BOARD HEARINGS: GOING TO THE HEART

On January 28, 1997, DWP, its consultants, and representatives of the Mono Lake Committee, Fish and Game, California Trout, the National Audubon Society, the Forest Service, the Beckman family, People for Mono Basin Preservation, and the Bureau of Land Management gathered in Sacramento to hear testimony on the stream and waterfowl habitat restoration plans LADWP had compiled.¹¹⁰ The streams plan was more technically complex, and work had begun on Rush and Lee Vining Creeks as early as 1991.¹¹¹ The waterfowl plan was always rather nebulous by comparison, and Mill Creek was only one proposed aspect of it. Even so, when the Board convened the hearings, the first thing the stenographers recorded was a spat about North Basin water.

The issue was relatively simple: in light of the possibility that Mill-Wilson water rights might require another, separate review, the attorneys needed to clarify what level of detail was appropriate for discussing these rights insofar as they pertained to the restoration proposal.¹¹² However the fact that the Board felt compelled to limit discussion of the subject illustrates just how significant “the Mill Creek issue” had become for those assembled at the hearings: The world had watched the battle for Mono Lake, and the restoration orders were the lynchpin of a new, relative peace between LADWP and the Eastern Sierra, but when the parties met in Sacramento to begin hammering out the details, the first order of business was a stream of which few people outside of Mono County had ever heard.

Though Mill Creek was not the focus of these hearings, the proceedings did provide a forum for People for Mono Basin Preservation to air its grievances. First among

these was the belief that Wilson Creek had value— aesthetically, as a fishery, for deer and birds, as a means to the end of preserving North Basin history, and as a piece of that history in its own right.¹¹³ For all these reasons, any changes to the Mill-Wilson system should be preceded by a comprehensive environmental review.¹¹⁴ Katie and Joe Bellomo testified to this before the board; other PMBP supporters sent letters expressing similar convictions.¹¹⁵

Their arguments did not stop at environmental review, however— not anymore. After conversing with Tom Ratcliff, a biologist with the Forest Service and one of the three scientists charged with making recommendations to LADWP on the waterfowl plan, Katie Bellomo had become convinced that Mill Creek would never provide the kind of bottomland habitat that had formed the rationale for its inclusion in the restoration program in the first place. According to Ratcliff, the gradient of the stream was too steep for water to pool and pond in the interior delta. Under cross-examination by PMBP, Ronald Thomas of Fish and Game concurred with this assessment.¹¹⁶ As far as the birds were concerned, the scientists were left to conclude that the only *guaranteed* benefit of a restored Mill Creek would be the hypopycnal layer it would form on the lake itself. And though Wilson Creek’s delta was not as spectacular as Mill’s once might have been, the freshwater environment the ditch had created in the lake might not be so radically different from what it had displaced.¹¹⁷

If this were true, why had the waterfowl scientists endorsed a re-watering of Mill Creek? There are two possible answers to this question, the first of which was nicely encapsulated by Ratcliff himself. According to Bellomo, arriving at the waterfowl plan had been “the most political process with which he had ever been involved.”¹¹⁸ She testified under oath during the hearings that Ratcliff had told her the reason the scientists recommended including Mill Creek in the plan was that the alternative— creating artificial ponds on the north shore of the lake, most likely on the Forest Service’s DeChambeau Ranch— was unpalatable to the Mono Lake Committee and the National Audubon Society. Specifically, “the parties had told the waterfowl scientists that they didn’t want, ‘unnatural appearance’ in their restoration efforts,” she said.¹¹⁹ In other words, Mill Creek won because it would look better— to the people with the most influence in the decision-

making process, that is.

There is, however, another way to explain why a project with arguably dubious benefits to waterfowl ended up in LADWP's proposed waterfowl plan. It appears that none of the scientists could precisely predict, *a priori*, what would happen if Mill Creek's dry delta were re-watered. Thomas freely expressed his skepticism about the idea that doing so would be a panacea for the Mono Basin's duck population, noting that he shared Ratcliff's concern about the steepness of Mill Creek. However he also testified that he agreed with Scott Stine's testimony before the Board.¹²⁰ Stine had by this point gained real notoriety for his championing of Mill Creek to the waterfowl scientists, but despite Bellomo's best efforts, Thomas refused to assert on the stand that the geomorphologist's assessment was flawed.¹²¹ Though Stine and Ratcliff's opinions about Mill Creek seemed to stand in contradiction to one another, Thomas had no trouble agreeing with both men because both men admitted that there was a lot about Mill Creek that they still didn't know. Perhaps the problem wasn't that the science was bad and the scientists corrupt; perhaps the problem was that the science was incomplete, and the scientists were of different minds about how to proceed under the yoke of imperfect information.

Unfortunately, this probably falls under the heading of "nuances that don't always become clear in legal proceedings." Even if it had been obvious to everyone assembled, it is doubtful that such an interpretation would have made much of an impression on people who had suspected for a long time exactly what Ratcliff's account seemed to confirm. His criticisms, Bellomo would argue, went "to the heart of everything."¹²²

PMBP's emphasis in the restoration hearings— the "heart" of which Bellomo spoke— reflected a shift in the locus of the Mill Creek conflict. What had started out as a fight to protect Wilson Creek had become an argument about something bigger: an argument about the respective roles of science and values in the restoration work at Mono Lake. PMBP was founded to protect the cultural and aesthetic values of the Basin— values which its supporters feared were being sacrificed, in the form of Wilson Creek and the green meadows of the historic ranches, at the altar of ecology. But if the Committee and its allies in the national environmental movement were turning up their noses at man-made ponds because of the *look* of them, it meant they were also motivated by aesthetics. Why

should their vision for the Basin trump that of people whose families had lived in the area for generations?¹²³

This is an extreme perspective. Like the whispered message in a game of telephone, it represents a tale several times removed from its origins— a story compiled from scientific reports in a committee, then summarized and passed by one member of that committee to Bellomo, who presented it to the Board. It is an interpretation, in other words, and it does not damn or vindicate any party. If the Mono Lake Committee and its allies had indeed used their influence to get Mill Creek into the restoration plan because they believed it would be more attractive than fake ponds on DeChambeau Ranch, it does not mean that there weren't plenty of other fine reasons to recommend the re-watering. Similarly, the suggestion that scientific uncertainty played more of a role in the decision than scientists' personal biases does not eliminate the possibility that personal biases also influenced the outcome. The reality that gave rise to the waterfowl plan is probably a mix of both these stories, plus a few others nobody has thought of or thought to mention, but the questions PMBP was raising about the role of ecology in restoration would not soon go away.

And they were certainly not the only questions from the restoration hearings that would come back to haunt the Mono Lake Committee.

THE PRICE OF PARTICIPATION

Compared to the 46 days of testimony that had preceded D-1631, the restoration hearings were a triumph of expediency: After three days of testimony, the Board temporarily adjourned; the parties reconvened in February, holding sessions on the 18th, the 24th, and the 25th; they met again for two days in May. For those who missed work to testify, however, the process did not always seem so efficient.¹²⁴ As the primary representatives of PMBP, the Bellomos were particularly concerned: On January 29, Katie pointed out that she and Joe were “probably the only people in the room who [weren't] being compensated” for their attendance, and as the process lurched along, their efforts to bring like-minded Basin residents to Sacramento were frustrated by last minute changes in the agenda.¹²⁵ To make matters worse, widespread flooding earlier in the month had closed major roads over the mountains, rendering travel from the Eastern Sierra even more

difficult.¹²⁶ Hiccups of this kind were inevitable and beyond anyone's control, but because PMBP was a relatively new and informal organization operating without a paid staff, the effects of each delay and postponement were disproportionately problematic for its members. The fact that no particular person or group was to blame for these incidents did not make them any less upsetting— or any less difficult to forget.

