



## Owens Lake Dust Control Lawsuit Questions & Answers

**Q: *Why did LADWP bring this lawsuit?***

A: The Los Angeles Department of Water and Power (LADWP) has devoted an enormous amount of financial and water resources to live up to all its' fundamental obligations to control dust at Owens Lake. This work has resulted in substantial and enduring environmental progress – leading to an enormous reduction in dust coming from Owens Lake.

Many other leaders at the federal, state and local level, along with several environmental groups agreed with the Department and offered to help create a multi-party process (called the Master Plan process) to help build consensus around new, innovative approaches that will protect the environment, conserve scarce water, and be more cost effective for customers.

Unfortunately, one essential party – the Great Basin Unified Air Pollution Control District – refused to participate in this process in any useful way and instead decided to both sue the City of Los Angeles over the Department's appeal of outrageous legal fees and continues to impose unjustified demands on the Department.

As a result, the LADWP has been left with absolutely no choice but to file a lawsuit in federal court. This was the Department's only remaining option to rein in the Great Basin regulator, who is seemingly unaccountable to anyone.

**Q: *Does this lawsuit signal LADWP's intention to abandon its historical obligations to Owens Lake, which was drained by Los Angeles to help meet its water needs in the last century?***

A: Absolutely not. The LADWP and its customers are committed to fulfilling our fundamental obligation to reasonably control dust at Owens Lake caused by the Department's water diversions. Over the last 11 years, LADWP's customers have funded the largest dust control project in American history. This effort has led to an historic reduction in air pollution in the Owens Valley, through – covering by water, vegetation or gravel over 42 square miles – with and additional 3 miles about to begin This 45 square miles of dust treatment is exactly what was requested and agreed to by Great Basin and LADWP.

To be absolutely clear, LADWP and its ratepayers remain committed to meeting our environmental obligations at Owens Lake. With more than a billion dollars already invested, the LADWP is insistent on seeing the ratepayers' investment succeed, no matter the time frame. In short, LADWP will not walk away from the historic environmental achievements made in this effort.

**Q: *If so much progress has been made, then why doesn't LADWP just finish the job?***

A: LADWP has done everything possible to try to finish the job, including by working in recent months to establish a consensus among all of the various federal, state and local agencies involved. Unfortunately, the local regulator, Great Basin, has refused to work cooperatively with LADWP and these other agencies. So, even with all of the water and financial resources that have been used and all of the environmental successes that have been achieved, there appears to be no end in sight to the work that DWP and its ratepayers may be ordered/required to do at Owens Lake. Great Basin keeps moving the goal posts, creating an open-ended situation that will continue to drain scarce water from around California.

**Q: *How much has the dust control effort so far cost Los Angeles water consumers?***

A: Right now nearly two months per year of the average Los Angeles residential water customer's bill is devoted to Owens Lake mitigation measures, with a total project cost so far in excess of \$1.2 billion. And recent orders by Great Basin for new areas to mitigate dust - that was not caused by LADWP - will require another \$400 million from Los Angeles water consumers.

**Q: *How much water has LADWP used to reduce dust think at Owens Lake?***

A: This decade-long effort has required – and will continue to require – an enormous commitment of scarce water resources. To give you some sense of the scope of the issue, the amount of drinking water being used to control dust on Owens Lake each day would overflow the Rose Bowl every day of the year. And now, and for every year going forward until other dust control methods are approved, the amount of water annually being devoted by LADWP to Owens Lake would be sufficient to supply the entire City of San Francisco for an entire year – over 30 billion gallons of water a year.

Looked at from another perspective, LADWP now devotes 50% of its LA Aqueduct water to dust and environmental mitigation projects in the Owens

Valley and Eastern Sierra, resulting in the need to purchase an equivalent amount of increasingly scarce MWD water – putting increased pressure on water supplies from and through the Bay-Delta (about 90% of LADWP’s water purchases from MWD come from Northern California via the State Water Project)

In short, while LADWP customers have conserved water to the lowest point in 40 years and use less water than any major city in the U.S., Great Basin continues to mandate wasting billions of gallons of drinking water to control dust at Owens Lake.

**Q: *What other solutions is LADWP proposing?***

A: For nearly 2 years, LADWP, state agencies; Inyo County and local environmental groups have worked to develop a master plan that would greatly reduce the waste of water for dust mitigation, enhance the environment, and provide a sustainable path forward. Great Basin, meanwhile continues issuing orders for new areas for dust control with no regard for such a plan, no evidence of any responsibility by LADWP for dust from such areas, and no concerns whatsoever of the costs to LADWP or the impact of continued wasted water on the State.

LADWP believes that it is incredibly unfortunate that -- despite the enthusiasm of federal, state and local agencies for this proposed multi-party effort -- the Owens Valley regulator has not only refused to participate – but has chosen to file lawsuits and continue to impose unreasonable regulations.

**Q: *In what ways, specifically, has the local Owens Valley regulator behaved unreasonably?***

A: The list of unreasonable actions is a long one. Here are just some examples:

(1) The local regulator is using funding by City of Los Angeles ratepayers to support 90% of the entire cost of operations of his agency -- including staff salaries, benefits, fully funding its pension system and paying its outside lawyers at the rate of \$750 an hour.

(2) The local regulator has also refused to pursue other responsible parties, or consider innovative solutions that might save water, because he says he has Los Angeles water consumers right where he wants them: As a "fish on a hook."

(3) The local regulator continues to impose new requirements on Los Angeles ratepayers to solve problems that L.A. did not cause in the first place.

**Q: *LADWP has also brought suit against both federal and state government agencies. Why?***

A: Great Basin is not the only defendant in the case. The other defendants in this lawsuit were named because they are essential to resolving the issue of LADWP's responsibility for dust control at Owens Lake. Specifically:

(1) California State Lands Commission: The Commission claims ownership of the entire lakebed, while at the same time its staff has actively rejected waterless dust control measures under a misguided notion that all dust control projects on Owens Lake require water. This idea contradicts the California Constitution's requirement for all water use in the state to be both reasonable and beneficial.

(2) United States Environmental Protection Agency: The EPA last approved a plan for controlling dust at Owens Lake in 1999. Despite a clear legal requirement to the contrary, the EPA has not approved or rejected Great Basin's 2008 State Implementation Plan (SIP). (EPA will claim it approved dust control requirements for Owens Lake under a separate air quality plan for a separate region, Coso. However, that approval was not enough to meet the legal requirements related to the 2008 SIP).

(3) United State Bureau of Land Management: The BLM owns, as a matter of law, large areas of the Owens Lake playa. BLM does not want to claim ownership, but does not really have a choice unless and until it transfers ownership to another entity.

(4) California Air Resources Board: CARB is a defendant because it has refused to provide the City due process by allowing a hearing at which Great Basin provides substantial evidence that LADWP's activities are the cause of the air quality standard violations and has denied LADWP the ability to cross-examine its witnesses and provide exculpatory evidence.

**Q: *What does LADWP want to accomplish with this lawsuit?***

A: LADWP has two goals.

First, to reign in this unaccountable local regulator by forcing the regulator to abide by the State Constitution as well as applicable federal and state laws; and

Second, under the supervision of a federal judge, bring other responsible parties, including the federal and state governments, to the table to devise ways to protect the environment while saving a significant amount of scarce water and safeguarding the pocketbooks of Los Angeles water customers.