

Owens Valley Residents, DWP Locked in Standoff

A fight over creek water has the tiny enclave of 40 Acres gearing up for a legal showdown.

By LOUIS SAHAGUN
Times Staff Writer

BISHOP, Calif. — The strange daily ritual started shortly after Los Angeles water authorities slapped a chain and lock on a wheel controlling a diversion gate on Pine Creek — the lifeblood of a mountain enclave known as 40 Acres.

Locals cut the chain and added a lock of their own to keep the gate open. The Department

of Water and Power closed the gate once more and installed a heavier chain. Locals used a cutting torch to sever the new chain.

Now there are two locks on the chain.

Every morning, a group from 40 Acres opens their lock, removes the chain and turns the wheel to steer water their way. Every afternoon, a DWP crew opens its lock to send the water cascading into the Los Angeles Aqueduct system.

This has been going on for two years.

"This fight is a microcosm of the way the DWP has been bullying people around here for a century," said 40 Acres resident. [See Owens, Page B6]

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Thaddeus Taylor. "Just because the DWP is big, rich and powerful doesn't make it right."

The standoff at Pine Creek is only one of many disputes between Owens Valley residents and Los Angeles, which has been importing Eastern Sierra snowmelt since 1913, turning much of the valley into desert scrubland in the process.

Owens Valley residents and the DWP have long been at odds over the effect of L.A.'s water use on the valley — and over what can or should be done to deal with problems that result.

But there is a certain urgency to the squabbles now, with the election of a new mayor in Los Angeles and his appointment of environmentalist Mary Nichols to head the DWP's Board of Water and Power Commissioners.

"It's been a long time since positive attention has been paid by the DWP to the region where we get so much of our water," Nichols said in a recent interview. "And this is a time of hope. Mayor Villaraigosa said he wants Los Angeles to be the greenest big city in the nation, and he wants the DWP to lead the way."

"My all-time favorite landscape is the Eastern Sierra," she added.

Initially, environmentalists and supporters of the DWP activities here had high hopes for dramatically improved relations between the city and valley. Now, they aren't so sure.

Asked to comment on the Pine Creek dispute, for example, DWP General Manager Ron Deaton smiled and cited a quote often attributed to Mark Twain: "Whiskey's for drinkin', water's for fightin'."

"We're not going to send police up there with shotguns like we did in the 1920s," Deaton said. "But we may have to settle this in court."

Gearing up for a legal showdown over Pine Creek, many of the residents of 40 Acres have been spending nearly all of their spare time in libraries and in Inyo County archives, trying to

shore up their claims to the water needed for household chores, irrigation and fighting fires.

The creek water, which isn't used for drinking, is diverted into a ditch that carries it into 40 Acres. From there it flows through a latticework of yet more ditches, which disperses the water through the enclave.

The isolated patch of cottonwood and birch trees, four dozen modest homes, farm animals and pastures, about 15 miles north of Bishop, was originally homesteaded in 1901 by Jack Wright, a Paiute Indian who bucked a trend by refusing to sell all of his property to Los Angeles when it was maneuvering for Eastern Sierra water.

Eventually, Los Angeles bought half the property — along with its water rights. The other half adopted the name 40 Acres and became an isolated haven of private property owners who abhor city life. The village — "town" seems too generous a word — is home to about 90 residents.

Locals built a wooden diversion gate at a fork in the creek in the mid-1970s. In 2001, the DWP constructed a concrete and steel gate — the one controlled by the pizza-platter-sized wheel — a dozen yards away, giving it control of the water.

The two sides have been at odds ever since.

In 2003 the DWP filed for a permit to modify the structure it had built on federal Bureau of Land Management land without receiving formal permission to do so.

BLM officials have chosen not to act on the DWP request until they can determine who has authority to have a gate on the creek.

A final decision is expected sometime this month, said BLM spokesman Larry Primosch.

However, the bureau does not adjudicate water rights, he said. That dispute may have to be resolved in Inyo County Superior Court.

"We're talking about a small amount of water, a drop in the bucket," Primosch said. "But

rights to that water are extremely valuable. This is serious stuff."

Taylor agrees.

"If we lose control of this water, we'll lose the water altogether," he said. "Then 40 Acres

will dry up and blow away."

In previous long legal battles, the DWP was forced to give up significant amounts of water to steady water levels in Mono Lake, re-water parts of the dry Owens Lake to help prevent dust storms and restore a 62-mile stretch of the Lower Owens River.

Earlier this year, an Inyo County Superior Court judge ordered Los Angeles to pay fines of \$5,000 a day until water was flowing once again in the Lower Owens. With accumulated fines now close to \$1 million, the DWP has announced plans to break ground this month on a pumping station needed to launch the river restoration project.

