



California Fair Political Practices Commission

May 17, 1989

Gregory L. James
County Counsel
County of Inyo
P.O. Box 428
Independence, CA 93526

Re: Your Request for Advice
Our File No. I-89-232

Dear Mr. James:

You have requested advice on behalf of Mr. Keith Bright concerning application of the conflict-of-interest provisions of the Political Reform Act ("the Act")¹ to his duties as a member of the Inyo County Board of Supervisors. The following advice is based upon the facts provided in your letter, the preliminary agreement which is before the Board of Supervisors, our telephone conversations and the additional materials which you have forwarded at our request.

This letter concerns Mr. Bright's ability to participate in future decisions of the Inyo County Board of Supervisors. We make no comment on Mr. Bright's participation in any past decisions. (Regulation 18329(c)(4)(A), copy enclosed.) In addition, our advice is limited only to provisions of the Act. We cannot provide advice about other conflict-of-interest laws, such as Government Code Section 1090.

Since we do not have sufficient facts to provide specific advice, we are treating your question as a request for informal assistance pursuant to Regulation 18329(c).²

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; Regulation 18329(c)(3).)

QUESTION

Mr. Bright leases agricultural ranch land for a cattle ranching business in the Owens Valley from the City of Los Angeles Department of Water and Power. Under the Act, must Mr. Bright disqualify himself from participating in a decision regarding the preliminary agreement between Inyo County and the City of Los Angeles Department of Water and Power for a long-term groundwater management plan for the Owens Valley?

CONCLUSION

Mr. Bright is required to disqualify himself from participating in a decision regarding the preliminary agreement if there will be a foreseeable material effect on either his leasehold interest or cattle ranching business. From the facts provided, it appears that approval of the preliminary agreement will not materially affect Mr. Bright's economic interests. However, we do not have sufficient facts to determine if disapproval of the preliminary agreement will have a foreseeable and material effect on Mr. Bright's interests.

FACTS

Mr. Bright has a beef-cattle ranching operation. For approximately 20 years, he has entered into a ranch lease with the Department of Water and Power of the City of Los Angeles (hereinafter referred to as the "DWP"). He currently leases from the DWP property in the Independence area of the Owens Valley, and the DWP provides water subject to the terms of the lease. This irrigated land is used for livestock grazing and alfalfa production.

During the lease term of April 1, 1987 to March 31, 1989, Mr. Bright paid \$4,770 in rent for the first year of the lease. We do not have any facts to indicate if there was an increase in rent for the second year of the lease.

On March 30, 1989, Mr. Bright signed a lease proposal and agreement which renewed his ranch lease from April 1, 1989 through March 31, 1990. The only change was a rent adjustment, which represented a 12-percent increase for pasture and dry grazing and alfalfa land. The scheduled rent is \$6,079.

The DWP owns 242,092 acres of land in the Owens Valley. The DWP leases 220,000 acres, with a total of 544 leases. Of these, 57 are ranch leases. There are 224,092 acres of non-irrigated lands and 18,000 acres of irrigated lands. Mr. Bright's ranch lease for irrigated land comprises approximately 4,000 acres.

For over a decade, water management, environmental issues and the pumping and exporting of water by the DWP from the Owens Valley have been the subject of litigation between Inyo County and the City of Los Angeles. In January 1985, Inyo County and Los Angeles entered into a five-year amended stipulation and order from the Inyo County Superior Court to temporarily suspend all litigation and to jointly develop a long-term cooperative groundwater management plan for the Owens Valley. (City of Los Angeles, et al. v. Board of Supervisors of the County of Inyo, et al., Inyo County Superior Court No. 12908.) The stipulation and order terminated on February 28, 1989 and the agreement was extended (with the same terms) by another stipulation until June 30, 1990. This extension was approved by the Third District Court of Appeals in May, 1988. Paragraph 12.2 of the Amended Stipulation and Order provides as follows:

12.2 Maintenance of Existing Owens Valley Water Use Practices

During the term of this and the Court of Appeal's stipulation, ... the CITY and its DEPARTMENT shall maintain existing Valley water use practices. These practices shall be the continuation of Valley irrigation, wildlife, domestic and recreation uses in substantially the manner that such use and operations were conducted during the 1981-82 runoff year, with the addition of any new water use practices instituted since that time. Each water use practice shall be supplied by the same water source, whether surface or subsurface, as before entry of this stipulation and order....

