

# Agenda



## County of Inyo Board of Supervisors

Board of Supervisors Room  
County Administrative Center  
224 North Edwards  
Independence, California

All members of the public are encouraged to participate in the discussion of any items on the Agenda. Anyone wishing to speak, please obtain a card from the Board Clerk and indicate each item you would like to discuss. Return the completed card to the Board Clerk before the Board considers the item (s) upon which you wish to speak. You will be allowed to speak about each item before the Board takes action on it.

Any member of the public may also make comments during the scheduled "Public Comment" period on this agenda concerning any subject related to the Board of Supervisors or County Government. No card needs to be submitted in order to speak during the "Public Comment" period.

**Public Notices:** (1) In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at (760) 878-0373. (28 CFR 35.102-35.104 ADA Title II). Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Clerk of the Board 72 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format. (Government Code Section 54954.2). (2) If a writing, that is a public record relating to an agenda item for an open session of a regular meeting of the Board of Supervisors, is distributed less than 72 hours prior to the meeting, the writing shall be available for public inspection at the Office of the Clerk of the Board of Supervisors, 224 N. Edwards, Independence, California and is available per Government Code § 54957.5(b)(1).

**Note:** Historically the Board does break for lunch, the timing of a lunch break is made at the discretion of the Chairperson and at the Board's convenience.

### SPECIAL MEETING

**Wednesday, May 30, 2018**

**10:00 a.m. 1. PUBLIC COMMENT**

#### **CLOSED SESSION**

- 2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [Pursuant to paragraph (1) of subdivision (d) of Government Code §54956.9] – County of Inyo v. Los Angeles Department of Water and Power, Inyo County Superior Court Case No. SICVCV 18-61899 (Well 385).**
- 3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION –** Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code §54956.9 (one case).

#### **OPEN SESSION**

**11:00 a.m. PLEDGE OF ALLEGIANCE**

- 4. REPORT ON CLOSED SESSION**
- 5. PUBLIC COMMENT**
- 6. COUNTY DEPARTMENT REPORTS**
- 7. WATER DEPARTMENT –** Request Board provide direction to the County's Inyo-Los Angeles Standing Committee representatives for the Standing Committee meeting scheduled for May 31, 2018 at the John Ferraro Building in Los Angeles.
- 8. BOARD MEMBER AND STAFF REPORTS**



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
AGENDA NUMBER

7

Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for     Closed Session     Informational

**FROM: Water Department**

**FOR THE BOARD MEETING OF: May 30, 2018**

**SUBJECT: Inyo County/Los Angeles Standing Committee Meeting – May 31, 2018**

**DEPARTMENTAL RECOMMENDATION:**

A meeting of the Inyo County/Los Angeles Standing Committee is scheduled for May 31, 2018 at the County Administrative Center, Independence, California. Pursuant to Resolution 99-43 and the Long-Term Water Agreement, your Board sets policy for the County's representatives to the Standing Committee. The Water Department requests your Board provide direction to the County's Standing Committee representatives.

**SUMMARY DISCUSSION:**

Several contentious matters will be addressed at tomorrow's Standing Committee meeting. A Standing Committee agenda is attached. The Standing Committee agenda includes an update on runoff and operations; setting the LORP seasonal habitat flow and Blackrock Waterfowl Management Area flooded acreage; a presentation from the Inyo Mono Agricultural Commissioner regarding the intrinsic economic relationship between agricultural leases identified in the Long Term Water Agreement (LTWA) and similar leases LADWP lets in Mono county with a request that the Agricultural Commissioner be invited to make a presentation of the recently completed Economic Profile of Agriculture in Inyo & Mono Counties to the LADWP Board of Water and Power Commissioners; resolution of disputes initiated by LADWP and the County over whether a monitoring plan for the Well 385R test has been jointly developed in conformity with Section VI of the LTWA, and whether the goals of the Five Bridges Mitigation Project have been met; consideration LADWP's proposed new enhancement/mitigation project to supply water to Inyo County landfills; and, consideration of other new enhancement/mitigation projects proposed by Inyo County.

**1 - Approval of documentation of actions from the May 11, 2017 meeting.**

**2 – Runoff and Operations Update.** LADWP's April-March Owens Valley runoff forecast is 78% of normal, and they plan to pump between 77,990 and 96,230 acre-feet of groundwater.

**3b -Setting Lower Owens River Project seasonal habitat flow – Consideration of Technical Group recommendation.**

Unless the Standing Committee directs otherwise, the peak flow and duration of the seasonal habitat flow is set out in the LORP Final EIR, and based on this year's forecasted runoff of 78% of normal, the seasonal habitat flow will be according to the flow schedule given in the attached letter (peaking at 130 cubic feet per second).

**3d - Blackrock Waterfowl Management Area flooded acreage.** Because forecasted runoff is 78% of normal, unless the Standing Committee directs otherwise the flooded acreage in the Blackrock Waterfowl Management Area will be 390 acres.

**4 - Presentation by Inyo/Mono Agricultural Commissioner.** This is a summary presentation, condensing the information shared by the Inyo Mono Agricultural Commissioner with your Board on March 20th, highlighting the connections between LADWP's agricultural leases Inyo County, as contemplated in the Owens Valley Land Management Plan with the Department's agricultural leases in Mono County when the leases are held by the same lessee. The Standing Committee representatives are encouraged to ask that the Agricultural Commissioner make a more detailed presentation to the entire LADWP Board of Water and Power Commissioners.

**5 - Resolution of disputes initiated by both LADWP and Inyo County concerning testing well W385R and status of mitigation of the Five Bridges Impact Area.** There are three disputes currently active on this matter. Inyo and LADWP staffs are working to combine the three disputes into a resolvable package for the Standing Committee to consider. The positions of the two parties on the issues are given in the two attached letters.

**6 - Consideration of a new Enhancement/Mitigation project to supply water to Inyo County landfills pursuant to Water Agreement Section X.** Water Agreement Section X (Enhancement/Mitigation Projects) provides that *"New enhancement projects will be implemented if such projects are approved by the Inyo County Board of Supervisors and the Department, acting through the Standing Committee."* At a January 23, 2018 Technical Group meeting, LADWP initiated discussion of a proposed a new enhancement/mitigation project whereby LADWP would agree to supply water to the County landfills. Jim Yannotta made the following statement at the Technical Group meeting to introduce the project and explain LADWP's rationale for proposing the new project:

LADWP is proposing to use the Long Term Water Agreement to provide Inyo County with the assurance that it will enjoy permanent supply of water for use at the three County-operated landfills, whether the surface ground is owned by LADWP or by Inyo County. Our effort in returning to this discussion at this Tech Group is based on the discussion from the Technical Group this past August\*, when the idea to use the Long Term Water Agreement's E/M provisions to provide water for the landfills, the County indicated that it was surprised by the idea and needed to discuss the idea with their Board of Supervisors. The overall effort to utilize the Long Term Water Agreement is in response to and anticipation of results from the County's findings at its Necessity hearing in August which found that commendation of the City of Los Angeles's water rights is necessary for landfill operation. The Long Term Water Agreement however provides the County and the City with the unique tool to provide water. Therefore, the intent to condemn LADWP's water rights is unnecessary. The Standing Committee is vested with the authority to agree on the development and designation of new E and M projects and LADWP believes that the Tech Group is perfectly situated to develop a proposal to permanently supply water to the landfills; therefore, LADWP is willing to agree to the use of the power and efficiency of the Long Term Water Agreement to establish a permanent supply of water to the landfills, thereby negating the necessity of condemnation.

In our opinion the matter could be ready for our next Standing Committee meeting and hopefully we can discuss the potential technical components of that idea today.

\* Note: This item was not identified on the agenda for August Tech Group meeting referenced by Mr. Yannotta. Rather, LADWP representatives introduced the idea as part of the discussion of the agenda for the September 7, 2017 Standing Committee meeting that was subsequently canceled.

