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VIA FACSIMILE and U.S. MAIL

Mr. Walter Pachucki
Special Master
459 West Line Street, Suite 100
Bishop, California 93515

Subject: Non-Compliance with the Provisions of the Court Order -- "*LADWP's Report to the Court Pursuant to Section 2(G) of the August 9, Court Order*" and LADWP's "*Revised Proposed Operational Plan for 2005-06 Runoff Year*"

Dear Mr. Pachucki:

For the reasons set forth below, the County of Inyo believes that "*LADWP's Report to the Court Pursuant to Section 2(G) of the August 9, Court Order*" ("*October Status Report*") and LADWP's "*Revised Proposed Operational Plan for 2005-06 Runoff Year*" ("*Revised Plan*") are not in compliance with the Court Order.

October Status Report

Section 2.G. of the Court Order provides in pertinent part as follows:

Beginning October 5, 2005, and on the fifth day of each month thereafter, the City shall file with the Court a report on: (1) the total amount of groundwater that the City pumped in the Owens Valley the month immediately preceding the prior month (i.e. the October 5, 2005 report would contain the information for August 2005); the amount of groundwater that was pumped from each well during the month immediately preceding the prior month, and the cumulative amount of groundwater pumped in the runoff year up to the month immediately preceding the prior month; (2) the amount of water supplied by the City for groundwater recharge pursuant to condition 2B during the month immediately preceding the prior month and, also, cumulatively for the runoff year up to the month immediately preceding the prior month; (3) the amount of water supplied by the City for irrigation and/or stockwater to lessees (collectively) of the City in the Owens Valley, supplied to recreation, wildlife, supplied to tribal uses in the Owens Valley, supplied to each Enhancement/Mitigation Project, and supplied collectively to mitigation measures during the month immediately preceding the prior month and, also, cumulatively for the runoff year; provided however, that

the monthly amounts of water supplied to these uses will initially be reported as an unverified preliminary amounts, and the actual verified amounts will be reported within sixty days of the preliminary report; if any of the information to be reported per 1, 2 and 3 above, is unavailable at the time of the report, the report shall explain why it is unavailable and when it will be provided; and (4) the City's progress or lack thereof, in implementing the LORP, including whether the City's progress is consistent with the deadlines established by this order and, if not, what the City has done, or plans to do, to meet those deadlines.

On October 5, 2005, LADWP submitted its October Status Report to the Inyo County Superior Court.

Section (b) of the Court Order titled, "Order Re Appointment of Special Master" ("Special Master Order") provides that the Special Master shall:

...review the monthly reports submitted by LADWP concerning LADWP's compliance with the Court Order and to submit a monthly report to the Court and to the parties to the MOU (collectively "Parties" or individually "Party") as to whether LADWP is in compliance with the Court Order. If a Party believes that a monthly report is not in compliance with the Court Order, or if a Party believes that the monthly report reveals that LADWP is not otherwise in compliance with the Court Order, within five court days of submittal of the report by LADWP, that Party shall submit the reasons for the alleged non-compliance to the Special Master, to the other Parties and to the Court.

The County of Inyo believes that the October Status Report is not in compliance with the Court Order because it fails to provide sufficient information concerning the reported 447 acre-feet of water supplied to recharge groundwater levels in the Laws area to enable the Parties and the Special Master to determine whether LADWP is in compliance with the recharge requirements of the Court Order. As is more fully presented in the attached letter from the Inyo County Water Department to LADWP dated October 10, 2005, the October Status Report:

1. Fails to identify the source of the 447 acre-feet of water supplied in August 2005 for groundwater recharge in the Laws area; thus, it is impossible to know whether any portion of this water included groundwater pumped from the Laws Wellfield. In order to comply with the Court Order, the October Status Report should identify the source of the water supplied for groundwater recharge.
2. Fails to identify whether any portion of the 447 acre-feet supplied for groundwater recharge in the Laws area includes water supplied to irrigation, enhancement/mitigation projects, or mitigation measures. In order to comply with the Court Order, the October Status Report should identify the means of conveying any water supplied for groundwater recharge and describe how and where the water was recharged.
3. Fails to describe how the 447 acre-feet of water used for groundwater recharge in August 2005 was calculated, and fails to describe whether any water that was diverted from the McNally canals to the Owens River was included as part of the 447 acre-feet. In order to comply with the Court Order, the October Status Report should describe how the amount of water used for groundwater recharge was calculated, and should include the amount of any water that was diverted from the McNally canals to the Owens River.