A negotiating team prepared the "Concepts for a Preliminary Agreement on a Long Term Groundwater Management Plan for the Owens Valley." The preliminary agreement establishes management goals for each vegetation classification zone. The land Mr. Bright leases falls within the Type E vegetation classification, which applies to lands supplied with water. The primary goal for this classification is to avoid significant adverse changes in vegetation from that which existed on such lands during the 1981-82 runoff year. Pursuant to the preliminary agreement, "the Department would continue to provide water for Los Angeles-owned lands in Inyo County in an amount sufficient so that the water related uses of such lands that were made during the 1981-82 runoff year would continue to be made." (Paragraph IV E, p.10.) The agreement also provides that:

It would be recognized that successive dry years could result in insufficient water to meet all needs. During periods of dry year water shortages, the parties would evaluate existing conditions. A

program providing for reasonable reductions in irrigation water supply for Los Angeles-owned lands in the Owens Valley could be implemented if such a program were to be approved by the parties.

(Paragraph IV E, p.11.)

Paragraph XX of the preliminary agreement incorporated Paragraph 13.2 of the amended stipulation and order and sets forth the lease charges as follows:

Los Angeles or its Department would have the right to seek and use lessee funding for new enhancement/mitigation projects that may be developed on lands leased from Los Angeles. Such funding would be obtained through normal Department ranch leasing practices.

Except as provided above, lease charges and/or other charges for water supplied by Los Angeles and its Department to its Owens Valley lessees would not be increased directly or indirectly as a result of any provision of the overall agreement. This provision would not be construed as preventing rent increases not related to the supply of water, which the City may determine to implement in the ordinary course of business following its usually applicable practices and principles in the need for rent increases, capitalization of improvements, or land reclassification.

The preliminary agreement will be considered for approval by the Inyo County Board of Supervisors later this month. Upon approval by the County, the plan must then be approved by the DWP Board and the Los Angeles City Council.

Upon approval by all parties, Inyo County and Los Angeles must prepare a joint environmental impact report (EIR) on the plan by June 30, 1990. During this period, the agreement will be incorporated into the required legal documents. The final content of the EIR must be acceptable to both parties before the parties can give final approval to the agreement. The Third District Court of Appeal must approve the EIR, and the Inyo County Superior Court must approve the legal document before the long term agreement can become effective.

Paragraph XXVI of the preliminary agreement provides that "the overall long term agreement would be incorporated into a stipulated judgment that would be filed in the LA/Inyo Groundwater Ordinance Case (Inyo Superior Court No. 12908). The stipulated judgment would have no termination date and no provision for termination by either party."

ANALYSIS

The Act prohibits a public official from making, participating in, or using his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. (Section 87100.) A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his immediate family or on, among other things:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(Section 87103.)

As a member of the Inyo County Board of Supervisors, Mr. Bright is a public official. (Section 82048.) Therefore he may not participate in a decision if it is reasonably foreseeable that the decision will have a material financial effect on any business entity or real property in which he has an interest of \$1,000 or more. (Section 87103(a) and (b).) Mr. Bright's leasehold interest is an interest in real property pursuant to Section 82033, which provides as follows:

"Interest in real property" includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if

the fair market value of the interest is one thousand dollars (\$1,000) or more....

Since Mr. Bright currently pays rent in the amount of \$6079, he has an interest in real property for purposes of the Act. (Section 82033.) He also has an interest in a business entity because his cattle ranching operation is worth more than \$1,000. (Section 82034.) Mr. Bright will be required to disqualify himself from participating in the decision regarding the preliminary agreement if such decision would foreseeably and materially affect either his leasehold interest or his cattle ranching business.