In addition to failing to demonstrate how the proposal is either a mitigation project or an enhancement project, based on Mr. Yannotta's statement, it is clear that LADWP views its proposal as a means of affecting the pending eminent domain litigation the County has initiated with regard to landfill properties. At a subsequent Technical Group meeting on March 14, 2018, LADWP provided the attached description of the proposed project.

### **7 - Consideration of other new enhancement/mitigation projects.**

At the January 23, 2018, Technical Group meeting, LADWP initiated a discussion proposing the establishment of a new Enhancement/Mitigation Project to supply water to Inyo County landfills, and agreed to provide a detailed proposal at a subsequent Technical Group meeting. Of note at the January 23<sup>rd</sup> meeting, LADWP representatives indicated that:

"I don't think the volume is that great."

And:

"I'm not looking at this as taking water away from another enhancement/mitigation . . ."

These and other comments suggested that LADWP was willing to consider adding new E/M Projects to the Long Term Water Agreement and, in doing, so was (a) willing to abandon its previous position that all E/M projects needed a source or replacement water; and (b) that "new" water could be used for in-Valley uses without charge and in conformance with the City Charter.

Accordingly, the County indicated that it would introduce a number of ideas for new enhancement/mitigation projects at the next Technical Group meeting. At the March 14, 2018, Technical Group meeting, County staff proposed a number of new E/M Projects, noting that many were already past practices of LADWP and/or provided for through the LTWA (and that providing assurance could curtail potential disputes in the future) including:

- Independent water supply for the Lone Pine FFA Farm. Currently, the Farm's allotment comes from the Van Norman Field E/M Project.
- Irrigation of the Bartell Parcel in Big Pine. This Los Angeles-owned parcel has historically been irrigated, but LADWP and the County disagree over LADWP's obligation to maintain irrigation on the parcel. Rather than potentially dispute the sites status under the LTWA, this project would dedicate a water supply to the parcel for a yet to be identified use.
- Water supply for Bishop and Lone Pine golf courses. Arguably Type E vegetation under the LTWA, creating a new E/M Project to dedicate a water supply for the golf courses would resolve

uncertainties over their future irrigation supply caused when LADWP curtailed and threatened to begin charging for the facilities' water; eliminate a potential LTWA dispute regarding Type E Vegetation; and maintain environmental and water supply protections the golf courses provide.

- Water supply for County parks and campgrounds. Similar to the issues with the golf courses, creating new E/M Projects to dedicate a water supply for County parks and campgrounds not already identified in the LTWA would eliminate a potential LTWA dispute regarding Type E vegetation and resolve uncertainties over LADWP's indication that it wants to begin charging for water.
- Water supply for Mono County agricultural leases. Although not subject to the Inyo/Los Angeles Agreement, agricultural leases in Mono County are economically linked to Inyo County lessees (which are subject to the LTWA) and the County as a whole. As such, the viability of Inyo County agriculture contemplated in the LTWAs is tied to the viability of the Mono County leases. Maintaining irrigation on Mono County leases would be an economic and environmental enhancement for Inyo County.
- Construct the Big Pine Veterans Path Project. This water-neutral project could be approved, constructed, and maintained by LADWP as an enhancement/mitigation for Big Pine (LADWP's most heavily pumped wellfield).
- Increased allotment for town water systems. This would enhance the town's residents' ability to maintain vegetation on in-town properties.
- Water supply for County Farm property in Big Pine. The County Farm property cannot be efficiently irrigated with the County's Big Pine Water Association shares as managed by LADWP. LADWP could and should dedicate a supply of water to the County Farm sufficient to fully irrigate the Farm.
- Saddle clubs. Owens Valley saddle clubs should be allotted a firm water supply similar to levels previously provided by LADWP.
- Channelize flow through the LORP Islands Area. This long-discussed project would create more diverse wildlife habitat, better recreational access to fisheries, improved grazing, and conserve water.

Contrary to statements made by LADWP representatives at the January 23<sup>rd</sup> Technical Group meeting, and clearly inconsistent with LADWP's own proposed new enhancement/mitigation project to supply to County landfills, on March 14<sup>th</sup> LADWP representatives indicated that the Department has two prerequisites for considering new E/M Projects:

1. The new E/M Project must be water neutral (although that term was not identified and LADWP could not or would not indicate how much water was/is budgeted for existing E/M Projects).
2. The County had to bear any costs associated with the new E/M Project.

Fortunately, irregularities in LADWP’s position notwithstanding, many of the new E/M projects proposed by the County have a long history of being supplied with water – so there is no “new” water commitment. And similarly, because many of the new E/M projects already exist (but are not afforded the protections of E/M Project status LADWP now seems to be interested in providing) there is little or no cost associated with the proposal. For example, the agricultural leases in Mono County have included an identified water supply for decades, and the County of Inyo would be glad to draft and administer new Mono County agricultural leases at no cost to LADWP. Therefore, because many of Inyo County’s proposed new E/M Projects satisfy the two prerequisites cited by LADWP’s senior management, LADWP’s concurrence in adding many of these projects should be readily forthcoming.

Concerning adoption of new enhancement/mitigation projects, Water Agreement Section X provides that:

New enhancement projects will be implemented if such projects are approved by the Inyo County Board of Supervisors and the Department, acting through the Standing Committee.

Implied is that the Inyo County Board of Supervisors is the entity that determines what constitutes an “enhancement” project in Inyo County. In making this determination, your Board may want to first consider those projects that should be easy to include in the E/M framework due to having a historic water supply and little or no cost.

**Attachments:**

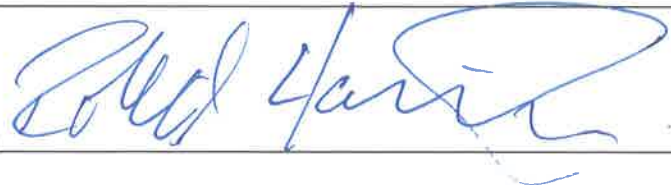
Draft Standing Committee agenda.

**ALTERNATIVES:**

**OTHER AGENCY INVOLVEMENT:** LADWP, CDFW

**FINANCING:** N/A

<b>APPROVALS</b>	
COUNTY COUNSEL:  <div style="text-align: center; font-weight: bold; font-size: 1.2em;">N/A</div>	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>  <div style="text-align: right;">Approved: _____ Date: _____</div>
AUDITOR/CONTROLLER:  <div style="text-align: center; font-weight: bold; font-size: 1.2em;">N/A</div>	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>  <div style="text-align: right;">Approved: _____ Date: _____</div>
PERSONNEL DIRECTOR:  <div style="text-align: center; font-weight: bold; font-size: 1.2em;">N/A</div>	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i>  <div style="text-align: right;">Approved: _____ Date: _____</div>

**DEPARTMENT HEAD SIGNATURE:**  Date: 5/23/10  
 (Not to be signed until all approvals are received)

## AGENDA

# INYO COUNTY/LOS ANGELES STANDING COMMITTEE

10:00 a.m.

