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**COUNTY OF INYO
WATER DEPARTMENT**

September 18, 2003

Memorandum

TO: Members of the Inyo County Board of Supervisors
Members of the Inyo County Water Commission
Inyo County Administrator
Inyo County Counsel

FROM: Greg James
Director, Inyo County Water Department

SUBJECT: Proposed Big Pine Ditch System and Klondike Lake Modification Project

A Draft Mitigated Negative Declaration (“Mitigated Negative Declaration”) was completed on the proposed Big Pine Ditch System and Klondike Lake Modification Project pursuant to the California Environmental Quality Act (CEQA), and was circulated by LADWP for comments from June 6, 2003 through July 9, 2003. Ten letters presenting comments on the Mitigated Negative Declaration were received by LADWP. Responses to the comments are attached to this memorandum.

As explained below, LADWP, as the lead agency under CEQA, must consider the Mitigated Negative Declaration and approve the proposed project prior to action by the County on the proposed project. It is not anticipated that the LADWP Board of Water and Power Commissioners will consider the project until early November.

If LADWP adopts the Mitigated Negative Declaration, adopts a mitigation monitoring and reporting program, and approves the proposed project, the Water Commission will conduct a public hearing and will consider making recommendations to the Board of Supervisors concerning action on the Mitigated Negative Declaration and concerning action on the proposed project. Thereafter, a meeting of the Board will be scheduled to consider the Mitigated Negative Declaration and the proposed project.

The purpose of this memorandum is to outline the roles and responsibilities of LADWP and the County in regard to the proposed project, and to provide the Board, the Commission and the public with as much time as possible to review and consider the responses to the comments on the Mitigated Negative Declaration. (This memorandum will be placed on the Water Department’s website at www.inyowater.org and in County libraries.)

SUMMARY OF THE ELEMENTS OF THE PROPOSED PROJECT

The following is a summary of the actions that are part of the proposed project. Each of these actions is addressed in more detail in the Mitigated Negative Declaration and in the attached responses to comments.

Proposed Amendment of the Water Agreement

To implement the proposed expansion of the source of water to supply the Big Pine Ditch system or to replace water used by the ditch system, as part of the proposed project, Section XIV.E (beginning at line 20 on page 42) of the Water Agreement would be amended. The Los Angeles Board of Water and Power Commissioners, the Inyo County Board of Supervisors and the Inyo County Superior Court must approve the proposed amendment of the Water Agreement

Use of Well 415

Under the proposed project, existing Well 415 would be used by LADWP to supply water to the Big Pine town water system. In addition, LADWP would use the well to supply water to the ditch system, to replace water annually used by the ditch system, and to supply water for the Big Pine Eastside Regreening Enhancement/Mitigation Project. Well 415 discharges into Big Pine Creek upstream of the Cement Ditch Diversion Facility. The amount of water from Well 415 that will be supplied for the additional uses will be in addition to water supplied from the well to the Big Pine town water system. The Technical Group will evaluate the potential operation of the well for the additional uses and will establish operating criteria for these uses of the well as provided in Section VI of the Water Agreement and in the Green Book.

Diversion of Water From Big Pine Creek

Under the proposed project, water would be diverted from Big Pine Creek by LADWP to the Mendenhall Ditch at the existing "Cement Ditch Diversion facility." Water would be diverted from the Mendenhall Ditch by LADWP at a diversion box to be constructed by the BPIIA immediately downstream of the "Cement Ditch Diversion facility."

Construction of Above Ground Pipeline and Ditch System Headgates

Under the proposed project, an above ground 8 inch diameter ductile iron pipeline, approximately 2200 feet in length, would be constructed by the BPIIA to convey water from the new diversion box on the Mendenhall Ditch to the headgates for the ditch system that will be constructed by the BPIIA near the Bell Canyon Ditch. The pipeline will be located on City of Los Angeles lands. It will be placed on the ground surface, anchored with concrete at every other joint and covered over at road crossings.

License Agreement for Pipeline Right of Way

Under the proposed project, the City of Los Angeles would provide a license agreement for the right of way for the above ground, ductile iron pipeline to the BPIIA.

Construction of the Bell Canyon Well

Under the proposed project, a new well west of the town of Big Pine in an area known as Bell Canyon would be constructed. (This well is referred to as the "Bell Canyon Well.") The well will be drilled to a depth of approximately 500 feet, with an 18-inch diameter casing. The casing is proposed to be slotted from a depth of approximately 100 to 490 feet.

Construction of a Power Line Connecting the Bell Canyon Well to the Existing Town Electrical System

A powerline connecting the Bell Canyon well to the existing Big Pine electrical system will be constructed. The power line will be approximately 2000 feet in length. Wooden power poles will be installed by LADWP approximately 30 feet north of Old Glacier Lodge Road. The poles will be spaced approximately 200 to 300 feet apart.

