

# North Mono Basin full of opportunity

*Reasonable approach will benefit Mill Creek and Conway Ranch*

by Lisa Cutting

**W**ith the Mono Basin Stream Restoration Agreement signed and in the hands of the California State Water Resources Control Board (see page 4), four of Mono Lake's tributaries—Rush, Lee Vining, Parker, and Walker creeks—are on a solid trajectory of continued restoration and improved recovery. Three years of working toward and successfully negotiating the Agreement is a reminder that balanced solutions can, and do, work—allowing progress to be made in a way that addresses what may initially seem to be competing interests. In fact, the Mono Lake Committee's 36 years of work have shown that this model is not only a good approach for challenging situations, but also highly successful and durable.

Mono Lake's third-largest tributary, Mill Creek, in the north part of the Mono Basin, is one such challenging restoration situation. Mill Creek is poised to make a remarkable recovery and the Committee is working hard on a win-win solution for getting Mill Creek's rightful streamflows returned.

There is also a new opportunity on the table—a conservation easement for Conway Ranch—that would maintain habitat protection and also allow historical uses to continue on Conway Ranch (see Winter & Spring 2014 *Mono Lake Newsletter*).

## **Talks continue with all hands on deck**

The Eastern Sierra Land Trust (ESLT), Mono County, and Caltrans have moved from discussions to formally drafting legal language of a conservation easement for Conway Ranch, working toward a July 1 deadline. The majority of the easement is straightforward—protecting the values that the grants to purchase the property laid out when ownership was transferred to Mono County in 2000. These values include preserving open space, wildlife corridors, cultural resources,

and wetland habitat, while allowing historic uses of sheep grazing and fish rearing to continue.

The challenge is balancing the needs of the fish-rearing operation infrastructure with the conservation values of the property and within the legal water allocation. The original grantors—Caltrans, National Fish & Wildlife Foundation, and California Department of Parks & Recreation—recognize the County's desire to raise fish for recreational tourism development and are also obligated to uphold the original grant restrictions. Ultimately, the grantors will have to approve the final conservation easement.

The Mono Basin Regional Planning Advisory Committee (RPAC) is heavily invested in the process since the easement property lies exclusively in the Mono Basin. Many local residents are deeply involved with the RPAC and have spent a good deal of time working on this issue—I have served as a member of the RPAC on behalf of the Committee since 2002. Our goal is to help guide the process toward a reasonable and balanced resolution. The history of events in the north Mono Basin is long and complex and maintaining accurate facts by way of the Committee's institutional memory has been beneficial to the process. The 2012 Mono Basin Community Plan offers guidance as well.

## **Mono County needs to be reasonable and transparent**

What's becoming clear through this process is that Mono County needs to be straightforward and honest with how Conway Ranch will be used—in particular, as it pertains to the fish-rearing operation. This is the same challenge that has long applied to the County's use of Mill Creek water (see Winter & Spring 2011 *Mono Lake Newsletter*). The scale of the operation directly correlates to buildings and infrastructure, which could conflict with the conservation values of the property. Also, water is a limiting factor—not so much in normal or wet years—but in drought years like this, available surface flow and water rights can pose problems for the fish-rearing operators (see page 10).

## **Mill Creek restoration and Conway Ranch**

Mill Creek restoration is lacking one critical component: water. Over 75% of the creek's flow is diverted—twice as much as the adjudicated water rights allow. In March 2011 the Federal Energy Regulatory Commission (FERC) issued an order approving Southern California Edison's (SCE) application to amend its Lundy hydropower license enabling the legal, correct distribution of water per the adjudicated

*Continued on page 9*



ELIN LJUNG

*Community members discuss a conservation easement for Conway Ranch that would maintain habitat protection and historical uses.*

Mill Creek water rights to Conway Ranch and Mill Creek in priority order. Under the FERC settlement, SCE is legally required to construct a return conveyance pipe to replace the original, degraded ditch in order to get water back to Mill Creek.

Since 2006 all of the water (Conway Ranch water rights plus Mill Creek water) has been flowing to Conway Ranch because the current return ditch could not physically return Mill Creek water back to the creek. This situation has resulted in the County diverting roughly twice its legal water allotment.

Once SCE installs the new return pipe, the water situation at Conway Ranch will change: Mill Creek water will be returned to Mill Creek and Mono County’s full water rights will be delivered to Conway Ranch through the Wilson diversion system.

Mono County has Mill Creek water rights that total about 45% of the creek’s annual average flow (which, for perspective, is more than three times the water supply for all of the town of Mammoth Lakes). The County has been clear that it plans to continue to divert that water through the Wilson system and operate all Conway Ranch activities using that legal allocation of water.

**Time for a reality check**

The legal distribution of Mill Creek water is laid out clearly by the Mill Creek adjudicated water rights decree of 1914. Water is delivered to rights holders that call for that

water, when it is available, in priority order (see below). Water not lawfully diverted must remain in Mill Creek. Once the return pipe is built, water rights holders on Mill Creek will realize their full water right once again, and water that belongs in Mill Creek will finally flow there again.

In an interesting twist of fate, one of the water rights holders, the Los Angeles Department of Water & Power, (DWP) has gone on record numerous times formally committing its water right to Mill Creek for in-stream benefits and to fulfill its obligation under State Water Board mandate to raise the surface level of Mono Lake as quickly as possible.

Once the return pipe is built, the Committee expects north Mono Basin water to be legally allocated and delivered. However, actions taken by the Mono County supervisors last fall indicate they may stand in the way, which is cause for serious concern. In a 4–1 vote last summer, Mono County supervisors rejected a request from SCE for an easement across County land for the return pipe. The Committee found this puzzling and particularly odd because for years the County needed an easement from DWP on a section of Conway Ranch to install a pipe to the fish-rearing area. After much prodding and outrage on the part of the County, DWP finally approved that easement. The vote shows that while Mono County is quick to badger fellow water rights holders for easements, it is unwilling to return the favor when it comes to its own property.