The restoration hearings required a greater investment of time and travel than CREW had; subsequent negotiations would be worse. As PMBP's only trained attorney, Katie Bellomo bore the brunt of the costs. By her own calculations, she has contributed thousands of hours to her cause— all *pro bono*, of course.¹²⁷ One could make the argument that the group had set itself up for these kinds of difficulties by refusing to collect funds as a non-profit, but PMBP's monetary weakness, is, according to Bellomo, a large part of what makes it strong. "This is a lot cleaner," she told me.¹²⁸ What she means, more or less, is that being broke keeps PMBP honest. They'll never be accused of kicking up a fuss just to keep their salaries— a charge which has, incidentally, been leveled at the Mono Lake Committee more than once.¹²⁹

Bellomo admits this is a cynical perspective, but that hasn't dampened her enthusiasm for promulgating it. As for the possibility that PMBP is complaining about a disadvantage at which it willfully placed itself, she believes that a public process that can only accommodate professional activists is not public at all.¹³⁰

Of course, the other side of this argument is that democracy takes work. Sometimes, the work is hard, slow, and boring. Heidi Hopkins told the *High Country News* that she regretted not having tried to bring the community into the restoration planning sooner, but "it's difficult to keep the public involved in a lengthy and often tedious process."¹³¹ Indeed, even CREW would eventually peter out.¹³² Canaday and Mathews have each come to believe that acceptable decisions about the environment in the Mono Basin are unlikely come from anywhere other than the Mono Basin, but what if the people who live there are not up to the challenge of making them?¹³³

THE RESTORATION ORDERS: ONE DOOR CLOSSES

On September 2, 1998, the Board issued Restoration Orders 98-05 and 98-07. The waterfowl plan set forth in these documents called for the creation of freshwater ponds on the DeChambeau Ranch and a program of controlled burning intended to stem invasive salt cedar incursion on the remaining lake-fringing wetlands. In the matter of Mill Creek, Order 98-05 was eminently clear:

The present proceeding was not intended to provide a forum for resolution of complicated land and water use issues at the north end of the Mono Basin which have relatively little to do with waterfowl habitat. However, the evidence presented at the hearing clearly establishes that re-watering Mill Creek sufficiently to create significant waterfowl habitat cannot be considered to be a project which has "minimum potential for adverse environmental effects." Thus, regardless of the ultimate merits of some future proposal that may involve increased flow in Mill Creek, the evidence before the SWRCB does not merit inclusion of that proposal in the context of considering waterfowl habitat restoration measures meeting the requirements of Decision 1631. Proposals to rewater Mill Creek involve changes in the exercise of existing water rights which are beyond the scope of the current proceeding.¹³⁴

The language of the order crushes the Mill Creek plan twice-over: In addition to deciding that reconfiguration of North Basin water use did not fall under the purview of the D-1631 proceeding, the Board had accepted PMBP's argument that any such rearrangement would require a separate review process under the California Environmental Quality Act (CEQA). As Roger Porter later characterized it, the re-watering of Mill Creek "was an idea... whose time had not yet come."¹³⁵

Of the three doors leading back to the stream's lost delta, one had closed.

PART III

THE AFTERMATH

CONWAY AND DECHAMBEAU: TYING DOWN THE WATER

For Bellomo, the restoration order was one victory in a year that brought many. After securing an extension on its original option to purchase, TPL finalized the Conway Ranch acquisition in the summer of 1998, and in December, Mono County bought the 175 acres for which it had secured funding.¹³⁶ A 1997 Board of Supervisors vote in opposition to re-watering Mill Creek had cited impacts on the Conway property's potential to support fish-rearing, and it appeared that the County was serious about instituting such an operation.¹³⁷ Just downstream on Wilson Creek, the Forest Service had begun irrigating historic pastures on the DeChambeau Ranch, and volunteers— many of them PMBP supporters— turned out to help re-open the old ditches.¹³⁸

These changes affirmed the historic values of the North Basin that PMBP cherished, but it would be a mistake to regard them as purely or merely sentimental— the result of a resurgence of local pride in a history under threat. The Conway fish-rearing facility would be a monument to the value Mono Basin voters placed in Wilson Creek trout and the property's history as a “working” ranch, but it would also tie the County to its Conway water *year-round*. The new management regime on the Forest Service property would help keep the water on-site in the long run, as well: Under California water code, a water right that is not used for a period of five years is considered to have been “abandoned,” which is a quaint way of saying that it is perfectly legal for somebody else to steal it.¹³⁹ Irrigation at DeChambeau had lapsed in 1992, so by 1997 the property's claim to its water had become vulnerable to challenge; resuming irrigation would protect the right.¹⁴⁰ Since DeChambeau has traditionally diverted its water from Wilson Creek, “protecting the right,” in this case, would also mean protecting the stream. If Mill Creek water was being used to preserve the history of the Mono Basin, the history was also being used to guard the water. And if the Conway Ranch had presented a second of the three opportunities to restore Mill Creek, the door was closing along with the decade.

Though Bellomo's People for Mono Basin Preservation had mobilized support for land use changes that would keep flows in Wilson Creek, they weren't the only ones who stood to benefit from the arrangement. Facing a statewide budget crisis, the California Department of Fish and Game had been reducing fish-rearing operations at its Eastern

Sierra hatcheries, and there was talk that state-sponsored stream-stocking might cease in the Eastern Sierra altogether. This was, to put it mildly, a serious concern for many in the area: when there isn't snow to ski on, people come to the Eastern Sierra to fish. Establishing its own fish-rearing program would buffer Mono County against the whims of a fiscally strained state government.¹⁴¹ It would also protect the businesses that live off fishing-related tourism. This is where Hopkins pointed when asked who she would characterize as the decision-makers in the Mono Basin. "It's the fish-rearers, and the people running the resorts," she said. "They're the ones, it seems to me, who have the power. And I don't think it's the locals who the Committee was struggling with. The power-brokers tap into those [people] as they need to get what they want."¹⁴²

Jim Canaday also worried that People for Mono Basin Preservation might have been fighting someone else's battle, and he said as much to Katie Bellomo at the outset. "She took it upon herself to champion the County," he recalls. Canaday, however, saw PMBP's involvement as a threat to the County's interests. "I said, you got to be careful because these other folks [who] don't believe the County has [year-round] water rights, they're willing to be quiet about it. They can come to some sort of arrangement everybody is going to work with. You're going to push a button and do more damage to the County than what you think these guys are going to do."

In other words, restoration advocates might have been able to figure out a way to share water between Mill and Wilson Creek, but with PMBP's fervent opposition, the situation grew contentious and charged. The County had to insist on keeping all the water, all the time, because that's what the people who signed the original petition against re-watering Mill Creek demanded. In essence, PMBP forced the County to dig in behind a potentially untenable position. As long as Mono County insisted upon getting everything, everything was exactly what it stood to lose.