"If the city wants the DWP to stop bleeding its finances on lawyers and fixing mistakes in the Owens Valley, it needs to correct the DWP's incompetence and stabilize our environment," said Michael Prather, a local environmental activist.

One day last month, blustery weather raised enormous clouds of gray dust from Owens Lake — which was sucked dry by the Los Angeles Aqueduct — lending a ghostly pall to the area's tourist stops and rugged vistas.

The dust storm came a few days after the consulting firm MWH Inc., which is working for the DWP, issued a white paper suggesting that an increase in desert shrubs and a decrease in grass in the region were part of a "natural succession" of plant life and not related to the pumping of about 90,000 acre-feet of groundwater a year.

Botanist and environmental activist Daniel Pritchett said that conclusion was not surprising, given that a long-term water agreement between Inyo County and Los Angeles holds the city accountable for any significant environmental changes related to its activities.

Striding across a meadow that has been steadily giving way

to shrubs, he said: "We believe the bottom line is this: The water table has been lowered below the reach of grass roots by ongoing groundwater pumping. To call what we are seeing here 'natural succession' is nonsense."

Inyo County officials are also skeptical about MWH's conclusions and have asked for a detailed analysis from the firm, which has a \$27-million contract with the DWP.

A separate controversy about 30 miles to the north has attracted attention in Inyo and Mono counties. It concerns a 15-year lease to operate the popular marina at Mono County's Crowley Lake, one of the premier trout fishing spots in the state.

John Frederickson, who has invested \$3 million in new boats, docks, septic tanks and a 4,000-square-foot tackle shop at the marina over the last 14 years, wants to renew his lease.

A few months ago, DWP officials were assuring him that the lease would be extended. That was, however, until Deaton announced that he had changed his mind and that the lease would be put up for bid.

"I just don't get it," Frederickson said. "I've put my heart and soul into this place."

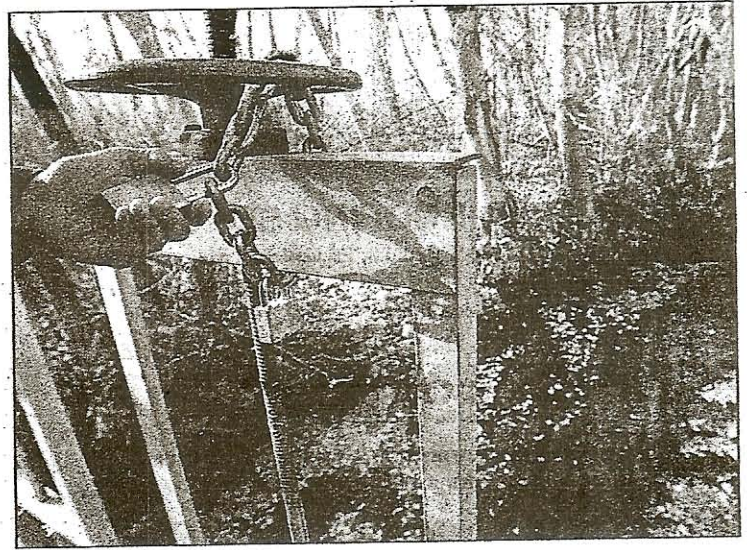
Deaton would not argue with that.

"I've heard nothing but good things about John," he said. "But I have a fiduciary responsibility to the city and other people who may want to compete."

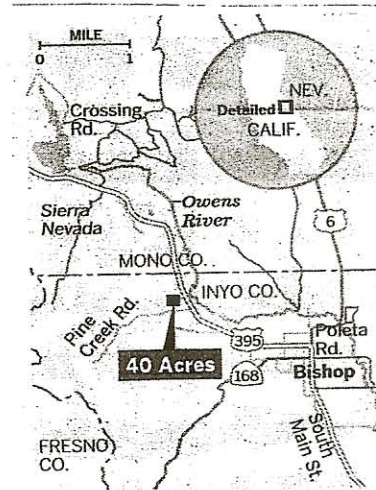
Frederickson's situation has been a hot topic in 40 Acres, where resident Frank Stewart labeled it another example of how "the DWP is not a good neighbor."

On a December day, as gale-force winds ripped through the cottonwood trees, he and Taylor hunkered down to remove debris from the diversion gate, allowing a steady flow into the maze of ditches crisscrossing 40 Acres.

The fight over water has been going on for years, Taylor said, and the DWP is a formidable opponent. "But we're just as stubborn as they are."



CONTENTION: Resident Frank Stewart holds one of two locks to a wheel on the diversion gate. A federal agency is expected to rule this month on who has the power to have a gate on the creek.



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Photographs by Luis Sinco Los Angeles Times

WATER SOURCE: Thaddeus Taylor, left, and Stewart stand beside Pine Creek, which provides water for the village of about 90 residents. Every morning, a group from 40 Acres opens one of two locks on a diversion gate to send water flowing toward the village.