May 31, 2018

Board Room 1555-H, John Ferraro Building  
111 N. Hope Street  
Los Angeles, California

*The public will be offered the opportunity to comment on each agenda item prior to any action on the item by the Standing Committee or, in the absence of action, prior to the Committee moving to the next item on the agenda. The public will also be offered the opportunity to address the Committee on any matter within the Committee's jurisdiction prior to adjournment of the meeting.*

1. **Action Item:** Approval of documentation of actions from the May 11, 2017 meeting.
2. Runoff and Operations update.
3. Lower Owens River Project
  - a. Consultation with California Department of Fish and Wildlife concerning item 3b.
  - b. **Action Item:** Setting seasonal habitat flow.
  - c. Consultation with California Department of Fish and Wildlife concerning item 3d.
  - d. **Action Item:** Establishment of Blackrock Waterfowl Management Area flooded acreage.
4. Presentation by Inyo/Mono Agricultural Commissioner. Introduction to An Economic Profile of Agriculture in Inyo & Mono Counties.
5. Resolution of disputes initiated by both LADWP and Inyo County concerning testing well W385R and status of mitigation of the Five Bridges Impact Area.
  - a. **Action Item:** Resolution of a dispute initiated by Inyo County over whether Well W385R is a new well; whether the 1999 Revegetation Plan is applicable to the Five Bridges site; whether the goals outlined in the 1999 Revegetation Plan have been met for the Five Bridges mitigation site; what are LADWP's continuing obligations in Five Bridges, if any; and consideration by the Technical Group of revised management for Five Bridges.
  - b. **Action Item:** Resolution of a dispute initiated by LADWP over whether LADWP and Inyo County, acting through the Technical Group, jointly developed a monitoring program for Well 385R, as required by Section VI of the Long Term Water Agreement.
  - c. **Action Item:** Resolution of a dispute initiated by LADWP whether the goals outlined in the 1999 revegetation plan have been met for the Five Bridges Impact Area, LADWP's continuing obligations in Five Bridges, if any, and Technical Group consideration of revised management plans for the described area, to the extent any management plan is relevant.

6. **Action Item:** Consideration of a new Enhancement/Mitigation project to supply water to Inyo County landfills pursuant to Water Agreement Section X as described in proposed project description (attached).
7. **Action Item:** Consideration of other new enhancement/mitigation projects pursuant to Water Agreement Section X.
8. Public Comment.
9. Confirm schedule for future Standing Committee meetings.
10. Adjourn.



**Standing Committee meeting protocols (Adopted May 11, 2011)**

The Inyo/Los Angeles Long-Term Water Agreement (LTWA) define the Standing Committee in Section II:

*As agreed by the parties, the Department representatives on the Standing Committee shall include at least one (1) member of the Los Angeles City Council, the Administrative Officer of the City of Los Angeles, two (2) members of the Board of Water and Power Commissioners, and three (3) staff members. The County representatives on the Standing Committee shall be at least one (1) member of the Inyo County Board of Supervisors, two (2) Inyo County Water Commissioners, and three (3) staff members.*

The LTWA further provides that:

*Regardless of the number of representatives from either party in attendance at a Standing Committee or Technical Group meeting, Inyo County shall have only one (1) vote, and Los Angeles shall have only one (1) vote.*

The Standing Committee adopts the following protocol for future Standing Committee meetings.

1. In order for the Standing Committee to take action at a meeting, representation at the meeting will consist of at least four representatives of Los Angeles, including one member of the Los Angeles City Council or Water and Power Commission, and four representatives of Inyo County, including one member of the Board of Supervisors.
2. A Chairperson from the hosting entity will be designated for each meeting.
3. In the event that an action item is on the meeting agenda, Los Angeles and Inyo County shall each designate one member to cast the single vote allotted to their entity at the onset of the meeting. The Chairperson may be so designated. Agenda items that the Standing Committee intends to take action on will be so designated on the meeting agenda.
4. If representation at a Standing Committee meeting is not sufficient for the Standing Committee to act, the Standing Committee members present may agree to convene the meeting for the purpose of hearing informational items.
5. Meeting agendas shall include any item within the jurisdiction of the Standing Committee that has been proposed by either party.
6. The public shall be given the opportunity to comment on any agenda item prior to an action being taken. The public will be given the opportunity to comment on any non-agendized issue within the jurisdiction of the Standing Committee prior to the conclusion of each scheduled meeting. At the discretion of the Chairperson, reports from staff or reopening of public comment may be permitted during deliberations.
7. The Chairperson may limit each public comment to a reasonable time period. The hosting entity will be responsible for monitoring time during public comment.
8. Any actions taken by the Standing Committee shall be described in an action item summary memorandum that is then transmitted to the Standing Committee at its next meeting for review and approval. This summary memorandum shall also indicate the Standing Committee members present at the meeting where actions were taken.
9. Standing Committee meetings shall be voice recorded by the host entity and a copy of the recording shall be provided to the guest entity.
10. (Added February 24, 2012) The Standing Committee may also receive comments/questions in written form from members of the public. Either party may choose to respond, however, when responding to a public comment/question, whether verbally or in writing, any statements made by either party may represent the perspective of that party or the individual making the response, but not the Standing Committee as a whole (unless specifically agreed to as such by the Standing Committee). When either party responds in writing to public comment/question, that response will be concurrently provided to the other party.

May 3, 2018

Dr. Robert Harrington, Director  
Inyo County Water Department  
P.O. Box 337  
Independence, CA 93526

Dear Dr. Harrington:

Subject: Dispute Resolution

This is in response to your letter dated April 9, 2018 requesting Los Angeles Department of Water and Power (LADWP) staff answer your questions regarding the Long Term Water Agreement (LTWA).

1. Is Well 385R a "new well" as defined in Section VI of the LTWA?

Yes

2. If Well 385R not a "new well," are the provisions of Section VI of the LTWA applicable to the proposed pumping test of Well 385R?

No

3. If Well 385R is a "new well," does Section VI of the LTWA require that a "jointly developed monitoring plan" to monitor water levels and vegetation conditions during the proposed pumping test of Well 385R be approved by a vote of the Technical Group.

No, Section VI requires a monitoring plan be "jointly developed," not approved.

4. If Well 385R is a new well and if a monitoring plan for the proposed Well 385R test was jointly developed in conformity with Section VI of the LTWA, is LADWP now free to conduct the proposed Well 385R pumping test?

Yes, under the terms of the LTWA, LADWP may conduct the test without challenge based upon arguments relating to the LTWA or the 1991 EIR. CEQA applicability is not related to the LTWA.

5. Was the 1999 Revegetation Plan for the Five Bridges Impact Area ("1999 Plan") developed by the Technical Group as required by Section III.F of the 1997 Memorandum of Understanding ("1997 MOU") between the City of Los Angeles Department of Water and Power, the County of Inyo, CDFW, CSLC, the Sierra Club, the Owens Valley Committee and Carla Scheidlinger?

Yes, Technical Group development, and subsequent submission to the Standing Committee, satisfied any Technical Group obligation required by Section III.F of the 1997 MOU. LADWP agreed, as a Technical Group member to those portions of the 1999 Plan as described in the 1999 Plan.

- a. Are the goals of the 1999 Plan applicable to the Five Bridges Impact Area?

Yes, the goals, as stated in italics within the plan, are applicable to the Five Bridges Impact Area.

- b. If the goals of the 1999 Plan are applicable to the Five Bridges Impact Area, are the goals of applicable to the entire 300 acres identified as adversely impacted in Mitigation Measure 10-12 in the 1991 EIR or to a lesser portion of the 300 acres?

The goals are applicable to the entire 300 acre impact site, and any evaluation of goal attainment must consider the status of vegetation on the entire parcel.

- c. If the goals of the 1999 Plan are applicable to only part of the Five Bridges Impact Area, what plan(s) and/or goal(s), if any, are applicable to the part of the Five Bridges Impact Area that is not subject to the 1999 Plan?

Goals apply to the entire 300 acre Five Bridges Impact Area, therefore LADWP cannot answer this question.

- d. If the goals of the 1999 Plan are applicable to some or all of the 300 acre Five Bridges Impact Area, have all the goals of the 1999 Plan been met in the area where the goals are applicable?

Goals apply to the entire 300 acre Five Bridges Impact Area. Yes, the goals have been met.

- e. If the goals of the 1999 Plan are applicable to the Five Bridges Impact Area, and if all the goals of the 1999 Plan have been met in the area where the goals are applicable, is the 1999 automatically no longer in effect or is action required to discontinue the 1999 Plan.

As with any revegetation or mitigation plan, once goals have been met and obligations have been fulfilled, no further action has been required. LTWA becomes the mitigation.