Foreseeability

The effect of a decision is reasonably foreseeable if there is a substantial likelihood that it will occur. Certainty is not required; however, an effect that is merely a possibility is not reasonably foreseeable. (Downey Cares v. Downey Community Development Com. (1987) 196 Cal. App. 3d 983; In re Thorner 1 FPPC Ops. 198.)

Materiality

The Commission has adopted several regulations on the subject of material financial effect. These regulations contain different standards depending on (1) whether the decision pending before the board of supervisors directly or indirectly affects Mr. Bright's economic interests, and (2) the type of economic interest which would be affected by the decision. (See Regulation 18702, copy enclosed.)

Regulation 18702.4 (copy enclosed) contains the guidelines for determining if the effect of a decision is material when an official has a leasehold interest in real property which is indirectly involved in the decision. Pursuant to Regulation 18702.4, the effect of a decision is material as to a leasehold interest in real property if any of the following applies:

(a) The decision will change the legally allowable use of the leased property, and the lessee has a right to sublease the property;

(b) It is reasonably foreseeable that the lessee will change the actual use of the property as a result of the decision;

(c) It is reasonably foreseeable that the decision will result in a change in the actual use of property within 300 feet of the leased property, and the changed use will significantly enhance or significantly decrease the use or enjoyment of the leased property;

(d) The decision will increase or decrease the amount of rent for the leased property by \$250 or 5 percent, whichever is greater, during any 12-month period following the decision; or

(e) The decision will result in a change in the termination date of the lease.

Mr. Bright's cattle ranching business is also indirectly involved in the decision. Regulation 18702.2 (copy enclosed) provides guidelines for determining if the effect of a decision is material as to a business entity in which an official has an economic interest. We will assume that the cattle ranching business falls within the provisions of subdivision (g) of the regulation.³ Accordingly, the decision will materially affect the cattle ranching business if any of the following is likely to occur:

(1) The decision will result in an increase or decrease in the gross revenues for a fiscal year of \$10,000 or more; or

(2) The decision will result in the business entity incurring or avoiding additional expenses or reducing or eliminating existing expenses for a fiscal year in the amount of \$2,500 or more; or

(3) The decision will result in an increase or decrease in the value of assets or liabilities of \$10,000 or more.

In determining the reasonably foreseeable effects of a decision, we must consider what effects are foreseeable if the decision is approved, and what effects are foreseeable if the decision is not approved. If the preliminary agreement is approved, it appears that there will not be a material financial effect on Mr. Bright's leasehold interest. Based on the facts provided, the decision will not result in any change in either the legal or actual allowable use of the property; the agreement specifically states that the DWP would continue to provide water so that the water related uses that were made during the 1981-1982 runoff year would continue.

The decision will not increase or decrease the amount of rent Mr. Bright pays. In fact, the agreement expressly states that lease charges "would not be increased directly or indirectly as a result of any provision of the overall agreement." The decision

³ Subdivision (g) generally applies to small businesses which are not qualified for public sale. Please contact us for further advice if the cattle ranching business does not fit within this category.

will not result in a change in the termination date of the ranch lease.

We have only been provided with facts to determine what would result if the preliminary agreement is approved. If it is reasonably foreseeable that failure to approve the preliminary agreement could result in a situation where the leased land receives less water, there could be a material financial effect on Mr. Bright's leasehold interest and the cattle ranching business. For example, if there is a significant decrease in water, the actual use of the property could change.

Regulation 18702.2(g) contains various threshold levels to determine if the decision has a material effect on a business entity's gross revenues or expenses for the fiscal year, or on the assets or liabilities. Since the agreement provides that conditions on irrigated leased lands cannot be adversely changed from the conditions that existed during 1981-1982, there would not be a material financial effect on Mr. Bright's cattle business if the preliminary agreement is approved. However, it is again impossible for us to speculate if there would be a material financial effect if the agreement is not approved. For example, if there is not enough water to conduct his business and this results in an economic effect that falls within the dollar thresholds set forth in Regulation 18702.2(g), Mr. Bright is required to disqualify himself from participating in the decision.

