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Inyo Co. Water Department

ROCKARD J. DELGADILLO, City Attorney
RICHARD M. BROWN
General Counsel, Water & Power
JOSEPH BRAJEVICH (State Bar No. 156144)
Assistant General Counsel, Water & Power
111 North Hope Street, Suite 340
P.O. Box 51111
Los Angeles, California 90051-0100
(213)367-3476
Attorneys for Defendant City of
Los Angeles, et al.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF INYO

SIERRA CLUB, and OWENS VALLEY)
COMMITTEE,)

Plaintiffs,
vs.

CITY OF LOS ANGELES, et al,

Defendants.

CASE NO.: S1CVCV01-29768

(The Honorable Lee Cooper, Assigned)

**LADWP'S REPORT TO THE COURT
CERTIFYING THE ESTABLISHMENT OF
PERMANENT BASE FLOWS; REQUEST
TO VACATE INJUNCTION AND LIFT
CONDITIONS PURSUANT TO THE
COURT ORDER; PROPOSED ORDER.**

CALIFORNIA DEPARTMENT OF FISH)
AND GAME and CALIFORNIA STATE)
LANDS COMMISSION,)

Real Parties in Interest and
Cross-Complainants.

February 27, 2007

FAX FILE

COUNTY OF INYO and DOES 51 - 100)
Real Party in Interest)

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TO THE COURT, THE SPECIAL MASTER, ALL PARTIES AND THEIR ATTORNEYS:

LADWP HAS ESTABLISHED PERMANENT BASEFLOWS OF APPROXIMATELY 40 CFS

LADWP is pleased to inform the Court and the parties that it has established permanent baseflows of approximately 40 cfs throughout the Lower Owens River in compliance with the Court's Order Re: Defendants' Violations of Court Orders (Court Order), nearly five months ahead of the compliance deadline. Pursuant to the Court Order LADWP hereby submits its report certifying that it has established the permanent baseflows in accordance with the Court Order. LADWP concurrently submits a proposed order for to Court vacating the injunction and lifting the conditions set forth in the Court Order.

Section 2 F of the Court Order sets one of the requirements of the Court Order as follows:

"Establishment of base flows. On or before July 25, 2007, the City shall establish the permanent baseflow of approximately 40 cubic-feet-per second (cfs) in the river that is described in Section II.C.1b(I) of the 1997 LORP Memorandum of Understanding."

Paragraph 3, Compliance with conditions; vacation of injunction, of the Court Order provides in pertinent part that:

"When the City has established permanent baseflows throughout the Lower Owens River of approximately 40 cfs, it shall, within five court days, file and serve a report certifying that it has done so. Upon the filing of such report, the Court shall vacate the injunction and lift the conditions." (emphasis added)

In accordance with the Court Order, LADWP hereby files and serves LADWP's Report Certifying Permanent Baseflows, attached hereto as Exhibit "A" and incorporated by reference herein. LADWP hereby certifies that it has established permanent baseflows throughout the Lower Owens River of approximately 40 cfs. In sum, the permanent average baseflows of approximately 40 cfs were initially


1 established on February 20, 2007 as set forth in the attached report. Continued flow measurements
3 demonstrate the permanent baseflow of approximately 40 cfs throughout the Lower Owens River.

4 With the required report having been filed and served, LADWP requests that the Court, in accordance
5 with the Court Order, vacate the injunction and lift the conditions of the Court Order effective February --
6 2007. A proposed order is attached hereto.

7
8 Respectfully submitted,

9 Dated: February 27, 2007

ROCKARD J. DELGADILLO, City Attorney
RICHARD M. BROWN, General Counsel, Water and Power

11
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13 By 

14 JOSEPH A. BRAJEVICH
15 Assistant General Counsel
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LADWP'S REPORT CERTIFYING PERMANENT BASEFLOWS

Section 2(F) of the August 8, 2005 Court Order provides that "on or before July 25, 2007, the City shall establish the permanent baseflow of approximately 40 cubic-feet-per second (cfs) in the river that is described in Section II.C.1(b)(i) of the 1997 LORP Memorandum of Understanding." The referenced section of the 1997 MOU provides that "[A] baseflow of approximately 40 cfs from at or near the Intake to the pumpback system to be maintained year round"

Section 3 of the Court Order provides that "when the City has established permanent baseflows throughout the Lower Owens River of approximately 40 cfs, it shall, within five court days, file and serve a report certifying that it has done so. In compliance with Section 3, LADWP hereby reports that it has established permanent baseflows throughout the Lower Owens River of approximately 40 cfs as set forth below.