*Continued on page 25*

## Mill Creek water distribution is actually pretty simple

*How Mill Creek water will flow once the new return pipe is constructed*

The chart at right shows the Mill Creek Adjudicated Water Rights Table from 1914. It shows that water rights come with both a priority order and a volume. The first water right is held by DWP—it gets 1 cubic foot per second (cfs) of water first. Mono County is next in line, with 2 cfs, and so on.

It is important to understand that not all the water rights can be filled all the time—it depends on how much water is available. For example, if there are only 12 cfs available, only the first (1 cfs), second (2 cfs), third (2 cfs), and a portion of the fourth (7 of the 8 cfs) water rights can be filled.

As we all know, the thing about water rights is that no one can take more than their right allows.

For over 20 years Mill Creek has received less than half of the water it should lawfully receive according to this official water rights table, due to the lack of a return pipe. The dark blue bars represent water that will go to Mill Creek once the new return pipe is built. The light blue bars represent water that will continue to flow to Conway Ranch.

priority right	right holder	quantity of right (cfs)
1 <sup>st</sup>	DWP	1
2 <sup>nd</sup>	Mono County	2
3 <sup>rd</sup>	BLM	2
4 <sup>th</sup>	Mono County	8
5 <sup>th</sup>	DWP	9.2
6 <sup>th</sup>	Simis	1.8
7 <sup>th</sup>	DWP	14
8 <sup>th</sup>	Mono County	5
9 <sup>th</sup>	USFS	12.6
10 <sup>th</sup>	DWP	18
11 <sup>th</sup>	Mono County	1

water that will go to Mill Creek  
 water that will continue to go to Conway Ranch

conservation and to protect places like Mono Lake and get paid for it, now is your chance.

We will be sorry to see Mono Lake drop this summer, but we know that it will eventually rise again, and with State Water Board Decision 1631 in place, there is a measured plan to respond to a fluctuating lake level based on climate variability.

The Olympics are now a memory, but weather and climate

are always in motion, dynamic over time. With cautious optimism, we focus on the Pacific Ocean as westerly wind bursts, an equatorial Kelvin wave, and weakening trade winds whisper hope of an El Niño event and a winter that could make us forget about the one we just had. ❖

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to put up and take down every day. If you plan to drive on Highway 395 near Old Marina during summer 2015, please be aware that this area will be an active construction zone, and be patient.

### **Project timeline**

The construction timeline is mainly dependent on how long the drilling and anchor installation process takes, but could also be affected by adverse weather conditions. According to Wesling, the best-case scenario is that construction would be finished by early December 2015.

The more likely scenario, however, is that the construction would extend through two summer seasons, and would be completed no later than fall 2016.

This short-term disturbance will prevent future erosion and unsafe rockfall events, allow for successful revegetation in the long term, and increase the scenic value of this beautiful stretch of highway. As this project moves forward, the Mono Lake Committee will continue to work with Caltrans to ensure the best possible outcome—for the traveling public and for the long-term health of the Mono Basin. ❖

Regardless, the County's rejection of the SCE easement permit will neither prevent the return conveyance construction nor the legal distribution of water. Ultimately, the County will have to live within its legal allocation of water.

### **Environmental benefits of restoring Mill Creek**

Mill Creek once supported acres of mature riparian forest interlaced with meandering channels, deep pools, and runs spreading across a wide valley floor—an oasis for birds, mammals, and trout in an otherwise arid Great Basin landscape. Today, there is only a narrow swath of vegetation adjacent to the main creek channel, and the trees and shrubs are showing signs of stress and degradation.

Over the past 20 years Mill Creek has received less than half of the water it should lawfully receive according to the water rights adjudicated in 1914. The lack of water in Mill Creek has caused large, majestic cottonwoods in the creek's lower reaches to die and has compromised the entire riparian system. At times, Mill Creek barely makes it all the way to Mono Lake.

The Mono Lake Committee's success with stream restoration in the south Mono Basin has instructed us on the principles necessary to restore these creek systems. A science-based approach for how to balance a finite amount of water among multiple uses is key.

On Rush, Lee Vining, Parker, and Walker creeks a balance was struck between competing uses for water, and it can be done for Mill Creek too. The SCE return pipe will remove the primary obstacle to the creek's natural ability to heal itself:

water. Once the water returns, Mill Creek is poised to make a remarkable recovery.

### **Future vision for Conway Ranch**

The Committee's vision for the north Mono Basin is quite simple and builds upon decades of work that has established solid foundations for Mill Creek restoration and the protection of Conway Ranch. The best part is that the two are not mutually exclusive and complement each other well, enhancing the collective value of the area.

Restoring Mill Creek begins in earnest once the return conveyance pipe is constructed. Returning the water that rightfully belongs in Mill Creek will benefit the creek in many ways. Large trees and other vegetation will return, resident trout populations will be healthy, and wildlife that depend on rare Great Basin cottonwood-willow stream systems will thrive.

A conservation easement on Conway Ranch will protect in perpetuity all the values that Mono County and the Mono Basin community have struggled to protect all these years—open space, wildlife corridors, cultural resources, and wetland habitat—while allowing historic uses such as sheep grazing and fish-rearing to continue.

If Mono County and the Eastern Sierra Land Trust are successful at navigating and securing a conservation easement for Conway Ranch *and* if the County gets its lands and water rights in order and plays fair, good things will happen for all. ❖