- f. If the goals of the 1999 Plan are applicable to the Five Bridges Impact Area, and if the all goals of the 1999 Plan have been met in the area where the goals are applicable, is the 1999 Plan required to be amended or is a new mitigation plan for the Five Bridges Impact Area required to be adopted to ensure that the vegetation conditions in the area are sustained?

If mitigation/revegetation goals are met, the LTWA is mitigation.

- g. If the goals of the 1999 Plan are applicable to the Five Bridges Impact Area, and if not all the goals of the 1999 Plan have been met in the area where the goals are applicable, is the 1999 Plan required to be amended or a new mitigation plan required to be adopted to address the areas of the Five Bridges Impact Area where the goals have not been met?

NA. The site is 300 acres and there is not portion which is unmitigated.

- 6. If the goals of the 1999 Plan are not applicable to any portion of the Five Bridges Impact Area, what are the applicable mitigation goals for revegetation in the Five Bridges Impact Area?

NA Goals are applicable as stated above. LTWA serves as mitigation and monitoring tool in the absence of any specific revegetation plan or mitigation plan.

- a. If mitigation goals other than those contained in the 1999 Plan are applicable to the Five Bridges Impact Area, are the goals applicable to the entire 300 acres identified as adversely impacted in Mitigation Measure 10-12 in the 1991 EIR or to a lesser portion of the 300 acres?

NA. Goals are applicable as stated above. LTWA serves as mitigation and monitoring tool in the absence of any specific revegetation plan or mitigation plan.

- b. If mitigation goals other than those contained in the 1999 Plan are applicable to some portion of the Five Bridges Impact Area, have all of those goals been met?

NA. Goals are applicable as stated above. LTWA serves as mitigation and monitoring tool in the absence of any specific revegetation plan or mitigation plan.

- c. If mitigation goals other than those contained in the 1999 Plan are applicable to some portion of the Five Bridges Impact Area, and if those goals have been met, are those goals automatically no longer in effect or is action required to discontinue the mitigation goals?

NA. Goals are applicable as stated above. LTWA serves as mitigation and monitoring tool in the absence of any specific revegetation plan or mitigation plan.

Dr. Robert Harrington

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May 3, 2018

- d. If mitigation goals other than those continued in the 1999 Plan are applicable to some portion of the Five Bridges Impact Area, and if all of those goals have been met, are the applicable goals required to be amended or is a new mitigation plan for the area required to be adopted to ensure that the vegetation condition are sustained?

NA. Goals are applicable as stated above. LTWA serves as mitigation and monitoring tool in the absence of any specific revegetation plan or mitigation plan.

- e. If mitigation goals other than those contained in the 1999 Revegetation Plan are applicable to some portion of the Five Bridges Impact Area, and if not all of those goals have been met, are the applicable goals required to be amended or is a new mitigation plan required to be adopted to address the areas of the Five Bridges Impact area where the applicable goals have not been met?

NA. Goals are applicable as stated above. LTWA serves as mitigation and monitoring tool in the absence of any specific revegetation plan or mitigation plan.

We hope we have answered all of your questions; should you have additional questions or concerns, please contact me at (760) 872-1104

Sincerely,



James G. Yannotta  
Manager of Aqueduct

DE:fj

c: Mr. Richard Harasick



(760) 878-0001  
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P.O. Box 337  
135 South Jackson Street  
Independence, CA 93526

**COUNTY OF INYO  
WATER DEPARTMENT**

April 9, 2018

**VIA EMAIL AND U.S. MAIL**

Mr. James Yannotta, Aqueduct Manager  
Los Angeles Department of Water and Power  
300 Mandich Street  
Bishop, California 93514

Mr. Richard Harasick, Senior Assistant General Manager - Water  
Los Angeles Department of Water and Power  
P.O. Box 111, Room 1455  
Los Angeles, California 90051

**Subject: Dispute Resolution**

Dear Messrs. Yannotta and Harasick:

By letters dated February 22, 2018 and February 28, 2018, the Department of Water and Power (LADWP) initiated dispute resolution under the Long Term Water Agreement ("LTWA") on the following issues which, according to the letters, include but are not limited to:

- I. Whether LADWP and Inyo County, acting through the Technical Group, jointly developed a monitoring program for Well 385R, as required by Section VI of the Long Term Water Agreement; and
- II. Have the goals outlined in the 1999 Revegetation Plan been met; what are LADWP's continuing obligations in Five Bridges, if any; and consideration by the Technical Group of revised management in Five Bridges, to the extent that any management plan is relevant.

By letter dated March 20, 2018 (copy attached), Inyo County initiated dispute resolution under the Long Term Water Agreement ("LTWA") with a request that the Inyo/Los Angeles Technical Group address several questions arising from the proposed test of Well W385R and pertaining to vegetation conditions and mitigation obligations at the Five Bridges Impact

Area. By mutual agreement, the timeline for convening the Technical Group to consider the dispute identified in the March 20<sup>th</sup> letter has been extended and the Technical Group will consider the dispute on April 12, 2018. In the hope of facilitating a resolution of this dispute, this letter provides the County's position on each of the issues raised in the March 20 letter.

With regard to LADWP's Issue I, whether LADWP and Inyo County, acting through the Technical Group, jointly developed a monitoring program for Well 385R, as required by Section VI of the Long Term Water Agreement, the issues identified in the County's March 20<sup>th</sup> letter and the County's position on each issue are presented below.

**1. Is Well 385R a "new well" as defined in Section VI of the LTWA?**

**County Position.** No. Well 385 was drilled by LADWP in March, 1987, and modified by LADWP in 2014 as part of a project to modify four existing wells called the "Owens Valley Well Modification Project." Prior to the commencement of 2014 well modification project, LADWP submitted an application to, and received a permit from, the Inyo County Environmental Health Department to "repair or modify" the wells. By letter dated February 9, 2015, LADWP provided a report on the Owens Valley Well Modification Project, which stated that the purpose of the report was "to describe the results of modifying four existing production wells (W385, W386, W348, and W416)." In 2017, after issues arose as to whether adopted mitigation measures to avoid significant environmental impacts resulting from the operation of existing Well 385 prevented the well from being operated for a pumping test, LADWP's renamed Well 385 as "W385R" and took the position that Well 385R is a new well. The County believes that Well 385R is not a "new well" but instead is an existing well that was modified in 2014.

**2. If Well 385R not a "new well," are the provisions of Section VI of the LTWA applicable to the proposed pumping test of Well 385R?**

**County Position.** No, Section VI specifically addresses new wells and new production capacity and describes a process for the siting, design, construction, and testing of new wells. Since the LTWA does not set forth provisions that address the operation of existing wells that have been modified (as is the case with Well 385R), the County believes that the Technical Group may agree to adapt the provisions of Section VI to evaluate a modified well. However, the Technical Group has not considered or approved such an agreement; instead, LADWP unilaterally took the position that Well 385R is a "new well" and adopted the position that Section VI applies to Well 385R.

- 3. If Well 385R is a “new well,” does Section VI of the LTWA require that a “jointly developed monitoring plan” to monitor water levels and vegetation conditions during the proposed pumping test of Well 385R be approved by a vote of the Technical Group?**

**County Position.** Yes. For new wells, Section VI provides that prior to the construction of a new well, “. . .the location of each well shall be jointly evaluated by the Technical Group as to the potential impact of its operation on the valley's vegetation and environment” and after a new well is constructed, during its initial six months of its operation, “the Technical Group shall monitor water levels and vegetation conditions in accordance with a jointly developed monitoring program.” (A copy of Section VI of the LTWA is attached.)