I trust that this analysis provides you with the necessary guidance. If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel

By:  Jill R. Stecher
Counsel, Legal Division

KED:JRS:plh

Enclosures



FPPC
APR 13 2 07 PM '89

OFFICE OF THE COUNTY COUNSEL

COUNTY OF INYO

POST OFFICE BOX 428
INDEPENDENCE, CALIFORNIA 93526

GREGORY L. JAMES, *County Counsel*
PHILIP W. MCDOWELL, *Assistant County Counsel*

April 11, 1989

MAIN OFFICE: (619) 878-2411
BISHOP OFFICE: (619) 872-1168

Mr. John H. Larson, Chairman
California Fair Political
Practices Commission
428 J Street, Suite 800
Sacramento, California 95814

RE: Request for Opinion or Advice - Conflict of Interest

Dear John:

Negotiation teams from the County of Inyo and the City of Los Angeles have recently reached preliminary agreement on a tentative resolution of long-standing litigation over Los Angeles' water gathering activities in the Owens Valley. The Inyo County Board of Supervisors has scheduled consideration of this preliminary agreement for May 9, 1989. A copy of the agreement and of a press release describing it are enclosed for your information.

Recently, questions have arisen as to whether or not Inyo County 4th District Supervisor, Keith Bright, has a conflict of interest with regard to this preliminary agreement. It has been asserted that because he has leased certain Owens Valley ranch lands from the City of Los Angeles, he has a financial interest with regard to this preliminary agreement that would preclude his participation in any decision by Inyo County concerning the agreement.

The Inyo County District Attorney, L. H. "Buck" Gibbons, has prepared a written analysis of this matter that explains all of the material facts. A copy of the District Attorney's analysis is being forwarded to you by Mr. Gibbons under separate cover.

On behalf of Supervisor Bright, it is requested that the Commission provide a written opinion or written advice to Supervisor Bright on his duties under the Political Reform Act of 1974. Specifically, the opinion or written advice should address the question of whether or not Supervisor Bright may participate in a decision by the Inyo County Board of Supervisors on the preliminary agreement.

Mr. John H. Larson, Chairman
April 11, 1989
Page 2

As you may be aware, water exports to Los Angeles from the Owens Valley have been for many years the subject of controversy. As indicated by the attached April 10, 1989, editorial from the Los Angeles Times, the preliminary agreement is a major step toward a permanent resolution of this "water war". Because of the importance of the matter, it would be greatly appreciated by all concerned if the opinion, or written advice, could be provided to Supervisor Bright as soon as possible, and preferably by May 1, 1989.

Please contact me if you should need any additional information. Thank you for your assistance.

Sincerely,



Gregory L. James
County Counsel

GLJ:td

Enclosures

cc: California Attorney General
Inyo County District Attorney
Supervisor Keith Bright



OFFICE OF THE COUNTY COUNSEL

COUNTY OF INYO

POST OFFICE BOX 429
INDEPENDENCE, CALIFORNIA 92646
May 3, 1989

GREGORY L. JAMES, *County Counsel*
PHILIP W. MCDOWELL, *Assistant County Counsel*

MAIN OFFICE: (619) 878-2411
BISHOP OFFICE: (619) 872-1168

VIA FAX

Ms. Jill Stecher, Staff Attorney
Fair Political Practices Commission
428 "J" Street, Suite 800
Sacramento, California 95814

Dear Ms. Stecher:

Enclosed is a copy of a letter from the Los Angeles Department of Water and Power to Keith Bright that proposes a one year renewal of Ranch Lease RLI-406 beginning April 1, 1989. Also enclosed is a "Lease Proposal and Agreement" pertaining to Ranch Lease RLI-406 that was prepared by DWP and which has been executed by Keith Bright.

As I explained to you yesterday over the telephone, it has come to my attention through an article in the local newspaper that certain members of the Inyo County Grand Jury believe that Mr. Bright has a conflict of interest because of Ranch Lease RLI-406. The apparent basis for that belief is that under the Inyo/LA Proposed Conceptual Agreement, vegetation maps that determine the management of vegetation classifications A, B, C, and D are based on vegetation conditions that existed between 1984 and 1987. However, the proposal provides that conditions on irrigated lands (including irrigated leases) cannot be adversely changed from conditions that existed during 1981-1982. (See Proposed Conceptual Agreement, page 10, paragraph E.) It is asserted that the use of the 1981-1982 period for irrigated lands, and the 1984-1987 period for management of all other vegetation confers extra protection or benefits on holders of irrigated ranch leases. This is not the case.