But nobody was more thoroughly pummeled by the controversy than the Mono Lake Committee. As Hopkins put it, the organization was "severely bashed" for its efforts to re-water Mill Creek.¹⁴³ The fact that the stream was not included in the restoration order was, as the *Mono Lake Newsletter* acknowledged, "disappointing," but the Committee tried to put on a game face: The restoration orders as a whole were a triumph, and by the time

of their issuance, CREW was still functioning as intended— building a body of dependable knowledge about the North Basin and giving the entire community agency in the decision-making process.¹⁴⁴ Following the blowout over Conway, this was probably the most important effort to which the Committee could have contributed: the sooner the people of the Mono Basin began to trust one another again, the sooner they could begin to think creatively about sharing Mill Creek water.

They still had one good shot left.

THE LUNDY PROJECT: A LAST DITCH EFFORT

By 1999, the water rights associated with the major properties in the North Basin were committed to various on-site uses, but this arrangement wasn't necessarily permanent or non-negotiable. Though the entitlements in the Mill-Wilson system add up to more water than is available there cumulatively throughout the year, flows vary seasonally, which means that sometimes there is still enough to share. The fact that Wilson Creek developed contiguous riparian habitat and supported a fishery is a testament to the fact that the watershed does supply flows in excess of what is actually used on the ranches. Additionally, the fish-rearing operation on the Conway Ranch is a non-consumptive use: all that is required to sustain it is flow *through* the facility.¹⁴⁵ Because that water goes back into Wilson Creek, it is possible for DeChambeau Ranch, with its downstream diversion point, to “live off” the Conway outflow.¹⁴⁶ Unexploited intricacies of this sort are a big part of the reason so many people in the Basin insist that it is possible to maintain a wide variety of desired attributes in the North Basin— including a multi-storied forest in the Mill Creek bottomlands. The primary impediments to restoration have always been political and emotional, not technical. The exception is the Lundy return ditch.

Technically speaking, there are two ways to get water into Mill Creek bottomlands: Southern California Edison can release it straight from the dam into the upper reaches of the stream, or outflow from the powerhouse can be directed back to Mill via the return ditch, which is located just below the powerhouse tailrace. The former option is limited by the operating requirements for the powerhouse, which requires a 5 cfs minimum flow to stay online.¹⁴⁷ The latter is constrained by the capacity of the return ditch. In the late

spring and early summer, when the alpine sun starts to burn away the snow up above Lundy Canyon, peak flows in the Mill-Wilson system average 89 cfs; the return ditch holds 12.¹⁴⁸ In fall and winter, when water is in short supply, ice formation in the ditch reduces its total volume. When chunks of this ice come loose, they form dams that can stop flow to Mill entirely.¹⁴⁹

Enlarging and improving the return ditch would allow greater flexibility in distributing water between Mill and Wilson Creeks. Operators could simulate spring floods on Mill Creek in periods of high flow— a restoration strategy that has yielded substantial benefits on the South Basin streams.¹⁵⁰ For the Committee, the Lundy return ditch would become to the FERC relicensing what irrigation efficiency had been to the Conway Ranch: an opportunity to stretch a finite water supply further and, in doing so, satisfy more needs. In the lean winter months, a ditch that didn't clog or freeze would permit more efficient use of scarce water.¹⁵¹

This was one way of looking at the issue. Another way of looking at it went something like this: The bigger the ditch, the more water the Mono Lake Committee would be able steal from Wilson Creek.¹⁵²

As ever, perspectives on this issue owed more to emotions, intuitions, and social context than facts. Had a proposal to enlarge the return ditch emerged in conversation among people who trusted one another, near the end of a local decision-making process like CREW, it might have been viewed as *the* critical piece of a workable solution. Unified local support could have been used to leverage funding for the upgrades— either from Edison, which owned the ditch, or a combination of private and public grants. In practice however, decisions about the operation and maintenance of the Lundy facility were not going to be made on CREW's timetable. They were going to be made on FERC's.

1999: A LICENSE ONLY ITS MOTHER COULD LOVE

I first met Jim Canaday at a conference on ecosystem restoration in Isla Vista, California. He was there to condense the complicated legal and natural history of a strange, salty lake that looked like it belonged on the moon into a platform for conversation about how best to restore trout habitat. His talk focused on the battle between the city of Los

Angeles and a small band of committed environmentalists over Rush and Lee Vining Creeks. The messy and unresolved narrative of the North Basin waterscape was, understandably, left out of the discussion. Still, Canaday could not resist mentioning the Federal Energy Regulatory Commission. “I always thought,” the aside began, “that FERC was the most arrogant government agency.”¹⁵³

Fortunately, the new license FERC issued for the Lundy Hydroelectric Project in March of 1999 did not evince much in the way of institutional arrogance, but it did not make anyone very happy, either.¹⁵⁴ Admittedly, arriving at terms on which the Mono Lake Committee, California Trout, People for Mono Basin Preservation, Edison, the Forest Service, Fish and Game, American Rivers, the Bureau of Land Management, the Trust for Public Land, and Mono County could all agree was a substantive challenge, and maybe one beyond the realm of realistic expectations. One would think, however, that FERC’s attempt might have pleased at least one or two of those entities.

Instead, the license produced a sort of collective apoplexy of protest. Over the next several months, FERC received a flood of petitions, comments, complaints, and motions-to-intervene. The crux of the issue was the minimum release from the dam required under the new license. FERC had originally set the amount at 1 cfs; the Forest Service used its dubious authority under the 4(e) conditions to ratchet the number up to 7 cfs.¹⁵⁵ The 1999 license mandated an intermediate 4 cfs— a number which, PMBP insisted, would entirely dry up Wilson Creek in the winter months and, with it, the Conway Ranch.¹⁵⁶ Following PMBP’s alarm, the Mono County Board of Supervisors and the Trust for Public Land submitted their own comments to FERC urging a modification to the Lundy license; the Board, in turn, solicited a letter from Congressman John T. Doolittle to the same effect.¹⁵⁷

Unsurprisingly, the Mono Lake Committee had a different take. In a letter to FERC dated June 16, 1999, attorney F. Bruce Dodge acknowledged that the new license might indeed require the Conway Ranch to change its diversion point to Mill Creek, but Dodge argued that this did not constitute an infringement on the right itself.¹⁵⁸ The Committee also took the position that Edison was responsible for maintaining the return ditch commensurate with its purpose: returning water used to generate hydroelectric power

to the stream of origin.¹⁵⁹ FERC's 1999 license placed no such imposition on the utility, and Edison was, understandably, disinclined to see this change.¹⁶⁰

In short, the license provided fodder for decades of lawsuits. Hoping to circumvent this outcome, the parties began another round of negotiations. Like CREW, these talks were intended to be holistic and broad in their approach: though they were officially associated with one piece of the North Basin waterscape— the Lundy license— the goal was a comprehensive North Basin water plan.¹⁶¹ By 2001, the Forest Service had produced a comprehensive analysis of the area that was functionally analogous to the fact-finding aspect of CREW's mission.¹⁶² The idea was to figure this thing out once and for all.¹⁶³

THINGS FALL APART: “SPINNING” AND SIGNING ON THE LINE

Unlike CREW, however, the FERC proceedings were not open to the public. In the realm of settlement negotiations, confidentiality agreements are par for the course, and there is a very good reason to do things this way in more alternative processes, as well: Creative, cooperative solutions are much easier to arrive at when stakeholders can be honest about their needs. Since genuine needs do not often correspond to what one can claim he or she is *owed* under law, candor at the negotiating table can undermine would-be litigants' cases later on. Confidentiality protects concessions and, in doing so, facilitates agreements— which is exactly why the Mono Lake Committee and LADWP began a series of semi-private mediated talks in 1984 to parallel their public legal fight.¹⁶⁴

The approach wouldn't go over so well this time. Though PMBP was franchised into the FERC license talks as an official interested party, the confidentiality clause flicked on the same raw nerve that had inflamed many PMBP supporters in the restoration hearings; they didn't like to see any limits to access, period.¹⁶⁵ When the *Mammoth Times* roasted the negotiations in a 2004 feature article, secrecy served as its spit. The reporter, Christina Reed, quoted Jim Canaday, Mono Lake Committee Executive Director Geoff McQuilkin, and employees of the Forest Service, all of whom rationalized the talks as one useful piece of a decision-making process that was, on the whole, open and transparent.