In compliance with Section III.G of the 1997 Memorandum of Understanding between the City of Los Angeles Department of Water And Power, the County of Inyo, the California Department of Fish And Game, the California State Lands Commission, the Sierra Club, the Owens Valley Committee, and Carla Scheidlinger (“MOU”), it has been the practice of the Technical Group, whenever an action is required to be taken by the Technical Group, to meet in public to approve the action. Section III.G of the MOU requires that *“[A]ll scheduled meetings of the Technical Group will be open to the public. Any other communications occurring between the representatives of the County and DWP shall not constitute Technical Group meetings.”*

The Technical Group has not voted to approve a “jointly approved monitoring plan” for the proposed pumping test of Well 385R at a Technical Group meeting open to the public.

- 4. If Well 385R is a new well and if a monitoring plan for the proposed Well 385R test was jointly developed in conformity with Section VI of the LTWA, is LADWP now free to conduct the proposed Well 385R pumping test?**

**County Position.** No. LADWP adopted a negative declaration pursuant to the California Environmental Quality Act (“CEQA”) that addresses the environmental impacts of the proposed pumping test of Well385R. The legal adequacy of the negative declaration has been challenged by Inyo County, the Owens Valley Committee, and the Sierra Club. The basis of the County’s challenge is that adopted mitigation measures prohibit the operation of Well 385R in order to conduct the



proposed pumping test. Unless the applicable mitigation measures are modified or deleted, Well 385R cannot be operated in order to conduct the proposed pumping test.

LADWP's Issue 2, includes the following: (1) whether the goals outlined in the 1999 Revegetation Plan been met; (2) what are LADWP's continuing obligations in Five Bridges, if any; and (3) consideration by the Technical Group of revised management in Five Bridges, to the extent that any management plan is relevant. With regard to LADWP Issue 2, the pertinent issues identified in the County's March 20<sup>th</sup> letter and the County's position on each issue is presented below.

**5. Was the 1999 Revegetation Plan for the Five Bridges Impact Area ("1999 Plan") developed by the Technical Group as required by Section III.F of the 1997 Memorandum of Understanding ("1997 MOU") between the City of Los Angeles Department of Water and Power, the County of Inyo, the California Department of Fish and Game, the California State Lands Commission, the Sierra Club, the Owens Valley Committee, and Carla Scheidlinger?**

**County Position.** Yes. The preparation and implementation of a plan to revegetate the entire Five Bridges Impact Area with riparian and meadow vegetation was a requirement of the 1991 EIR (Mitigation Measure 10-12). Mitigation Measure 10-12 provides in pertinent part: "*LADWP and the County are developing a plan to revegetate the entire affected area with riparian and meadow vegetation. This plan will be implemented when it has been completed.*" The monitoring program adopted by LADWP for the mitigation measures in the 1991 EIR states in pertinent part that: "*mitigation plans...are to be developed by the Technical Group as set forth in Section I.C.2 of the Green Book...*" Section I.C.2 of the Green Book requires that mitigation plans adopted by the Technical Group are to be submitted to the Standing Committee.

Following the adoption of the 1991 EIR, the MOU parties, as amici curae, expressed concern to the Third District Court of Appeal over the adequacy of the adopted mitigation measures in the 1991 EIR, including the on-site mitigation identified for the Five Bridges Impact Area. The 1997 MOU is in effect a settlement agreement that resolved the concerns of the MOU parties over the adequacy of the mitigation measures identified in the 1991 EIR. Concerning the on-site mitigation (including mitigation for the Five Bridges Impact Area, the 1997 MOU requires that "*The Technical Group will prepare mitigation plans and implementation schedules for all areas for which on-site mitigation measures have been adopted in the EIR. These plans will be prepared in accordance with the procedures set forth in section I.C.2 of the Green Book. [...] The plans will be completed within 12 months of the discharge*

*of the writ. The content of the mitigation plans will be in accordance with the EIR, which provides that on-site mitigation will be accomplished through revegetation with native Owens Valley species and through establishment of irrigation.”* The introduction to the 1999 Plan cites the 1991 EIR, the 1997 MOU and the Green Book as the documents guiding the preparation of the 1999 Plan.

The Technical Group developed the 1999 Plan as required by the MOU and by section I.C.2 of the Green Book. As required by section I.C.2 of the Green Book, the Technical Group submitted the 1999 Plan to the Standing Committee on October 1, 1999. The 1999 Plan remains in effect.

**a. Are the goals of the 1999 Plan applicable to the Five Bridges Impact Area?**

**County Position.** Yes. The 1999 Plan specifically applies to the Five Bridges impact site. Section I.C.2.a of the Green Book requires that the first step in the development of a mitigation plan is for the Technical Group to establish a mitigation goal for the affected area. The 1999 Plan established the following goal for the Five Bridges Impact Area:

*Restore the area to a complex of vegetation communities with similar species composition and cover as exists at local similar sites. The goal will be attained when the desired vegetation conditions are achieved and are sustainable.*

*Live cover and composition numbers are from on-site mapping during the 1984-87 vegetation inventory. For Alkali Meadows, live cover goals are 60% composed of four different perennial species. Riparian Scrub live cover goals are 90% composed of four different perennial species. Composition numbers are 75% of the previously mapped number of species.*

As shown above, the 1999 Plan remains in effect; therefore, its goal for the Five Bridges Impact Area remains applicable.

**b. If the goals of the 1999 Plan are applicable to the Five Bridges Impact Area, are the goals applicable to the entire 300 acres identified as adversely impacted in Mitigation Measure 10-12 in the 1991 EIR or to a lesser portion of the 300 acres?**

**County Position.** The goals in the 1999 Plan are applicable to approximately 60 acres within the Five Bridges Impact Area. The 1999 Plan notes that “*The*

*original impact area encompassed approximately 300 acres [...] Since the impact was identified, remedial measures have mitigated approximately 80% of the area.”* Consistent with this, the 1999 Plan notes that the area requiring revegetation treatments is approximately 60 acres. Thus, the mitigation goals of the Five Bridges Impact Area apply to only 60 acres of the 300 acre site. (The Technical Group should accurately map this 60 acre area.)

- c. If the goals of the 1999 Plan are applicable to only part of the Five Bridges Impact Area, what plan(s) and/or goal(s), if any, are applicable to the part of the Five Bridges Impact Area that is not subject to the 1999 Plan?**

**County Position.** Since the 1999 Plan acknowledges that the goal of Mitigation Measure 10-12 of revegetating the *“affected area with riparian and meadow vegetation”* had been achieved in 80 percent of the affected area when the 1999 Plan was adopted, the goals that are applicable to that recovered area are the LTWA’s goals for native vegetation. Specifically, *“The goal is to manage groundwater pumping and surface water management practices so as to avoid causing significant decreases in live vegetation cover, and to avoid causing a significant amount of vegetation comprising either Type B, C, or D classification to change to vegetation in a classification type which precedes it alphabetically (for example, Type D changing to either Type C, B, or A vegetation).”* (LTWA Section IV.A). Green Book Section I.A elaborates on this goal: *“This means that groundwater pumping and changes in surface water management practices will be managed with the goal of avoiding significant decreases and changes in Owens Valley vegetation from conditions documented in 1984 to 1987, and of avoiding other significant environmental impacts.”*

- d. If the goals of the 1999 Plan are applicable to some or all of the 300 acre Five Bridges Impact Area, have all of the goals of the 1999 Plan been met in the area where the goals are applicable?**

**County Position.** No. In the 60 acre area where the goals of the 1999 Plan are applicable, the goals would be met if:

- Vegetation has been restored to the vegetation type that previously existed, to establish perennial vegetation comparable to nearby areas or to revegetate with other native Owens Valley species.

- The mitigation site includes a complex assemblage of vegetation communities with cover and composition similar to local sites with similar environmental parameters and that conditions are sustainable once the goals are achieved.
- Alkali meadow parcels FSL053, FSL124, FSL125, and FSL126 sustain a 54% cover Mitigation Goal (equal to 90% of their assigned cover goal of 60%) with an 80% confidence interval and comprised of at least 3 perennial species characteristic of nearby alkali meadow parcels (equal to 75% of their assigned species composition requirement of 4), and
- Riparian parcel FSL054 sustains an 81% cover Mitigation Goal (equal to 90% of its assigned cover goal of 90%) with an 80% confidence interval comprised of at least three perennial species characteristic of nearby riparian parcels (equal to 75% of their assigned species composition requirement of 4).