Generally, abundant runoff means that more water will be available for irrigation in the Owens Valley. In 1981-1982, runoff was 89 percent of normal. In 1983-1984, it was 194 percent; in 1984-1985, it was 123; in 1985-1986, it was 106 percent; and, in the 1986-1987, it was 149 percent. Thus, 1981-1982 is hardly a

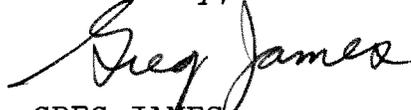
year one would choose for special benefits to ranch leases compared to conditions from 1983-1984 through the 1986-1987 period.

More importantly, the provisions of paragraph E on page 10 of the Proposed Conceptual Agreement would not change provisions that since 1984 have governed DWP irrigated leases in the Owens Valley.

In 1984, Los Angeles and Inyo County entered into a five year stipulation and order. Paragraph 12.2 of that Stipulation and Order provides in pertinent part for the continuation of Valley irrigation practices in substantially the same manner that such use and operations were conducted during the 1981-1982 runoff year. (A copy of the Stipulation and Order is enclosed. Paragraph 12.2 is on page 17.) Therefore, if the Proposed Conceptual Agreement were to be approved, there would be no change in the existing provisions concerning DWP irrigated ranch leases, and the status of such leases since 1984 would be unchanged by the Proposed Conceptual Agreement.

Please call me if you need additional assistance.

Sincerely,

A handwritten signature in cursive script that reads "Greg James".

GREG JAMES
County Counsel

GJ:pv

Encl

Department of Water and Power  the City of Los Angeles

TOM BRADLEY
Mayor

Commission
RICK J. CARUSO, *President*
JACK W. TEFNEY, *Vice President*
ANGEL M. ECHEVARRIA
CAROL WHEELER
WALTER A. ZILMAN
JUDITH K. DAVISON, *Secretary*

PAUL H. LANE, *General Manager and Chief Engineer*
NORMAN F. NICHOLS, *Assistant General Manager - Power*
DUANE E. GEORGISSON, *Assistant General Manager - Water*
DANIEL W. WATERS, *Assistant General Manager - External Affairs*
NORMAN J. POWERS, *Chief Financial Officer*

March 28, 1989

Keith B. Bright
Drawer V
Independence, CA 93526

Dear Lessee:

RLI-406
April 1, 1989 through March 31, 1990

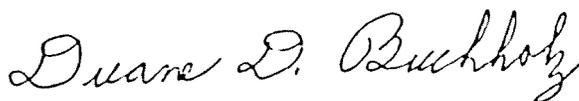
The Department proposes to enter into a one-year agricultural lease with you beginning April 1, 1989.

The only change to be made in the lease this year is a rent adjustment. The new beef-cattle increment factor for this lease year is 1.32, representing a 12 percent increase in rental rates for pasture and dry grazing. The new alfalfa increment factor is 1.55, representing a 12 percent increase in rental rates for alfalfa land.

Enclosed are two copies of the new "Rent Schedule" and "Lease Proposal and Agreement" for your ranch lease. Please sign and return one copy of each to this office at 873 N. Main Street, Suite 227, Bishop, CA 93514; you may keep the other copy for your file. As soon as we receive the signed copies of the Schedule and Agreement, they will be submitted to the Board of Water and Power Commissioners for final approval; however, no documents will be submitted for approval if Lessee's account is delinquent.

If you have any questions regarding this one-year lease, please contact Mr. Russell Rawson or Mr. Lloyd Anderson in writing at the above-noted address, or by telephone at (619) 872-1104.