On February 20, 2007, LADWP recorded flows at the measuring stations as set forth below which demonstrated that average baseflows of 40 cfs have been achieved throughout the Lower Owens River. In fact, the measured river flows were in excess of 40 cfs. On February 22, 24 and 26, LADWP recorded flows at the measuring stations demonstrating that the average baseflows throughout the Lower Owens River continued to be maintained above 40 cfs. (As indicated below LADWP was not able to read the meter flow stations at Reinhackle Springs on certain dates due to submergence. However, the river flow at Reinhackle Springs was measured on February 27, 2007 as

" A "

indicated below). The data demonstrates that the flows have stabilized to a point that LADWP is confident that this is not a temporary condition. LADWP therefore submits this report to certify the establishment of the requisite permanent baseflow. The measured river flows in cubic-feet-per-second are as follows:

	<u>Date:</u>			
	2/20	2/22	2/24	2/26
<u>Location:</u>				
Intake	53	56	58	53
Blackrock	50	53	60	53
East of Goose Lake	41	N/A ¹	52	50
Culverts	49	48	46	41
Mazourka Canyon Road	44	46	50	41
Manzanar Reward Road	47	49	52	49
Reinhackle Springs	42	N/A ²	N/A	N/A 44 on 2/27
Lone Pine Narrow Gage Road	38	44	48	58
Keeler Bridge	44	51	50	50

As demonstrated by the river flow measurements set forth above, LADWP has

¹ Unable to meter this section on 2/22 as Independence Construction Crews were working within the section removing sand by hand resulting in unstable section for the day.

² As indicated, unable to get the meter flow at the station due to submergence on the referenced dates.

established a permanent baseflow of approximately 40 cfs throughout the Lower Owens River. LADWP hereby certifies that it has established a permanent baseflow of 40 cfs throughout the Lower Owens River as required by Section 2F of the Court Order.

Certification by the General Manager

I, Ronald F. Deaton, declare under the penalty of perjury as follows: I am the General Manger of the Los Angeles Department of Water and Power. In that capacity I hereby report and certify that the Department of Water and Power has established permanent baseflows of approximately 40 cfs throughout the Lower Owens River. This certification is based upon the river flow measurements set forth above provided to me by Department of Water and Power staff which I believe to be, and hereby represent as being, true and accurate, to the best of my knowledge.

Dated: February 27, 2007

SIGNATURE TO FOLLOW

Ronald F. Deaton

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF INYO

SIERRA CLUB, and OWENS VALLEY
COMMITTEE,

Plaintiffs,
vs.

CITY OF LOS ANGELES, et al,

Defendants.

CASE NO.: S1CVCV01-29768

(The Honorable Lee Cooper, Assigned)

**[proposed] ORDER VACATING
INJUNCTION AND LIFTING**

Due Date: February 26, 2007

CALIFORNIA DEPARTMENT OF FISH
AND GAME and CALIFORNIA STATE
LANDS COMMISSION,

Real Parties in Interest and Cross-
Complainants.

FAX FILE

COUNTY OF INYO and DOES 51 - 100
Real Party in Interest

1 1. On August 8, 2005 this Court entered and filed a order in the above referenced
3 case titled "ORDER RE: DEFENDANTS' VIOLATIONS OF COURT ORDERS"
4 (hereinafter "Court Order") wherein the Court issued an injunction against the City of
5 Los Angeles, acting through its Department of Water and Power (hereinafter "LADWP"),
6 enjoining and restraining LADWP from exporting water from the Owens Valley through
7 the Second Los Angeles Aqueduct. (Section 1 of the Court Order).
8

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10 2. Pursuant to Section 2 of the Court Order, the injunction was stayed so long as the
11 LADWP complied with certain conditions set forth in Section 2(A)-2(H) of the Order, the
12 compliance of which was monitored by a Special Master appointed pursuant to Section
13 2(I) of the Court Order.
14

15
16 3. To date, LADWP has complied with Section 2(A),(B),(C),(D),(E), (G) and (H) of
17 the Court Order. The only remaining part of Section 2 for which compliance is due is the
18 establishment of a permanent baseflow of approximately 40 cubic-feet-per second (cfs)
19 throughout the Lower Owens River in accordance with Section 2(F).
20

21 4. Section 3 of the Court Order provides in pertinent part that:

22 "When the City has established permanent baseflows throughout the Lower
23 Owens River of approximately 40 cfs, it shall, within five court days, file and serve a
24 report certifying that it has done so. Upon the filing of such report, the Court shall vacate
25 the injunction and lift the conditions."
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5. On February 27, 2007, LADWP filed and served a report titled "Report Certifying Permanent Baseflows" certifying that LADWP has established permanent baseflows throughout the Lower Owens River of approximately 40 cfs.

6. NOW, LADWP having filed and served its report certifying that it has established permanent baseflows throughout the Lower Owens River of approximately 40 cfs, and pursuant to Section 3 of the Court Order providing that upon the filing of such a report the Court shall vacate the injunction and lift the conditions,

IT IS HEREBY ORDERED THAT:

- A. The injunction set forth in Section 1, Injunction against the use of second aqueduct, is hereby vacated, effective February 27, 2007;
- B. The conditions imposed upon LADWP in Section 2, Stay of Injunction pending compliance with conditions, are hereby terminated and lifted, effective February 27, 2007.

DATED: February __, 2007

The Hon. E. Lee Cooper
Judge of the Superior Court