At the March 19, 2018 continuation of the Technical Group meeting of March 14, 2018 Technical Group meeting, Inyo County presented an assessment of conditions in the Five Bridges Impact Area relative to the mitigation goals. The County's assessment presents the reasons why the mitigation goals for the 60 acre area have not been met. The following is a summary of the conclusions of that assessment.

The 1999 Plan identifies two permanent transects (L4a and L4b) that had been established in the Five Bridges Impact Area shortly after the impact occurred. Transect L4a has achieved its Mitigation Goal of 54% cover in only 3 of 29 years monitored. Transect L4b has achieved its Mitigation Goal of 54% cover for meadow sites in 18 of 27 years monitored. Transect L4b has fluctuated above and below its mitigation goal, and arguably has met the goal. On the other hand, Transect L4a has rarely met goals, and then only during years of high surface water application due to high runoff. Given the sporadic occurrence of these events, the goal of sustainability has not been met. Furthermore, given LADWP's 2018 proposals to eliminate irrigation to the site and to perhaps reinstate pumping, it cannot be concluded that the site will meet its sustainability goals in the future. Therefore, based on transect L4a, the County does not believe that cover goals have not been met.

Based on line point transect data provided by LADWP, the County determined that areas originally mapped as riparian vegetation have never met the goal of 81% cover in any year that they were monitored.

The satellite-observed normalized difference vegetation index (NDVI) record shows pre-impact (summer 1987) values were achieved only five times in 30 years since the impact. NDVI is a widely used index of vegetation abundance and was closely related to ground based measures of vegetation cover at Five Bridges. Such infrequent attainment of vegetation cover goals cannot be considered sustainable.

Initial cover and composition in parcels adjacent to the impact selected for the County's analysis was similar to the vegetation in the Five Bridges Impact Area before the impact. Neither the line point nor the NDVI record from the 60 acre denoted in the 1999 Plan as still requiring mitigation converged to the control parcel mean following the impact, indicating depressed vegetation cover is not due to background environmental variability alone. Both control and impact groups responded similarly to drought and wetter conditions following the initial impact, but the mean line point and NDVI values of the impacted parcels remained persistently below the mean of the control parcels since the impact occurred. Thus, the site is not sustainably achieving cover goals as exists at local similar sites.

Within the 60 acre area, Parcel FSL054 is a riparian scrub parcel (Type D in the LTWA vegetation community classification) that has converted to a meadow community type (LTWA Type C). Based on either the LTWA baseline acreages or LADWP remapped acreages from 1981 aerial imagery, there has been a significant loss of 43 or 40 acres, respectively, of riparian vegetation as of 2017. This significant amount of Type D riparian vegetation conversion into either Type C meadow or Type B scrub violates the vegetation management goals and principles described in Section IV.A of the Water Agreement, and is contrary to the 1999 Plan's goal to "...restore the vegetation type that previously existed, ..." The riparian vegetation in Parcel FSL054 does not resemble pre-impact conditions or conditions in local similar riparian vegetation. Mitigation efforts have failed to return riparian vegetation to a similar vegetation type as existed prior to the impact.

Overall, within the 60 acre area, vegetation cover indices derived from satellite imagery show that the area Site has rarely had vegetation cover similar to that existing during the LTWA baseline mapping period, and lag significantly below

nearby similar nearby parcels. These multiple lines of evidence indicate that the goals of the 1999 Plan have not been sustainably met.

- e. **If the goals of the 1999 Plan are applicable to the Five Bridges Impact Area, and if all the goals of the 1999 Plan have been met in the area where the goals are applicable, is the 1999 Plan automatically no longer in effect or is action required to discontinue the 1999 Plan?**

**County Position.** Action is required to discontinue the 1999 Plan. Normally, a mitigation measure may be changed or deleted without preparing a supplemental EIR if an agency determines that the measure is no longer necessary to mitigate a significant impact, and that determination is supported by substantial evidence. *Mani Bros. Real Estate Group v. City of Los Angeles* (2007) 153 CA4th 1385, 1388. In this situation, where, in the 1991 EIR and through its approval of the 1997 MOU, Los Angeles, as the CEQA lead agency, has delegated authority to the Technical Group to adopt mitigation measures and submit them to the Standing Committee, the Technical Group may, based upon substantial evidence, determine that the goals and mitigation measures of the 1999 Plan are no longer applicable to some or all of the Five Bridges Impact Area.

However, if the Technical Group were to determine that vegetation goals have been met at the Five Bridges Impact Area, the County believes that the 1999 Plan's requirement that Wells W385 and W386 be permanently shut off should not be found to be no longer necessary. The permanent shutoff of the wells was intended to prevent a recurrence of groundwater pumping impacts to the Five Bridges Impact Area; therefore, in the absence of the adoption of a new plan for the area which provides for the management of groundwater pumping to avoid causing significant environmental impacts, the County does not believe that substantial evidence exists to support a determination by the Technical Group that the permanent shutoff of the wells is no longer necessary.

- f. **If the goals of the 1999 Plan are applicable to the Five Bridges Impact Area, and if all the goals of the 1999 Plan have been met in the area where the goals are applicable, is the 1999 Plan required to be amended or is a new mitigation plan for the Five Bridges Impact Area required to be adopted to ensure that the vegetation conditions in the area are sustained?**

**County Position.** Either the 1999 Plan should be amended by the Technical Group or the Technical Group should adopt a new plan. Since the County does not believe that the goals of the 1999 Plan have been met in the 60 acre area, either the amended plan or the new plan should address mitigation for the 60 acre area where the goals of the 1999 Plan have not been met, should provide for sustainability of vegetation in the 80 percent of the Five Bridges Impact area that has recovered and should provide for the management of any groundwater pumping from Wells 385 and 386 in a manner that avoids any new significant impacts.

- g. If the goals of the 1999 Plan are applicable to the Five Bridges Impact Area, and if not all the goals of the 1999 Plan have been met in the area where the goals are applicable, is the 1999 Plan required to be amended or a new mitigation plan required to be adopted to address the areas of the Five Bridges Impact Area where the goals have not been met?**

**County Position.** See County Position on Item f above.

- 6. If the goals of the 1999 Plan are not applicable to any portion of the Five Bridges Impact Area, what are the applicable mitigation goals for revegetation in the Five Bridges Impact Area?**

**County Position.** If for some reason it were to be determined that the goals of the 1999 Plan are not applicable to the Five Bridges Impact Area, then the applicable mitigation goal would be the goal of Mitigation Measure 10-12 which is “*to revegetate the entire affected area with riparian and meadow vegetation,*” backed up by the goals of the LTWA.

- a. If mitigation goals other than those contained in the 1999 Plan are applicable to the Five Bridges Impact Area, are the goals applicable to the entire 300 acres identified as adversely impacted in Mitigation Measure 10-12 in the 1991 EIR or to a lesser portion of the 300 acres?**

**County Position.** If for some reason it were to be determined that the 1999 Plan is not applicable to the Five Bridges Impact Area, then the determination in the 1999 Plan that 80 percent of the Five Bridges Impact area have been mitigated would no longer be operative. Therefore, the applicable mitigation goal for the entire 300 acre Five Bridges Impact Area would be the goal of Mitigation

Measure 10-12 which is “*to revegetate the entire affected area with riparian and meadow vegetation,*” backed up by the goals of the LTWA.