Reed, apparently, was not persuaded. “To become a part of the process,” the piece concluded, “sign on the straight line, and then agree not to talk about it in public.”¹⁶⁶

As the negotiations dragged on, the sources of PMBP’s frustration multiplied. The group’s resolve was flagging. They were tired of fighting folks with more lawyers than their one— a challenge Bellomo described as akin to “hitting one’s head against the wall.”¹⁶⁷ This was just one problematic aspect of an enterprise that was going nowhere. Lisa Cutting, who took over the Policy Director position following Hopkins’ retirement in 2002, represented the Committee in the talks. For a long time, she admitted, “We were spinning.”¹⁶⁸ Canaday blames the FERC negotiations for the demise of CREW— working on the Lundy license was both frustrating and distracting, and it drew energy away from the more home-grown process.¹⁶⁹

Under pressure from FERC, the parties ultimately gave up the goal of a comprehensive North Basin water plan.¹⁷⁰ The resultant settlement, submitted to FERC in 2005, focuses on the Lundy facilities exclusively. In exchange for a 1 cfs minimum release from Lundy Dam, Edison agreed to enlarge the return ditch to a capacity of at least 40 cfs. If the Mono Lake Committee can make up the difference in cost, the utility is obligated to build in another 12 cfs capacity. The agreement also established a framework for assigning flows to Mill and Wilson Creeks on an annual basis, allowing some flexibility in particularly wet and dry years. As it is written in the explanatory statement issued by the signatory parties, Edison “[will] work cooperatively with the Water Rights Holders to manage the distribution of water, and [will] continue to operate the powerhouse consistent with water rights.”¹⁷¹

The settlement did not address the nature or extent of water rights on the Mill-Wilson system.¹⁷²

Neither PMBP nor the County signed on.¹⁷³

CONCLUSION

THE BALANCE SHEET

The Mono Lake Committee believes deeply in the possibility of finding solutions that leave everyone feeling like they've won, so it's ironic that when I talked to people about Mill Creek, what I heard was a nearly universal perception of loss.

The minimum flows mandated in the new project license for Lundy are small, and even with the enlarged return ditch, it will be difficult to deliver a real peak to Mill as long as the Wilson Creek water rights are "protected" in their amorphous historic forms. It is easy to understand why Hopkins and Cutting feel like the creek itself has lost along with the Committee. If it has, a precious piece of the Great Basin has also slipped away, perhaps for good.

Bellomo, on the other hand, sees the defeat as her own— her own, her neighbors', and Wilson Creek's. They may have won at the restoration hearings and secured year-round flows to Conway by way of the County's fish-rearing facility, but behind the closed doors of the FERC negotiating room, justice suffered a rout. The mere existence of an enlarged return ditch leaves Wilson Creek vulnerable; its trout are perennially at risk of death on dry gravel. An annual renegotiation of water allocation among right-holders is problematic when the right-holders are mostly government agencies: the narrow, steep-banked channels of public comment periods and agency hearings are the only way locals can influence decisions about where the water goes. The people have been shushed by a more powerful environmental lobby— just like the voices of rural Eastern Sierra communities have been drowned out by the behemoth Los Angeles for the better part of a century.¹⁷⁴

In their offices in Sacramento and Oregon, Jim Canaday and Nelson Mathews shake their heads over all the acrimony. The fact that the Conway Ranch has been preserved as public open space remains, in the end, the most important thing for Mathews, but he readily acknowledges that even this victory was a close call. The local conflict seriously jeopardized TPL's efforts to protect the property from development, and "in hindsight," he says, "It shouldn't have been controversial."¹⁷⁵ Canaday sees the in-fighting as having cleared the way for a domineering, arrogant, and out-of-touch federal regulator to

make decisions like the 1999 license, which disregarded *every* local interest. Within the Basin, he claims, “[the] goals are very common. But I can say that because I’m sitting in the bleachers.”¹⁷⁶ It’s an interesting choice of words, because when I speak of loss, I’m not talking about the kind that is not like victory; I’m talking about the sort of loss that is like grief. This distinction matters because there is a perception in this country that politics is like a game.¹⁷⁷ And in the Mono Basin, there is a perception that some people were playing that game with Mill and Wilson Creeks.

There may be some truth to that. The Mono Lake Committee was born fighting an enemy much larger than itself. When the environmental column first filed suit against LADWP in 1979, Paul Lane, then the utility’s chief engineer, told Committee counsel Dodge, “The last lawsuit we had like this took 43 years.”¹⁷⁸ More recently, an LADWP attorney told activists in the Owens Valley that they shouldn’t even bother with a challenge: for the city, “litigation is cheaper than water.”¹⁷⁹ In the face of such a formidable foe, the Committee had to learn to be strategic, and now there are those who believe it always has something up its sleeve.¹⁸⁰ Others insist it was PMBP that was playing games, popping in and out of the FERC negotiations just to monkey-wrench the process. Certainly, individuals and groups developed strategies for getting what they wanted; certainly, these were sometimes at odds with the Committee’s vision of promoting “cooperative solutions” and the premium Bellomo places on integrity and transparency in advocacy. If the conflict over the North Basin streams appeared to be an old-fashioned struggle for power, it’s no mystery why, but I believe this interpretation leaves out a great deal.

Natural, personal, and human history; opportunity; community— these are the casualties people name when they talk about the Mill Creek fight. Those who opposed re-watering the stream have a tendency to characterize restoration as an attempt to return the North Basin to a “pre-Columbian” or “pre-European” state— to the way it was before the advent of “white man,” or perhaps even humankind altogether.¹⁸¹ Of course, many identify closely with the things that came to Mono between “white man” and the Los Angeles aqueduct; for some PMBP supporters, this category includes their grandparents. And for these individuals in particular, restoration can look like an attempt to erase a past that is

not divisible from the present— at least, not cleanly. As one community member told the *High Country News*, “We’re here now. They’ll have to load us up, too.”¹⁸²

Of course, another idea latent Mathews’ and Canaday’s reflections is that there was a histrionic element to the disagreements over North Basin streams. Even Burt Almond, who is about as local as they come, has described the protracted controversy in slightly pejorative terms— “squabbling over teaspoons and eye droppers of water,” is how he put it to me.¹⁸³ This is a stark contrast to the battle for Mono Lake itself: If LADWP had been allowed to continue sucking water from Rush and Lee Vining Creeks, that wide, birdful expanse of reflected blue would have been reduced to a stagnant, stinking puddle of salt, ringed by acres of alkali plains. Throw a good wind down on this, and you get howling clouds of very fine particulate matter, including the carcinogen arsenic.¹⁸⁴ The image of a toxic dust storm makes the fight over Mill Creek look like a tempest in a teapot. We can all agree that some things are worth fighting for, and it’s fair to ask if the particulars of the North Basin plumbing really count as one of them.