Operation of the Bell Canyon Well

Under the proposed project, the proposed Bell Canyon Well would only be operated to supply water to the ditch system and to replace water annually used by the ditch system. Groundwater pumped from the new Bell Canyon well will be conveyed to the Bell Canyon headgates via a new Bell Canyon pipeline to be constructed by LADWP. Water will be discharged from the pipeline either directly into the ditch system at the system's Bell Canyon headgates, or into the Bell Canyon Ditch immediately upstream of the headgates. The Technical Group will evaluate the potential impacts resulting from this operation of the well, and will establish operating criteria for the well as provided in Section VI of the Water Agreement and in the Green Book.

Construction of a Diversion Structure on the Mendenhall Ditch

Under the proposed project, a diversion box would be constructed on the Mendenhall ditch by the BPIIA to divert water from the Mendenhall Ditch to the ditch system's headgate. Water will be diverted from the Mendenhall ditch by LADWP to the ditch system headgates.

Construction of a New Pipeline From the Bell Canyon Well to the Ditch System Headgates

Under the proposed project, water would be conveyed from the new Bell Canyon well to the ditch system headgates by an underground pipeline within the old Glacier Lodge roadway, approximately 2250 feet in length, to be constructed by LADWP.

Construction of a Diversion Box on the Bell Canyon Ditch

Under the proposed project, a diversion box would be constructed on the Bell Canyon ditch immediately upstream of its confluence with Big Pine Creek by the BPIIA to divert water from the Bell Canyon Ditch to the ditch system. Water will be diverted from the Bell Canyon Ditch by LADWP.

Construction of New Ditches Within the Town of Big Pine

Under the proposed project, the BPIIA would construct ditches and culverts within the town of Big Pine.

Water Supply to Ditch System

Under the proposed project, LADWP would provide water to the ditch system at the Mendenhall Ditch diversion box, the Bell Canyon headgates, and at the diversion structure in Bell Canyon. A flow of up to 6 cfs would be provided to the ditch system as specified in the proposed amendment of the Water Agreement. The water would flow through existing ditches, and through new ditches to be constructed in the town of Big Pine. The ditch project will only be operated when water is available during the window of time when the existing ditch system in Big Pine is operated (approximately April through September).

Supply of Water to Big Pine Eastside Regreening Enhancement/Mitigation Project

Under the proposed project, available tail water from the ditch system may be used to supply water to the Big Pine Eastside Regreening Enhancement/Mitigation Project.

Modification of the Klondike Lake Enhancement/Mitigation Project

Under the proposed project, the Klondike Lake Enhancement/Mitigation project would be modified by LADWP and the County acting through the Inyo County/Los Angeles Standing Committee to permanently reduce the water allotment to the project from approximately 2,200 acre-feet per year to an average of approximately 1,700 acre-feet per year. As part of the modification, a credit of 300 acre-feet per year of the water allotment reduction would be applied to the water supply to the Big Pine ditch system.

APPROVALS AND ACTIONS REQUIRED TO IMPLEMENT THE PROJECT

The following approvals and actions are necessary to implement the project:

- Adoption of the negative declaration by the Los Angeles Board of Water and Power Commissioners.
- Approval of the proposed amendment of the Water Agreement by the Los Angeles Board of Water and Power Commissioners.
- Submission of a recommendation from the Inyo County Water Commission (the Water Commission acts as the County’s CEQA agency for purposes of projects arising out of the Water Agreement) to the Inyo County Board of Supervisors as to whether the County should adopt the mitigated negative declaration.
- Adoption of the negative declaration by the Inyo County Board of Supervisors.
- Approval of the proposed amendment of the Water Agreement by the Inyo County Board of Supervisors.
- Approval of the amendment of the Water Agreement by the Inyo County Superior Court.
- Determination by the Los Angeles Board of Water and Power Commissioners that, with the proposed modification of the Klondike Lake enhancement/mitigation project, the project will continue to provide mitigation equal to the mitigation that would be provided if the project were not modified.
- Agreement by the Inyo County Board of Supervisors and LADWP, acting through the Standing Committee, to approve the proposed modification of the Klondike Lake enhancement/mitigation project.
- A grant of a license agreement by the City of Los Angeles for the right of way for the ductile iron pipeline to the BPIIA.
- Provision to the Technical Group by the BPIIA, within 60 days after adoption of this mitigated negative declaration, of a detailed construction schedule, proposed disbursement schedule (based on progress of the construction) for the \$100,000, proof that the entity has obtained any funds required to construct the system that are in excess of \$100,000, and evidence that it has all necessary rights-of-way, encroachment permits, easements, and other permits and/or approvals necessary to construct and operate the project.
- Agreement by the BPIIA, the County and LADWP on procedures for funding, construction, operation, and maintenance of the project.