- b. If mitigation goals other than those contained in the 1999 Plan are applicable to some portion of the Five Bridges Impact Area, have all of those goals been met?;**

**County Position.** No. The goal of Mitigation Measure 10-12 which is “*to revegetate the entire affected area with riparian and meadow vegetation*” has not been met. Moreover, the goals of the LTWA require that Type D (riparian) vegetation not convert to Type C (meadow) vegetation. Such a conversion has occurred in the Five Bridges Impact Area, contrary to the goals of the LTWA.

- c. If mitigation goals other than those contained in the 1999 Plan are applicable to some portion of the Five Bridges Impact Area, and if those goals have been met, are those goals automatically no longer in effect or is action required to discontinue the mitigation goals?**

**County Position.** Action is required. Normally, a mitigation measure may be changed or deleted without preparing a supplemental EIR if an agency determines that the measure is no longer necessary to mitigate a significant impact, and that determination is supported by substantial evidence. *Mani Bros. Real Estate Group v. City of Los Angeles* (2007) 153 CA4th 1385, 1388. In this situation, where in the 1991 EIR and through its approval of the 1997 MOU, Los Angeles, as the CEQA lead agency, has delegated authority to the Technical Group to adopt mitigation measures and submit them to the Standing Committee, the Technical Group may, based upon substantial evidence, determine that Mitigation Measure 10-12 is no longer applicable to some or all of the Five Bridges Impact Area.

However, if the Technical Group were to determine that the goal of Mitigation Measure 10-12 has been met at the Five Bridges Impact Area, the County believes that the discontinuation of pumping from Wells W385 and W386 should not be found to be no longer necessary. The discontinuation of pumping was intended to prevent a recurrence of groundwater pumping impacts to the Five Bridges Impact Area; therefore, in the absence of the adoption of a new plan for the area which provides for the management of groundwater pumping to avoid causing significant environmental impacts, the County does not believe that substantial evidence exists to support a determination by the Technical Group that the discontinuation of pumping is no longer necessary.



- d. **If mitigation goals other than those contained in the 1999 Plan are applicable to some portion of the Five Bridges Impact Area, and if all of those goals have been met, are the applicable goals required to be amended or is a new mitigation plan for the area required to be adopted to ensure that the vegetation condition are sustained?**

**County Position.** If the Technical Group were to find that the goal of Mitigation Measure 10-12 has been met (the entire affected area has been revegetated with riparian and meadow vegetation), the Technical Group should adopt a new plan that provides for sustainability of recovered vegetation and for the management of groundwater pumping from Wells 385 and 386 in a manner that avoids new significant adverse impacts.

- e. **If mitigation goals other than those contained in the 1999 Revegetation Plan are applicable to some portion of the Five Bridges Impact Area, and if not all of those goals have been met, are the applicable goals required to be amended or is a new mitigation plan required to be adopted to address the areas of the Five Bridges Impact area where the applicable goals have not been met?**

**County Position.** Either Mitigation Measure 10-12 should be amended by the Technical Group or the Technical Group should adopt a new plan. Either the amendment or the new plan should address mitigation for the area where the goal of Mitigation Measure 10-12 has not been met, should provide for sustainability of vegetation in the portion of the Five Bridges Impact area that has recovered and should provide for the management of groundwater pumping from Wells 385 and 386 in a manner that avoids new significant adverse impacts..

Should you have any questions regarding this request, please contact the undersigned.

Sincerely,



Robert Harrington, Water Director

cc: Inyo County Board of Supervisors  
Inyo County Water Commission

Kevin Carunchio, County CAO  
Marshall Rudolph, County Counsel  
Greg James, Special Counsel  
Anselmo Collins, LADWP Director of Water Operations  
David Edwards, LADWP Deputy City Attorney



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**COUNTY OF INYO  
WATER DEPARTMENT**

March 20, 2018

**VIA EMAIL AND U.S. MAIL**

Mr. James Yannotta, Aqueduct Manager  
Los Angeles Department of Water and Power  
300 Mandich Street  
Bishop, California 93514

Mr. Richard Harasick, Senior Assistant General Manager - Water  
Los Angeles Department of Water and Power  
P.O. Box 111, Room 1455  
Los Angeles, California 90051

**Subject: Initiation of Dispute Resolution**

Dear Messrs. Yannotta and Harasick:

By letters dated February 22, 2018 and February 28, 2018, the Department of Water and Power (LADWP) initiated dispute resolution under the Long Term Water Agreement ("LTWA") on the following issues which, according to the letters, include but are not limited to:

- I. Whether LADWP and Inyo County, acting through the Technical Group, jointly developed a monitoring program for Well 385R, as required by Section VI of the Long Term Water Agreement; and
- II. Have the goals outlined in the 1999 Revegetation Plan been met; what are LADWP's continuing obligations in Five Bridges, if any; and consideration by the Technical Group of revised management in Five Bridges, to the extent that any management plan is relevant.

At the March 14, 2018 Inyo/Los Angeles Technical Group meeting, LADWP made the following motion with respect to Issue I:

Has a monitoring plan for the Well 385R test been jointly developed in conformity with Section VI of the LTWA?

The Technical Group was unable to agree on this question, with Inyo answering 'No' and LADWP answering 'Yes.' Before the Technical Group can resolve the multiple issues raised in Los Angeles's February 22 and February 28 letters, there must be an a resolution of the status of Well 385R and the mitigation requirements for the Five Bridges Impact Area. To reach that resolution, pursuant to Section XXVI of the LTWA, the County of Inyo initiates dispute resolution on the issues identified below and requests that the Inyo/Los Angeles Technical Group meet within 14 calendar days to attempt to resolve the issues identified below.

With regard to Issue I raised by LADWP, the County requests that the following issues be resolved:

1. Is Well 385R a "new well" as defined in Section VI of the LTWA?
2. If Well 385R not a "new well," are the provisions of Section VI of the LTWA applicable to the proposed pumping test of Well 385R?
3. If Well 385R is a "new well," does Section VI of the LTWA require that a "jointly developed monitoring plan" to monitor water levels and vegetation conditions during the proposed pumping test of Well 385R be approved by a vote of the Technical Group?
4. If Well 385R is a new well and if a monitoring plan for the proposed Well 385R test was jointly developed in conformity with Section VI of the LTWA, is LADWP now free to conduct the proposed Well 385R pumping test?

With regard to Issue II raised by LADWP, the County requests that the following issues be resolved:

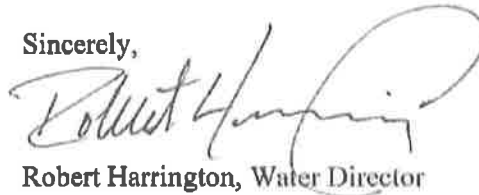
5. Was the 1999 Revegetation Plan for the Five Bridges Impact Area ("1999 Plan") developed by the Technical Group as required by Section III.F of the 1997 Memorandum of Understanding between the City of Los Angeles Department of Water and Power, the County of Inyo, the California Department of Fish and Game, the California State Lands Commission, the Sierra Club, the Owens Valley Committee, and Carla Scheidlinger?
  - a. Are the goals of the 1999 Plan applicable to the Five Bridges Impact Area?
  - b. If the goals of the 1999 Plan are applicable to the Five Bridges Impact Area, are the goals applicable to the entire 300 acres identified as adversely impacted in Mitigation Measure 10-12 in the 1991 EIR or to a lesser portion of the 300 acres?

