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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF INYO

Los Angeles Department of Water and  
Power,

Plaintiff,

v.

County of Inyo et al.,

Defendant.

)CASE NO. 12908

) [Assigned To The Honorable John P. Moran]

) JOINT NOTICE OF MOTION AND MOTION TO  
) AMEND LONG TERM WATER AGREEMENT

) Date: October 1, 2003

) Time: 1:30 p.m.

) Place: Department 2,

) Hon. John P. Moran

) 168 N. Edwards St.,

) Independence, CA 93526

TO THE CLERK OF THE COURT:

Please take notice that on October 1, 2003 at 1:30 p.m. in Department "2" located at 168 N. Edwards St., Independence, CA 93526. Plaintiff the City of Los Angeles by and through its Department of Water and Power (LADWP) and Defendant County of Inyo (Inyo) will and hereby do jointly move this court for an order amending the "Agreement Between the County of Inyo and the City of Los Angeles and Its Department of Water and Power on a Long Term Groundwater Management Plan for Owens Valley and Inyo County" ("Long Term Water Agreement.") The motion is based on this notice, the accompanying Memorandum of Points and Authorities, and the attached Exhibits 1 through 5.

Dated: September 8, 2003

Respectfully submitted:

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Arthur B. Walsh, Assistant City Attorney  
Attorney for the City of Los Angeles by and  
through its Department of Water and Power

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Paul N. Bruce, Inyo County Counsel  
Attorney for the County of Inyo

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Gregory L. James, Special Legal Counsel  
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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
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Los Angeles Department of Water and  
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)CASE NO. 12908

)

) [Assigned To The Honorable John P. Moran]

)

) MEMORANDUM OF POINTS AND  
) AUTHORITIES IN SUPPORT OF MOTION TO  
) AMEND LONG TERM WATER AGREEMENT;  
) EXHIBITS

)

) Date: October 1, 2003

) Time: 1:30 p.m.

) Place: Department 2,

Hon. John P. Moran

168 N. Edwards St.,

Independence, CA 93526

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## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I**

#### **HISTORY**

In 1991, LADWP and Inyo through their governing bodies entered into the Long Term Water Agreement, which by stipulation was subsequently entered as an order and judgment of this court on June 13, 1997. The Long Term Water Agreement was intended to resolve certain on-going disputes between LADWP and Inyo. LADWP owns the rights to most of the surface and groundwater in the Owens Valley and exports much of that water to Los Angeles. Inyo was concerned about the impact of LADWP's water gathering activities and water exports on Inyo's environment. The Long Term Water Agreement declared that its overall goal was "to avoid certain described decreases and changes in vegetation and to cause no significant effect on the environment which cannot be acceptably mitigated while providing a reliable supply of water for export to Los Angeles and for use in Inyo County."

The Long Term Water Agreement classifies vegetation within the Owens Valley by management types, ranked in order from A to E according to the vegetation's water-dependence, with Type A vegetation using water supplied by precipitation and Type E vegetation dependent on water supplied by irrigation.<sup>1</sup> The Long Term Water Agreement contains management maps that were based on vegetation inventories conducted by LADWP between 1984 and 1987. The management maps identify the vegetation management types in the Owens Valley. The Long Term Water Agreement requires that groundwater pumping and surface water management practices not cause significant decreases in live vegetation cover

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<sup>1</sup>Type A vegetation is comprised of vegetation communities with evapotranspiration approximately equal to average annual precipitation; Type B vegetation is comprised of scrub dominated communities, including rabbitbrush and Nevada saltbush communities with evapotranspiration greater than precipitation; Type C vegetation is comprised of grasslands/meadow vegetation communities with evapotranspiration greater than precipitation which exist because of high groundwater conditions, natural surface water drainage, and/or surface water management practices in the area; Type D vegetation is comprised of riparian/marshland vegetation communities with evapotranspiration greater than precipitation which also exist because of high groundwater conditions, natural surface water drainage, and/or surface water management practices in the area; Type E vegetation is comprised of areas where water is provided to Los Angeles-owned lands for alfalfa production, pasture, recreation uses, wildlife habitats, livestock, and enhancement/mitigation projects.

nor cause a significant amount of vegetation comprising either the Type B, C, D, or E classification to change to vegetation in a classification type which precedes it alphabetically. Further, Type E vegetation sites are to continue to be supplied with water and managed so as to avoid causing significant decreases and changes in vegetation from vegetation conditions which existed on such lands during the 1981-82 runoff year.

For many years, LADWP leased approximately 5000 acres that it owns in the Laws area northeast of Bishop. The Laws Area Management Map contained in the Long Term Water Agreement shows that there are 1,350 acres classified as Type E land within the area that have been leased by LADWP. From the 1960's to the mid-1990's, this irrigated area was leased to the Paesano family. Throughout this time there was a cooperative effort between LADWP and the Paesano family to make the area a viable ranch operation, and from time-to-time various areas within the lease were placed into or removed from irrigation. The Paesano family failed to pay rent and were evicted in the mid-1990's. Since then, only a portion of the 1,350 acres classified as Type E in the Long Term Water Agreement have been irrigated on a regular basis.