ROLES OF LADWP AND THE COUNTY

In regard to the proposed project, under CEQA, LADWP is the “lead agency” and the County is a “responsible agency.” As the lead agency, LADWP has the primary responsibility for decisions regarding the proper manner of complying with CEQA in considering and carrying out the project. The main difference between a lead agency and a responsible agency is that the lead agency has the broadest

governmental powers over the proposed project; and therefore, is responsible for considering all environmental impacts of the whole project. In contrast, the responsible agency considers only those aspects of the project that are subject to the responsible agency's jurisdiction.

As the lead agency, LADWP must act first concerning adoption of the Mitigated Negative Declaration (including the adoption of a monitoring and reporting program) and concerning approval of the proposed project.

RESPONSIBILITIES OF THE COUNTY OF INYO

Under CEQA, if LADWP adopts the Mitigated Negative Declaration, a mitigation monitoring and reporting program, and approves the proposed project, the County must rely on the CEQA document adopted by LADWP, and ordinarily, is not entitled to prepare a separate document. Under these circumstances, if the County believes that the Mitigated Negative Declaration is not adequate, the County may do one of the following:

- Attempt to convince LADWP to change the Mitigated Negative Declaration or to prepare an EIR;
- Take the issue to court within 30 days after LADWP has filed a Notice of Determination;
- Disapprove the proposed amendment to the Water Agreement.

RESPONSIBILITIES OF THE BOARD OF SUPERVISORS

The County of Inyo's procedures for compliance with CEQA are set forth in Title 15 of the Inyo County Code, entitled "CEQA Procedures." Under these procedures, and pursuant to the Water Agreement, the Inyo County Board of Supervisors is the County entity with the power to approve this proposed project. Therefore, under the County Code, the Board is the decision-making body for the County on this proposed project.

Mitigated Negative Declaration. As the decision-making body, Section 15.12.080 of the County Code places responsibility on the Board of Supervisors to independently review the proposed mitigated negative declaration together with any comments received on the document and the responses to the comments. If the Board adopts the Mitigated Negative Declaration, it must also adopt a mitigation monitoring and reporting program for the mitigation measures that it adopts or makes a condition of project approval. The program may be identical to the program adopted by LADWP or may be a separate program specific to mitigation measures to be monitored by the County. If the Board adopts the Mitigated Negative Declaration, it must also adopt appropriate findings.

Project Approval. As the County's decision-making body, if the Board of Supervisors adopts the Mitigated Negative Declaration, the Board of Supervisors has the responsibility for approving or disapproving the proposed project.

RESPONSIBILITIES OF THE WATER COMMISSION

Mitigated Negative Declaration. Section 15.12.040.B designates the Water Commission as the County agency for the purpose of CEQA review and processing on all projects permitted, carried out, approved, funded or processed by the Inyo County Water Department. Although the Water Commission is not the decision-making body for the proposed project, under section 15.12.040 C. 6 of the County Code, the Water Commission is charged with the responsibility of making a recommendation to the Inyo County

Board of Supervisors as to whether or not the Mitigated Negative Declaration on the proposed project should be adopted. Also, section 15.32.080 requires the Water Commission to hold a public hearing to review and consider the Mitigated Negative Declaration, all written and oral comments received, responses to the comments, the staff report on the project, and other information included in the administrative record.

Project Approval. Section III. A. 3 of Inyo County Resolution 99-43 places responsibility on the Water Commission for continuously reviewing implementation of the Agreement, FEIR and the MOU, and for submitting written recommendations concerning these matters to the Board of Supervisors. Therefore, the Water Commission is charged with the responsibility of making a recommendation to the Board of Supervisors as to whether or not the County should approve the proposed project.

RESPONSIBILITIES OF THE WATER DEPARTMENT

Under Sections 15.12.050 and 15.32.100 of the County Code, the Water Department has many responsibilities concerning review of the proposed project. Included in these responsibilities is an obligation to prepare responses to comments on the Mitigated Negative Declaration, to make a recommendation on the adequacy of the Mitigated Negative Declaration for adoption, and to make a recommendation as to whether the proposed project should or should not be approved.

RESPONSES TO COMMENTS

Staff from LADWP and from the Water Department worked together to prepare the attached responses to comments on the Mitigated Negative Declaration. The responses to comments have been reviewed and approved by the BPIIA.

OPTIONS AVAILABLE TO THE COUNTY CONCERNING THE PROPOSED PROJECT

Some of the options available to the County in regard to the proposed project are outlined below:

- 1.** Adopt the Mitigated Negative Declaration, approve the proposed project as proposed (or with modifications acceptable to LADWP and to the County).
- 2.** Not adopt the Mitigated Negative Declaration, not approve the proposed project.

CONCLUSION

Please contact me should you have any questions, or if you would like to discuss any of the information provided in this memorandum or in the attached responses to comments on the Mitigated Negative Declaration.

cc: LADWP