Section (d) of the Special Master Order authorizes the Special Master “[T]o request information from LADWP and the other Parties and to conduct field observations as necessary for him to monitor LADWP’s compliance with the provision of the Court Order which he was appointed to monitor.” The County of Inyo requests that the Special Master direct LADWP to provide the Special Master and the Parties with the information identified in 1 through 3 above with regard to LADWP’s recharge operations in the Laws Wellfield during August 2005. It is also requested that the Special Master direct LADWP to furnish the information identified in 1 through 3 above in all future monthly reports submitted pursuant to Section 2.G. of the Court Order. If LADWP should decline to provide the requested information, the County of Inyo requests the Special Master to report to the Court that LADWP is in non-compliance with the Court Order.

If LADWP provides the requested information and it reveals that: (a) LADWP believes that it may use groundwater pumped from the Laws Wellfield to recharge the groundwater levels in the wellfield, and/or (b) that LADWP believes that water that it supplies for irrigation, enhancement/mitigation projects and/or mitigation measures in the Laws Wellfield may be used as credit against its obligation under Section 2.B. of the Court Order to supply 16,294 acre-feet of water per year to recharge the groundwater table, and/or (c) LADWP believes that water it diverts from the McNally canals to the Owens River may be used as a credit against its obligation under Section 2.B. of the Court Order to supply 16,294 acre-feet of water per year to recharge the groundwater table, the County of Inyo requests the Special Master to report to the Court that he believes that any such uses are a violation of the Court Order.

Revised Plan

Section 2.H. of the Court Order provides:

By September 30, 2005, the City shall submit to the court, the parties, the special master, and real-party-in-interest, its proposed plan for groundwater pumping operations and water recharge operations for the remainder of the 2005-06 runoff year. In each subsequent runoff year, until these conditions are lifted, the City shall submit an Annual Operations Plan on or before May 15 that describes its planned groundwater pumping operations and planned water recharge operations.

On September 30, 2005, LADWP submitted a letter conveying the Revised Plan to the Inyo County Water Department and to the Court. As is more fully presented in the attached letter from the Water Department to LADWP, the Revised Plan fails to provide the information identified in items 1 through 3 above with regard to LADWP operations in August 2005 and with regard to LADWP’s planned operations during the remainder of the 2005-06 runoff year.

The County of Inyo requests that the Special Master direct LADWP to provide the Special Master and the Parties with the information identified in 1 through 3 above with regard to LADWP’s recharge operations in the Laws Wellfield during August 2005. It is also requested that the Special Master direct LADWP to furnish the information identified in 1 through 3 above in all future Annual Operations Plans submitted pursuant to Section 2.H. of the Court Order. If LADWP should decline to provide the requested information, the County of Inyo requests the Special Master to report to the Court that LADWP is in non-compliance with the Court Order.

As is requested concerning the October Status Report, if LADWP provides information with regard to the Revised Plan that indicates that LADWP believes that it may use water as described above in a manner that is inconsistent with its obligation under the Court Order to supply 16,294 acre-feet of water per year to recharge the groundwater table, the County of Inyo requests the Special Master to report to the Court that he believes that any such uses are a violation of the Court Order.

Thank you for your assistance.

Sincerely,

Greg James
Attorney for the County of Inyo

cc: Inyo County Superior Court
Joe Brajevich
Gordon Burns
Larry Silver
Don Mooney
Members of the Board of Supervisors
Members of the Water Commission
County Counsel
County Administrator