This, of course, is ultimately a question about values. Insofar as this is true, the local aspect of the ongoing struggle over Mono Lake’s water is not simple melodrama. There will always be a broad diversity of deeply rooted beliefs about what land is and should be for, and debate stemming from disagreements on this level is, in some sense, beyond the reach of remedy. This might be the best explanation for why two sets of fact-finding processes, two rounds of negotiations, and a series of exhaustive hearings precipitated no satisfactory compromise for the people who love the North Mono Basin.

If this seems like a grim diagnosis, I would like to submit the proposal that it shouldn’t be. If the conflict over Mill Creek is not fixable because it is ultimately a conflict about values, it also means that the people of the Mono Basin care deeply about the place they live. They still see their own stories growing out of the dust of a particular corner of the earth. This is more than most of us can claim. I expect that it is also part of the reason Canaday describes those who live in the Eastern Sierra as “a passionate people.”¹⁸⁵ And if nobody cared passionately about Mono Lake, there would be little left of it today. If nobody cared passionately about Mill and Wilson Creeks, the only “green meadows” in the

North Mono Basin would be a golf course plus the lawns of the condos in the Conway Ranch development.

This perspective still leaves open at least one important question, however— a question about how to go forward in the face of seemingly intractable differences of opinion about what nature is really for. There are, of course, no tidy answers here, but it might be helpful to revisit some basic truths— like the idea that if everybody cared about the Basin, the lake, and the streams for the same reasons and in exactly the same way, the Eastern Sierra would not be a very interesting place.

It has been said that Americans have a tendency to prefer simple and pleasant democracy in spite of the reality that democracy is usually neither of those things.¹⁸⁶ It may be that we suffer a similar delusion about community; that we imagine this only exists where there is also peace and agreement. But there are now many people in the West who are speaking of a different idea— the idea that “easy” community isn’t really community at all.¹⁸⁷ As one professional facilitator put it, “Community is in the struggle for community.”¹⁸⁸ Of course, such struggles can be toxic, as when they are accompanied by a profound lack of trust. The controversy at Mill Creek demonstrates that is sometimes harder to reestablish good relations between neighbors than it is to share water— even in the dry, storied terrain between the Rocky Mountains and the Pacific Coast.

Perhaps, then, moving beyond an idea of community as a place that is always comfortable would help communities in conflict do something else that Americans— and indeed, human beings in general— aren’t terribly good at: sitting with contradiction.¹⁸⁹ At Mono, a debate about the true purpose of nature introduced the paradoxical idea that bitter, personal conflict stemming from mistrust might also be healthy: in this case, the conflict also exposed diverse values, and unburied latent points of difference. This unburying can facilitate a more nuanced and richly textured assessment of what makes a place like the Mono Basin, or any other, worth living in and worth fighting for— a new story, if you will, embracing the people who live there now, the ones who came before them, and everything between that ancient sweep of salty blue and the snow in the crown of the Range of Light.

NOTES

PROLOGUE

June and August

¹ Jim Mitchell, "Efforts to Save Ailing Mono Lake Split Small Town," *Reno Gazette-Journal*, March 8, 1987.

² Nancy Upham, interview by the author, Bishop, California, December 15, 2006.

³ Michael Karlberg, "News and conflict: How adversarial news frames limit public understanding of environmental issues," *Alternatives Journal* 23, no. 1 (1997): 22-27; Katie Bellomo, interview by the author, Lee Vining, California, December 18, 2006.

PART I

A Stream in Three Parts

⁴ Scott Stine, "Restoration of Degraded Riparian, Wetland, and Deltaic Environment on Mill Creek, Mono County, California," Appendix E to Appendix 1 in *Mono Basin Waterfowl Habitat Restoration Plan*, ed. Rod Drewien, Fritz Reid, and Tom Ratcliff (Los Angeles, California: Los Angeles Department of Water and Power, 1995), 1-3.

⁵ John Bair, "Managing Snowmelt Signature on Rush Creek," *Mono Basin Restoration: Ten Years Later*, in *Shovels to Science: A Full Range of Restoration Practice in California*, Annual Conference of the California Society for Ecological Restoration (Santa Barbara, California, October 26, 2006).

⁶ Roger Porter, ed., *North Mono Basin Watershed/Landscape Analysis* (USDA Forest Service, Region 5: Inyo National Forest, 2001), 41-42; 46-50.

⁷ Stine, "Deltaic Environment on Mill Creek," 3.

⁸ Bair, "Managing Snowmelt Signature on Rush Creek."

⁹ There is a large body of literature on the role of groundwater in supporting riparian forests. See for example Theodore T. Kozlowski's review of the literature on flooding in riparian forests (*Wetlands* 22, no. 3 (2002): 550-561). A review focusing specifically on riparian cottonwoods—key species in the discussion of Mono Basin bottomland forests—finds alluvial groundwater to be of central importance in sustaining these trees (Stewart B. Rood, Jeffrey H. Braatne, and Francine M. R. Hughes, "Ecophysiology of Riparian Cottonwoods: Stream Flow Dependency, Water Relations, and Restoration," *Tree Physiology* 23, no. 16 (2003): 1113-1124).

¹⁰ Porter, *Landscape Analysis*, 41-42; 46-50.

¹¹ Lisa Cutting, "The Mono Lake Committee and Restoration in the Mono Basin," *Mono Basin Restoration: Ten Years Later*; Porter, *Landscape Analysis*, 44.

¹² Stine, "Deltaic Environment on Mill Creek," 1.

¹³ Porter, *Landscape Analysis*, 11; 13.

¹⁴ Southern California Edison (SCE) and others, eds., "Explanatory Statement In Support of the Offer of Settlement, Southern California Edison Company, Lundy Hydroelectric Project (FERC No. 1390)," January 2005, 4.

¹⁵ Burt Almond, phone conversation with the author, March 14, 2007.

¹⁶ Peter Vorster, *Public Hearing Regarding Stream and Waterfowl Habitat Restoration Plans and Grant Lake Operations and Management Plan Submitted by the Los Angeles Department of Water and Power Pursuant to the Requirements of Water Right Decision 1631* (Sacramento, California: State Water Resources Control Board), February 24, 1997, T 1128:3-4.

¹⁷ Rick Kattelman, "Hydrologic Condition Assessment," 15; 20, Appendix B in *Landscape Analysis*, ed. Porter.

Rights from Another Time

¹⁸ Kattelman, "Hydrologic Condition Assessment," 15.

¹⁹ Burt Almond, interview by the author, Bishop, California, December 15, 2006; Lisa Cutting, interview by the author, Lee Vining, California, October 21, 2006.