Sincerely,



DUANE D. BUCHHOLZ
Assistant Engineer in Charge
Los Angeles Aqueduct Division

Enclosures

cc: Mr. Russell Rawson
Mr. Lloyd Anderson

CLASSIFICATION OF LANDS AND SCHEDULED RENT

RLI-406 TYPE OF USE- BEEF LESSEE- KEITH B. BRIGHT RLI-406

EFFECTIVE DATE- APR. 01, 1989 EXPIRATION DATE- MAR. 31, 1990 BILLING DATE- APR. 01, 1989

INCREMENT FACTORS BEEF- 1.32 ALFALFA- 1.55 ACCOUNT NO- 14403

LAND DESCRIPTION		ACRES			RENT-\$
-----		-----			-----
510	IRRIGATED ALFALFA		TONS/AC	TONS	RENT/AC
-----			-----	-----	-----
512	ALFALFA	28	3.50	98	45.00
	ALFALFA SUB-TOTALS	28		98	1260
	TOTAL - ALF. INC. TIMES				1260
					1953
520	IRRIGATED PASTURE		AUM/AC	AUM	RENT/AUM
-----			-----	-----	-----
521	PASTURE	15	7.00	105	3.90
523	PASTURE	4	3.00	12	3.90
524	PASTURE	72	1.50	108	3.90
	PASTURE TOTALS	91		225	878
DRY GRAZING COVER TYPE			AC/AUM	AUM	RENT/AUM
-----			-----	-----	-----
	RIPARIAN SCRUB, MARSHLANDS & MEADOWS	350	VARIOUS	467	3.50
	SALTGRASS/SACATON MEADOWS	258	VARIOUS	129	3.00
	GREAT BASIN DESERT SCRUB	1250	VARIOUS	156	2.50
	SEMI-DESERT SCRUB	1849	VARIOUS	92	2.00
	DRY LAKES, PONDS, SLICKS, URBAN & INDUST	22	VARIOUS	0	.00
	DRY GRAZING TOTALS	3729		844	2597
	PASTURE & DRY GRAZING SUB-TOTALS	3820		1069	3475
	ELK USE ON PAST. & D.G.			120-	390-
	TOTAL - BEEF INC. TIMES	3085			4072
	SUB-TOTALS	3848		949	6025
	OPERATING STRUCTURES	1			54
	TOTALS	3849		949	6079
	10% DEPOSIT DUE ON APR. 01, 1989				608-
	BALANCE DUE ON DEC. 01, 1989				\$ 5471
-----					-----



COURTHOUSE
INYO COUNTY, CALIFORNIA

April 11, 1989

APR 11 1989
L. H. "Buck" Gibbons
District Attorney
Post Office Drawer D
Independence, California 93526-0604
(619) 878-2411

Mr. John H. Larson, Chairman
California Fair Political
Practices Commission
428 J Street, Suite 800
Sacramento, California 95814

Dear Mr. Larson:

Inyo County Counsel Greg James has furnished me with a copy of the letter he has written to you on today's date requesting an opinion from the Fair Political Practices Commission on whether Mr. Keith Bright's lease holdings place him in a conflict of interest posture vis-a-vis his participation in the possible resolution of many of Inyo's long standing problems with the City of Los Angeles.

In response to a request that my office investigate Mr. Bright for possible conflict of interest, I have written a Memorandum to my staff attorneys detailing my research and interpretation of the applicable law. I have enclosed a copy of that memorandum because it appears to me that the factual context of the issue is of paramount importance in this case.

In closing, I would join with Mr. James in indicating that time is of the essence. Inyo County needs to apply all her energy to the review process and can ill afford to squander resources on the issue of who may participate.

Very truly yours,

Buck Gibbons

LaJoie H. Gibbons, Jr.



OFFICE OF THE COUNTY COUNSEL

COUNTY OF INYO

POST OFFICE BOX 428
INDEPENDENCE, CALIFORNIA 93326

APR 11 1989

GREGORY L. JAMES, *County Counsel*
PHILIP W. MCDOWELL, *Assistant County Counsel*

MAIN OFFICE: (619) 878-2411
BISHOP OFFICE: (619) 872-1168

April 11, 1989

Mr. John H. Larson, Chairman
California Fair Political
Practices Commission
428 J Street, Suite 800
Sacramento, California 95814

RE: Request for Opinion or Advice - Conflict of Interest

Dear John:

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Mr. John H. Larson, Chairman
April 11, 1989
Page 2

As you may be aware, water exports to Los Angeles from the Owens Valley have been for many years the subject of controversy. As indicated by the attached April 10, 1989, editorial from the Los Angeles Times, the preliminary agreement is a major step toward a permanent resolution of this "water war". Because of the importance of the matter, it would be greatly appreciated by all concerned if the opinion, or written advice, could be provided to Supervisor Bright as soon as possible, and preferably by May 1, 1989.