Inyo and LADWP have concluded that the goals of the Long Term Water Agreement will be more adequately achieved if certain areas of Type E vegetation in the Laws area are reclassified to Type A vegetation, and if certain areas of Type C and Type A vegetation are reclassified to Type E. Under the Laws Irrigation Project ("the Project"), as illustrated in the attached Exhibit 1, 193 acres on the Laws Ranch will be reclassified from Type E to Type A. The reclassified Type E land will not be irrigated in the future, but the land will be revegetated. (The 193 acres to be reclassified constitutes a portion of the land shown on Exhibit 1 as "Formerly Irrigated.") An additional 302 acres that are currently classified under the Water Agreement as Type A, and 46 acres that are currently classified as Type C, will be reclassified as Type E. (The 348 acres that will be reclassified as Type E are shown as "Newly Irrigated" on Exhibit 1.)

In order to implement the Project, LADWP and Inyo have agreed to amend the Long Term Water Agreement by revising the Laws Area Management Map so that it corresponds with the acreage to be irrigated under the Project. Under the proposed amendment of the

Management Map for the Laws area, the amount of Type E lands within the leased area will be increased from 1350 acres to 1,520 acres, the amount of Type A land will be decreased by 109 acres, and the amount of Type C land will be decreased by 46 acres. (The proposed amendment will make no changes to the vegetation classifications shown on the existing Laws area management maps outside of the leased area.)

## II

### **METHOD OF AMENDING THE LONG TERM WATER AGREEMENT**

The Long Term Water Agreement provides in Section XXV that:

“If, as a result of information gained from ongoing research or cooperative studies, or for other reasons as may be necessary to better achieve the goals of this Stipulation and Order, or for purposes of improving the monitoring and evaluation activities, the Department and the Inyo County Board of Supervisors, by agreement, may modify: 1) any provision of the Green Book, including its provisions for monitoring sites, the type of monitoring, and the interpretation of monitoring results; 2) the Management Areas (section I); 3) the Management Maps (section II); and 4) the soil moisture "triggering mechanism" for turning off wells (sections V.A, B, and C), including a substitution of an entirely new "triggering mechanism." A disagreement over such a modification shall be subject to dispute resolution. The remaining provisions of this Stipulation and Order, other than those identified above, may be modified by agreement between the Department and the Inyo County Board of Supervisors, and approval of such modification by the Court. Approval by the Court shall be upon written noticed motion. Notice shall be given in accordance with California Civil Procedure Section 1005, and published in Los Angeles and Inyo counties in accordance with Government Code Section 6062a.”

LADWP and Inyo discussed between themselves whether the proposed amendment was one that could be accomplished without Court approval under the provisions of the first sentence of the quoted paragraph. LADWP and Inyo have agreed that for purposes of this amendment the first sentence of Section XXV should be construed narrowly so as to apply only to correction of errors, and that the proposed changes in the Laws Area Management Map should be considered to fall under the provisions of the third sentence, requiring notice to the public, the parties, and requiring the approval of this Court.

### III

## **THE MOTION TO AMEND THE LONG TERM WATER AGREEMENT SHOULD BE GRANTED**

The Long Term Water Agreement provides that the overall goal of managing the water resources within Inyo County is to avoid certain described decreases and changes in vegetation and to cause no significant effect on the environment which cannot be acceptably mitigated while providing a reliable supply of water for export to Los Angeles and for use in Inyo County. Inyo and LADWP have concluded that this goal will be more adequately achieved if the changes in Laws Area Management Map described above are approved by the Court. The proposed amendment (and modified Laws Area Management Map) is attached as Exhibit 2.

Both LADWP, acting through the Los Angeles Board of Water and Power Commissioners, and Inyo County, acting through its Board of Supervisors, have approved the proposed amendment. (See Exhibit 3, a true and correct copy of the Resolution adopted by the Board of Water and Power Commissioners, and Exhibit 4, a true and correct copy of the Resolution adopted by the Board of Supervisors.)

A Mitigated Negative Declaration was prepared for the proposed project as required by the California Environmental Quality Act. LADWP as lead agency and, subsequently, the County as a responsible agency adopted the Mitigated Negative Declaration. A true and correct copy of that Mitigated Negative Declaration is attached as Exhibit 5. LADWP and, subsequently, Inyo each separately filed Notices of Determination ("NOD") with the Inyo County Clerk on July 23, 2003. More than thirty days have elapsed since the date of the filing the Notices of Determination.

LADWP and Inyo will cause notice of this motion to be published in Los Angeles and Inyo Counties in the manner required by Government Code section 6062a and will file proof of those publications with the court at the time of the hearing.

## **CONCLUSION**

The proposed project as fully described in the Mitigated Negative Declaration (Exhibit 5) will better meet the goals of the Long Term Water Agreement and will be of benefit to both the County of Inyo and the City of Los Angeles. The requested amendment to the Long Term Water Agreement will allow the proposed project to be implemented. Therefore, LADWP and Inyo County pray that this court approve the amendment.

Dated: September 8, 2003

Respectfully submitted:

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Arthur B. Walsh, Assistant City Attorney  
Attorney for the City of Los Angeles by and  
through its Department of Water and Power

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