²⁰ Porter, *Landscape Analysis*, 17. See also James R. Perrault, *Hearing*, January 29, 1997, T 488:23-24. Other documents place the earlier adjudication of North Basin water rights in 1911, however this seems unlikely: in March of that year, an avalanche wiped out the Jordan Powerhouse, Lundy's predecessor in the canyon. According to Almond, the 1914 decree came out of a "legal squabble" precipitated by the decision to site the Lundy facility further from the path of the 1911 avalanche. This paper's reliance on the 1901 date is based

on its relative prevalence in source documents, as well as the assumption that decisions on any water dispute pending in early 1911 would probably have been postponed into the following year on account of the damage wrought by the avalanche. For more on the Jordan slide, see Frank S. Wedertz, *Mono Diggings* (Bishop, California: Chalfant Press, 1978), 217-218. The 1914 decree can be found at *Hydro Electric Co. v. J. A Conway, et al.*, Mono County, Superior Court 2088.

²¹ Arthur L. Littleworth and Eric L. Garner, *California Water* (Point Arena, California: Solano Press, 1995), 42-43; 68.

²² Almond, interview.

²³ Martin Nie, "Drivers of Natural Resource-Based Political Conflict," *Policy Sciences* 36 (2003): 314.

²⁴ Almond, interview.

²⁵ A water right is legally defined as a right to *use* water; the water itself cannot be *owned*. Though this may seem to be a fine distinction, it has significant implications— most of which are beyond the scope of this discussion. What is most important to understand here is that, taken in tandem with the long-standing stipulation that water uses in California must also be *beneficial*, the "usufructuary" nature of water rights leaves those who hold them more vulnerable to legal challenge. If one can make a case that an entitlement is not being used by the party who holds it, the paper right may be voided by the courts or the State Water Resources Control Board. For a comprehensive overview of California water rights, see Littleworth and Garner, *California Water*. Regarding the position that the 1914 water rights are seasonal, Perrault summarizes the rationale underlying this interpretation in his testimony before the Water Board (see *Hearing*, January 29, 1997, T 530:14-20).

²⁶ Upham, interview.

²⁷ Jim Canaday, interview by the author, Sacramento, California, December 14, 2006.

The Waterfowl Plan: Getting the Ducks in a Row

²⁸ John Hart, *Storm Over Mono: The Mono Lake Battle and the California Water Future* (Berkeley, California: University of California Press, 1996), 46. Hart's book is the most comprehensive treatment of the struggle to save Mono Lake from the ecological destruction wrought by LADWP's diversions.

²⁹ *Ibid.*, 54-55.

³⁰ Mono Lake Committee, "Mono Lake Yearly Level Since 1850," Mono Basin Clearinghouse, <http://www.monobasinresearch.org/data/> (accessed February, 10, 2007).

³¹ David W. Winkler, ed., *An Ecological Study of Mono Lake, California*, University of California Institute of Ecology Publication 12 (Davis, California: Institute of Ecology, 1977), 2. The 1980 reprint of this landmark study is available for download on the research arm of the Mono Lake Committee website, <http://www.monobasinresearch.org/>; a summary of the '77 assessment can be found in *Storm Over Mono*, 65-70.

³² Hart, *Storm Over Mono*, 70-74.

³³ In "CalTrout I" (*California Trout v. State Water Resources Control Board*, 207 Cal App. 3d 584, decided April 26, 1989), LADWP's licenses to Mono Basin water were found to have been illegally procured; "CalTrout II," (*California Trout v. Superior Court of Sacramento County*, 218 Cal. App. 3d 187-212, decided February 23, 1990) required the city to maintain fisheries in the tributary streams at pre-1941 levels. The major victory had come earlier, with the State Supreme Court ruling in *National Audubon Society v. Superior Court of Alpine County* (33 Cal. 3d 419, decided February 17, 1983). The so-called "public trust decision" empowered the State Water Resources Control Board to consider environmental values as part of the ordinary process of issuing *any* permits for water use— a standard which would be applied to LADWP's new application to export water from the Mono Basin. *Storm Over Mono* summarizes all the major lawsuits in the Mono Lake controversy and discusses their implications at length; a more thorough legal history can be found in Appendix R of the 1993 Mono Basin Environmental Impact Report prepared for LADWP by Jones & Stokes Associates (Sacramento, California).

³⁴ California State Water Resources Control Board (SWRCB), *Mono Lake Water Right Decision 1631* (Sacramento, California: State Water Resources Control Board, September 28, 1994).

³⁵ See for example Thomas W. Birmingham, *Hearing*, February 24, 1997, T 1250:3-10 and ensuing discussion (T 1250:11-1254:19).

³⁶ SWRCB, *Decision 1631*, 77.

³⁷ Drewien, Reid, and Ratcliff, Mono Basin Waterfowl Habitat Restoration Plan, 111.

³⁸ SWRCB, *Decision 1631*, 116.

³⁹ *Ibid.*, 100.

⁴⁰ J. Boone Kauffman, *Hearing*, January 28, 1997, T 339:16-20. See also Mono Lake Committee, "Restoration of the Mono Basin," Mono Lake Committee, <http://www.monolake.org/restoration/index.html> (accessed November 6, 2006). Research has yielded many recommendations for restoring degraded and radically altered streams; installing woody debris to redirect flows and using vegetation or rip-rap to stabilize eroding banks are common approaches to increasing channel complexity (a more comprehensive discussion can be found in the National Research Council's Committee on Restoration of Aquatic Ecosystems' publication, *Restoration of Aquatic Ecosystems: Science, Technology, and Public Policy* (Washington, D.C.: National Academy Press (1992)), 178-223). Both were attempted on Rush Creek in the early phases of LADWP's restoration work, but it has since been argued that in some locations, bank erosion might be part of the natural processes by which a stream "restores itself" (See G. Mathias Kondalf's critique of the early work on Rush Creek in *Aquatic Conservation: Marine and Freshwater Ecosystems* 8 (1998): 39-52). In other words, the goal of increasing sinuosity and roughness in a degraded channel may call for interventions which are, in the short term, out of step with the long-term goal of correcting an elevation difference caused by incision. Despite promising advances in restoration science, some things still take time.

⁴¹ Mono Lake Committee, "Conway Ranch Presents Restoration Opportunity," *Mono Lake Newsletter*, Fall 1996.

⁴² Kauffman places the time required to regenerate a mature cottonwood forest in deltaic bottomlands offering appropriate abiotic conditions on the decadal scale (*Hearing*, January 28, 1997, T 339:16-20). The Mono Lake Committee uses fifty years as its baseline estimate (see "Restoration of the Mono Basin").

⁴³ Kattelman, "Hydrologic Condition Assessment," 28; Mono Lake Committee, "Conway Ranch Presents Restoration Opportunity."

⁴⁴ SWRCB, "Waterfowl Scientists' Report," *Water Rights Order 98-05* (Sacramento, California: State Water Resources Control Board, September 2, 1998), sec. 6.1.

Los Angeles in Context: The Devil Makes Three

⁴⁵ Almond, interview.

⁴⁶ *Ibid.*

⁴⁷ *Electric Consumers Protection Act of 1986*, Public Law 99-495, *U.S. Statutes at Large* 1243 (October 16, 1986), sec. 3.

⁴⁸ Federal Energy Regulatory Commission (FERC), *Order Issuing New License* (March 3, 1999), P-1390: 19990305-0307. "P-1390" is the FERC docket number for the Lundy Hydroelectric Project; individual documents within the docket are classified as "issuances" or "submittals" and given a 12-digit accession number, the first eight digits of which refer to the date the document was received by FERC. Most docket materials are available from FERC's electronic library, <http://www.ferc.gov/docs-filing/elibrary.asp>. Due to the extensive number of issuances and submittals associated with docket P-1390, this paper includes accession numbers in all references to FERC documents.