- c. If the goals of the 1999 Plan are applicable to only part of the Five Bridges Impact Area, what plan(s) and/or goal(s), if any, are applicable to the part of the Five Bridges Impact Area that is not subject to the 1999 Plan?
  - d. If the goals of the 1999 Plan are applicable to some or all of the 300 acre Five Bridges Impact Area, have all of the goals of the 1999 Plan been met in the area where the goals are applicable?
  - e. If the goals of the 1999 Plan are applicable to the Five Bridges Impact Area, and if the all of goals of the 1999 Plan have been met in the area where the goals are applicable, is the 1999 Plan automatically no longer in effect or is action required to discontinue the 1999 Plan?
  - f. If the goals of the 1999 Plan are applicable to the Five Bridges Impact Area, and if the all goals of the 1999 Plan have been met in the area where the goals are applicable, is the 1999 Plan required to be amended or is a new mitigation plan for the Five Bridges Impact Area required to be adopted to ensure that the vegetation conditions in the area are sustained?
  - g. If the goals of the 1999 Plan are applicable to the Five Bridges Impact Area, and if not all the goals of the 1999 Plan have been met in the area where the goals are applicable, is the 1999 Plan required to be amended or a new mitigation plan required to be adopted to address the areas of the Five Bridges Impact Area where the goals have not been met?
6. If the goals of the 1999 Plan are not applicable to any portion of the Five Bridges Impact Area, what are the applicable mitigation goals for revegetation in the Five Bridges Impact Area?
- a. If mitigation goals other than those contained in the 1999 Plan are applicable to the Five Bridges Impact Area, are the goals applicable to the entire 300 acres identified as adversely impacted in Mitigation Measure 10-12 in the 1991 EIR or to a lesser portion of the 300 acres?
  - b. If mitigation goals other than those contained in the 1999 Plan are applicable to some portion of the Five Bridges Impact Area, have all of those goals been met?;
  - c. If mitigation goals other than those contained in the 1999 Plan are applicable to some portion of the Five Bridges Impact Area, and if those goals have been met, are those goals automatically no longer in effect or is action required to discontinue the mitigation goals?
  - d. If mitigation goals other than those contained in the 1999 Plan are applicable to some portion of the Five Bridges Impact Area, and if all of those goals have been met, are the applicable goals required to be amended or is a new mitigation plan for the area required to be adopted to ensure that the vegetation condition are sustained?

- e. If mitigation goals other than those contained in the 1999 Revegetation Plan are applicable to some portion of the Five Bridges Impact Area, and if not all of those goals have been met, are the applicable goals required to be amended or is a new mitigation plan required to be adopted to address the areas of the Five Bridges Impact area where the applicable goals have not been met?

Should you have any questions regarding this request, please contact the undersigned.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert Harrington".

Robert Harrington, Water Director

cc: Inyo County Board of Supervisors  
Inyo County Water Commission  
Kevin Carunchio, County CAO  
Marshall Rudolph, County Counsel  
Greg James, Special Counsel  
Anselmo Collins, LADWP Director of Water Operations  
David Edwards, LADWP Deputy City Attorney

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2. The County through its Technical Group representatives shall review the Department's proposed plan of operations and provide comments to the Department within ten (10) days of receipt of the plan.
3. The Department shall meet with the County's Technical Group representatives within ten (10) days of the receipt of the County's comments, and attempt to resolve concerns of the County relating to the proposed pumping program.
4. The Department shall determine appropriate revisions to the plan, provide the revised plan to the County within ten (10) days after the meeting, and implement the plan.
5. The April 1st pumping program may be modified by the Department during the period covered by the plan to meet changing conditions. The Department shall notify the County's Technical Group representatives in advance of any planned significant modifications. The County shall have the opportunity to comment on any such modifications.
6. Information and records pertaining to the Department's operations and runoff conditions shall be reported to the County's Technical Group representatives throughout the year.

VI. NEW WELLS AND PRODUCTION CAPACITY

The Department's current groundwater pumping capacity may be increased to provide increased operational flexibility and to facilitate rotational pumping. The Department may replace existing wells and construct new wells in areas where

1 hydrogeologic conditions are favorable, and where the opera-  
2 tion of that well will not cause a change in vegetation that  
3 would be inconsistent with these goals and principles.

4 Prior to the Department's construction of new wells,  
5 the location of each well shall be jointly evaluated by the  
6 Technical Group as to the potential impact of its operation on  
7 the valley's vegetation and environment. The evaluation shall  
8 include the drilling of one or more test holes, if needed, to  
9 develop information on the hydrogeologic conditions at the  
10 site, an inventory and classification of vegetation that could  
11 be affected by the operation of the well, and the assessment  
12 of any other potential significant effects on the environment.

13 Each new well will generally reflect optimum design  
14 parameters considering location, economics, and current prac-  
15 tice in the industry. The Department will schedule and con-  
16 tract for construction of the well.

17 An aquifer test of up to seventy-two (72) hours  
18 duration shall be conducted on each new well. One existing or  
19 new monitoring well with appropriate perforations is necessary  
20 for the aquifer test. The Technical Group shall determine the  
21 location of this monitoring well and the need for any addi-  
22 tional monitoring wells and the length of the aquifer test.

23 All data generated from the well construction proc-  
24 ess shall promptly be made available to the County. The  
25 County shall make application for and obtain any well con-  
26 struction permits required by the County or any subdivision  
27 thereof.

28 It is recognized that this new well program may  
result in a change in the areas that would be affected by  
pumping from existing wells. Therefore, additional monitoring



1 of groundwater tables and vegetation shall be implemented as  
2 necessary outside of existing management areas and monitoring  
3 requirements shall be altered or created as necessary. The  
4 Technical Group shall designate a management area and monitor-  
5 ing site requirements for each new well. The siting and the  
6 operation of the well shall be consistent with these goals and  
7 principles.

8 Only one well initially shall be constructed and  
9 operated in any new area. No additional well(s) shall be  
10 installed in the area until the initial well has been operated  
11 for at least six (6) months at full intended operational  
12 capacity in order to gain information on the area and to  
13 minimize the potential for adverse impacts.

14 During this initial period of operation, the Techni-  
15 cal group shall monitor water levels and vegetation conditions  
16 in accordance with a jointly developed monitoring program.  
17 Additional wells may be installed by the Department in the  
18 area if operation of the initial well indicates no impacts  
19 that would be inconsistent with these goals and principles.  
20 Monitoring wells shall be installed as necessary to evaluate  
21 any potential effects of the operation of the new well or  
22 wells on wells not owned by the Department.

23 A current program of replacing twelve (12) produc-  
24 tion wells with perforations only in a lower zone may be  
25 continued. (Six (6) replacement wells have been drilled and  
26 six (6) wells are scheduled to be drilled during the 1990-91  
27 fiscal year.)

28 Any production wells that are to be permanently  
removed from service shall be converted into properly sealed  
monitoring wells or shall be abandoned in accordance with

1 state water well standards. The sealing of a monitoring well  
2 shall be designed to prevent cross flow between aquifers.

3 The EIR describes the impacts of the construction  
4 and operation of fifteen (15) new wells. The construction and  
5 operation of any new wells not described in the EIR will be  
6 the subject of a subsequent CEQA review.

7 The Technical Group may agree that some existing  
8 wells that now supply enhancement/mitigation projects be  
9 converted to Department production wells. Wells that are the  
10 only source of supply for an enhancement/mitigation project  
11 shall not be converted. Water for the enhancement/mitigation  
12 project formerly supplied by a converted well will be supplied  
13 as necessary from Department production wells. Any enhance-  
14 ment/mitigation well converted to a production well could  
15 later be reverted to an enhancement/mitigation well if agreed  
16 to by the Technical Group.

17 VII. GROUNDWATER PUMPING ON THE BISHOP CONE

18 A. Any groundwater pumping by the Department on the "Bishop  
19 Cone" (Cone) shall be in strict adherence to the provi-  
20 sions of the Stipulation and Order filed on the 26th day  
21 of August, 1940, in Inyo County Superior Court in the  
22 case of Hillside Water Company, a corporation, et al. vs.  
23 The City of Los Angeles, a Municipal Corporation, et al.,  
24 ("Hillside Decree").

25 Before the Department may increase ground-  
26 water pumping above present levels, or construct any new  
27 wells on the Cone, the Technical Group must agree on a  
28 method for determining the exact amount of water annually  
used on Los Angeles-owned lands on the Cone. The agreed  
upon method shall be based on a jointly conducted audit