⁴⁹ Porter, *Landscape Analysis*, 28-29. It should be noted that all rights in the Mill-Wilson system are, technically speaking, rights to Mill Creek water (see Vorster, *Hearing*, February 24, 1997, T 1119:11). The question of whether users' customary diversion points are protected as part of the right has, however, been hotly contested. See for example F. Bruce Dodge, the Mono Lake Committee (counsel), submittal to FERC (June 16, 1999), P-1390: 19990623-0222, and the ensuing correspondence among parties.

⁵⁰ Nelson Mathews, phone interview by the author, December 11, 2006.

⁵¹ Mathews, interview; Mono Lake Committee, "Conway Ranch Response," *Mono Lake Newsletter* 12, no. 4 (1990); Mono Lake Committee, "Conway Ranch Approved," *Mono Lake Newsletter* 13, no. 1 (1990).

⁵² Mono Lake Committee, "Conway Ranch Update," *Mono Lake Newsletter* 13, no. 2 (1990).

⁵³ Mathews, interview.

⁵⁴ Heidi Hopkins, "Public Process to Examine North Basin Water Issues," *Mono Lake Newsletter*, Fall 1996; Mathews, interview.

Two Histories, One Stream

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- ⁵⁵ Hart, *Storm Over Mono*, 38-40.
- ⁵⁶ Kattelman, "Hydrologic Condition Assessment," 29.
- ⁵⁷ Craig Roecker, interview by the author, Mill Valley, California, November 28, 2006.
- ⁵⁸ Hart, *Storm Over Mono*, 91.
- ⁵⁹ Heidi Hopkins, interview by the author, Big Sur, California, December 8, 2006.
- ⁶⁰ Porter, interview; Upham, interview; Roecker, interview.
- ⁶¹ Mono Lake Committee, "Restoration Chronology," Mono Lake Committee, <http://www.monolake.org/restoration/restochr.htm> (accessed February 10, 2007).

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- ⁶² Mono Lake Committee staff, "Long Live Mono Lake," *Mono Lake Newsletter* 28, no. 2 (2007), 15; Jane Braxton Little, "Mono Lake: Victory Over Los Angeles Turns into Local Controversy," *High Country News* 29, no. 23 (December 8, 1997).
- ⁶³ Bellomo, interview.
- ⁶⁴ Hopkins, interview.
- ⁶⁵ Scott Stine, personal communication with the author.
- ⁶⁶ Bellomo, interview.
- ⁶⁷ Hart, *Storm Over Mono*, 86-87.
- ⁶⁸ Almond, interview.
- ⁶⁹ Bellomo, interview.
- ⁷⁰ Bonnie Noles, *Hearing*, May 6, 1997, T 1555:13.
- ⁷¹ Bellomo, interview.

People for Mono Basin Preservation: A Sagebrush-roots Rebellion

- ⁷² Bellomo, interview.
- ⁷³ *Ibid.*; Bellomo, *Hearing*, February 25, 1997, T 1342:22-1343:2.
- ⁷⁴ Bellomo, interview.
- ⁷⁵ Noles, *Hearing*, May 6, 1997, T 1553:21-22; Little, "Local Controversy."
- ⁷⁶ Hopkins, interview.
- ⁷⁷ Mono Lake Committee, "The Mono Lake Committee's Position on Mill Creek," *Mono Lake Newsletter*, Winter 1997.
- ⁷⁸ Hart, *Storm Over Mono*, 148-149.
- ⁷⁹ Bellomo, *Hearing*, February 25, 1997, T 1347:6 - 1348:15
- ⁸⁰ Mono Lake Committee, "Position on Mill Creek."

Winter 1996-1997: "Screaming Matches Over Restoration"

- ⁸¹ Little, "Local Controversy."
- ⁸² Mathews, interview.
- ⁸³ Little, "Local Controversy"; Hopkins, interview.
- ⁸⁴ Canaday, interview.
- ⁸⁵ Roecker, interview.
- ⁸⁶ Stone, *Policy Paradox*, 34.
- ⁸⁷ Julie L. Lockwood and Stuart L. Pimm, "When Does Restoration Succeed?" in *Ecological Assembly Rules: Perspectives, Advances, Retreats*, ed. Evan Weiher and Paul Keddy, 2nd ed. (Cambridge: Cambridge University Press, 2001), <http://site.ebrary.com.oca.ucsc.edu/lib/ucsc/Doc?id=10023397> (accessed March 13, 2007), 367, 376.
- ⁸⁸ *Ibid.*, 363-392.
- ⁸⁹ André Clewell, James Aronson, and Keith Winterhalder, *The SER Primer on Ecological Restoration* (Tucson, Arizona: Society for Ecological Restoration, 2004), http://www.ser.org/content/ecological_restoration_primer.asp (accessed March 13, 2007).

⁹⁰ Andre Clewell, John Rieger, and John Munro, *Guidelines for Developing and Managing Ecological Restoration Projects*, 2nd ed. (Tucson, Arizona: Society for Ecological Restoration, 2005), http://www.ser.org/content/guidelines_ecological_restoration.asp (accessed March 13, 2007).

⁹¹ Cutting, "Mono Lake Committee and Restoration," *Mono Basin Restoration: Ten Years Later*.

⁹² Mono Lake Committee, "Education and Interpretation: Introducing Mono Lake to the World," Mono Lake Committee, <http://www.monolake.org/committee/ed.htm> (accessed March 13, 2007). Education is also one of three pillars of the Mono Lake Committee's organizational mission, available at <http://www.monolake.org/committee/index.html>.

⁹³ Bellomo, interview.

⁹⁴ Louis Sahagun, "In Owens Valley, Water Again Flows," *Los Angeles Times*, December 7, 2006.

⁹⁵ Bellomo, interview.

Information Problems: Believe What You Want

⁹⁶ Bellomo, interview.

⁹⁷ Bellomo, *Hearing*, February 25, 1997, T 1312:14-1333:2.

⁹⁸ Deborah Stone, *Policy Paradox: The Art of Political Decision Making* (New York: W.W. Norton & Company, Inc., 2002).

⁹⁹ Hopkins, interview.

¹⁰⁰ Stone, *Policy Paradox*, 314.

¹⁰¹ The Mammoth Times, "Policies and Specs," The Mammoth Times, http://www.mammothtimes.com/advertising/rate_card/ (accessed February 21, 2007); Roecker, interview.

¹⁰² Roecker, interview.

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¹⁰³ Canaday, interview.

¹⁰⁴ Ibid.

¹⁰⁵ Cutting, interview.

¹⁰⁶ Canaday, interview.

¹⁰⁷ Heidi Hopkins, "Community Energizes Public Process," *Mono Lake Newsletter*, Fall 1997.

¹⁰⁸ Canaday, interview.

¹⁰⁹ Ibid.; Bellomo, 2006; Terry L. Russi, *Hearing*, February 25, 1997, T 1286:8-17; Bellomo, *Hearing*, February 25, 1997, T 1280:25-1281:16; Dan Lyster, interview by the author, Mammoth Lakes, California, December 18, 2006; Hopkins, "Community Energizes Public Process," *Mono Lake Newsletter*, Fall 1997.

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¹¹⁰ SWRCB, *Hearing*, January 28, 1997, T 1:1-8:24.

¹¹¹ Hart, *Storm Over Mono*, 149.

¹¹² John Caffrey and others, *Hearing*, January 28, 1997, T 15:10-23:2

¹¹³ Bellomo, *Hearing*, February 25, 1997, T 1312:14-1333:2.

¹¹⁴ Ibid., 1313:5-10; Bellomo, interview.

¹¹⁵ Heidi Hess-Griffin, *Hearing*, 1997, T 1308:8-1310:13.

¹¹⁶ Ronald Thomas, *Hearing*, May 6, 1997, T 1494:11-14

¹¹⁷ Bellomo, *Hearing*, May 7, 1997, T 1745:11-15.

¹¹⁸ Bellomo, interview.

¹¹⁹ Bellomo, *Hearing*, May 7, 1997, T 1743:3-6.

¹²⁰ Thomas, *Hearing*, May 6, 1997, T 1495:1-3.

¹²¹ Ibid., T 1493:10-1504:8

¹²² Bellomo, *Hearing*, May 7, 1997, T 1741:22-23.

¹²³ Noles, *Hearing*, May 6, 1997, T 1553:2-13.

The Price of Participation

¹²⁴ Hart, *Storm Over Mono*, 171.

¹²⁵ Bellomo, *Hearing*, January 29, 1997, T 440:14-21.

¹²⁶ Caffrey, *Hearing*, January 28, 1997, T 13:1-3.

¹²⁷ Bellomo, interview.

¹²⁸ *Ibid.*

¹²⁹ Canaday, interview.

¹³⁰ Bellomo, interview.

¹³¹ Little, "Local Controversy."

¹³² Canaday, interview.

¹³³ *Ibid.*; Mathews, interview.

The Restoration Orders: One Door Closes

¹³⁴ SWRCB, "Rewatering of Mill Creek," *Water Rights Order 98-05* (Sacramento, California: State Water Resources Control Board, September 2, 1998), sec. 6.4.2.

¹³⁵ Porter, interview.

PART III

Conway and DeChambeau: Tying Down the Water

¹³⁶ Katie Bellomo, People for Mono Basin Preservation, submittal to FERC (April 19, 1999), P-1390: 19990426-0374, 2.

¹³⁷ Mono Lake Committee, "Mono County Objects to Settlement," *Mono Lake Newsletter*, Summer 1997.

¹³⁸ Mono Lake Committee, "DeChambeau Ranch Irrigation Resumes," *Mono Lake Newsletter*, Fall 1997.

¹³⁹ Littleworth and Garner, *California Water*, 47.

¹⁴⁰ Porter, *Hearing*, January 30, 1997, T 726:7-9.

¹⁴¹ Canaday, interview.

¹⁴² Hopkins, interview.

¹⁴³ Little, "Local Controversy."

¹⁴⁴ Hopkins, "A Decision— Finally— on Restoration," *Mono Lake Newsletter*, Fall 1998.

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¹⁴⁵ Edison et al., eds., "Explanatory Statement," 3.

¹⁴⁶ Cutting, interview.

¹⁴⁷ Cutting, interview.

¹⁴⁸ Kattelman, "Hydrologic Condition Assessment," 7.

¹⁴⁹ Almond, pers. communication (see n. 15).

¹⁵⁰ John Bair, "Seed Release Periodicity and Snowmelt Hydrograph as Restoration Tools," *Mono Basin Restoration: Ten Years Later*.

¹⁵¹ Mono Lake Committee, "FERC Proceedings," *Mono Lake Newsletter*, Winter 1998.

¹⁵² Canaday, interview.

1999: A License Only its Mother Could Love

¹⁵³ Jim Canaday, "History of the Mono Basin," *Mono Basin Restoration: Ten Years Later*.

¹⁵⁴ Mono Lake Committee, "Mill Creek Relicensing Could Set National Precedent," *Mono Lake Newsletter*, Winter 2000.

¹⁵⁵ Edison et al., eds., "Explanatory Statement," 1.

¹⁵⁶ Katie Bellomo, P-1390: 19990426-0374.

¹⁵⁷ Donald B. Mooney, the Trust for Public Land (counsel), submittal to FERC (October 18, 1999), P-1390: 19991026-0401; John T. Doolittle, United States House of Representatives, submittal to FERC (January 11, 2000), P-1390: 20000803-0414.

¹⁵⁸ Dodge, P-1390: 19990623-0222.

¹⁵⁹ Dodge, P-1390: 19981027-0348.

¹⁶⁰ Nino Mascolo, P-1390: 19981030-0242.

¹⁶¹ Cutting, interview.

¹⁶² Porter, interview; Porter, *Landscape Analysis*,

¹⁶³ Cutting, interview.

Things Fall Apart: “Spinning” and Signing on the Line

¹⁶⁴ Hart, *Storm Over Mono*, 105.

¹⁶⁵ Bellomo, interview.

¹⁶⁶ Christina Reed, “Speaking Confidentially: No Comment on Mono Basin Water Talks,” *The Mammoth Times*, August 4, 2004.

¹⁶⁷ Bellomo, interview.

¹⁶⁸ Cutting, interview.

¹⁶⁹ Canaday, interview.

¹⁷⁰ Lisa Cutting, “Mill Creek Hydropower Decision Imminent,” *Mono Lake Newsletter*, Fall 2004.

¹⁷¹ Edison et al., eds., “Explanatory Statement,” 5.

¹⁷² Cutting, “Decision Imminent.”

¹⁷³ Lisa Cutting, “DWP Weighs in on Mill Creek Settlement: The Department Asserts its Mill Creek Water Right— Mill Creek to Benefit,” *Mono Lake Newsletter*, Winter/Spring 2005; Lyster, interview.

CONCLUSION

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¹⁷⁴ Little, “Local Controversy.”

¹⁷⁵ Mathews, interview.

¹⁷⁶ Canaday, interview.

¹⁷⁷ Nie, “Drivers,” 326.

¹⁷⁸ Hart, *Storm Over Mono*, 83.

¹⁷⁹ Michael Prather, Owens Valley Committee (lecture at the University of California, Santa Cruz, California, January 27, 2005).

¹⁸⁰ Hart discusses the Committee’s development from a band of scientists into a more politically savvy advocacy group (*Storm Over Mono*, 77, 89); Roecker spoke to the consequences for its dealings with the community (interview).

¹⁸¹ Bellomo, interview; Almond, interview; Little, “Local Controversy.”

¹⁸² Little, “Local Controversy.”

¹⁸³ Almond, interview.

¹⁸⁴ Hart, *Storm Over Mono*, 52-54.

¹⁸⁵ Canaday, interview.

¹⁸⁶ John Hibbing and Elizabeth Theiss-Morse, *Congress as Public Enemy: Public Attitudes Toward American Political Institutions* (Cambridge: Cambridge University Press, 1995). See for example Chapter 7, 125-144.

¹⁸⁷ Philip Brick, Donald Snow, and Sarah Van de Wetering, eds., *Across the Great Divide* (Washington, D.C.: Island Press, 2001), 44.

¹⁸⁸ Carl M. Moore, “What is Community?” in *Across the Great Divide*, 73.

¹⁸⁹ Alan Richards (lectures at the University of California, Santa Cruz, California, January, 2007).