Please contact me if you should need any additional information. Thank you for your assistance.

Sincerely,



Gregory L. James
County Counsel

GLJ:td

Enclosures

cc: California Attorney General
Inyo County District Attorney
Supervisor Keith Bright

NEWS

INYO/LOS ANGELES STANDING COMMITTEE

Dedicated to the advancement of mutual cooperation



Contact Persons:

Greg James
Inyo County Water Department
(619) 872-1168

Diane M. Reesman
Los Angeles Department
of Water and Power
(619) 872-1104
after 4:00 pm and
weekends (213) 481-4040

IMMEDIATE RELEASE
March 31, 1989

DWP AND INYO COUNTY AGREE ON CONCEPTS FOR A PRELIMINARY LONG TERM GROUNDWATER MANAGEMENT PLAN

The negotiating teams of the Los Angeles Department of Water and Power and Inyo County have agreed on the concepts for a preliminary agreement on a Long Term Groundwater Management Plan for the Owens Valley. If the agreement is ultimately approved by Los Angeles, Inyo County and the necessary courts, the long standing Owens Valley groundwater controversy will be resolved.

In a joint announcement, Inyo County Counsel Greg James, and Duane Buchholz, assistant engineer in charge of the Los Angeles Aqueduct, said that after years of negotiations, the negotiators from the two agencies have come to terms on the document "Concepts for a Preliminary Agreement on a Long Term Groundwater Management Plan for the Owens Valley."

In 1982, after more than a decade of litigation over the

2---Preliminary Agreement

environmental impacts of groundwater pumping and challenges to the County's attempt to regulate Los Angeles' pumping, the two entities began a cooperative effort to find a solution to the controversies. The parties created a Standing Committee and Technical Group to work on resolving their disputes.

Following the formation of these committees, the parties, together with financial and technical assistance from the United States Geological Survey, and financial aid from the California Water Resources Control Board, began several cooperative studies. These studies investigated what effects groundwater pumping might have on the Owens Valley environment.

In January 1985 Inyo County and Los Angeles entered into a five-year agreement which temporarily placed on hold all litigation between the agencies. The overall goal of the five-year agreement was the development of a long term groundwater management plan. Under the five-year agreement several enhancement/mitigation projects were implemented.

Last year, following negotiations, Inyo and Los Angeles sought approval from California's Third District Court of Appeals for a 16-month extension to the agreement. The court approved the extension in May 1988. This extension allowed the parties to complete the ongoing studies prior to further negotiations on the long term management plan.

Negotiations once again commenced last October. Using the results of the studies, the concepts of the long term groundwater

3---Preliminary Agreement

management plan were formulated by the negotiating team.

The goal of the plan is to provide a reliable supply of water for export to Los Angeles and for use in the Owens Valley while causing no significant adverse impacts on the Owens Valley environment which cannot be avoided or acceptably mitigated, and while limiting future environmental change in the Owens Valley, and avoiding groundwater mining.

Key concepts of the document include the establishment of management areas and the implementation of management goals related to environmental protection and groundwater pumping.

Each well field area will be included in a management area. All vegetation that could be affected by pumping during "worse case" conditions would be included in a management area. Each management area would be divided into subzones with each subzone containing one monitoring site and one or more DWP production wells. Vegetation and groundwater conditions in the management areas will be carefully monitored.

Management maps are now being prepared showing vegetation in the Owens Valley classified by communities, management areas, subzones, and monitoring sites. Vegetation is divided into five classifications.

Type "A" Classification is vegetation communities with evapotranspiration approximately equal to average annual precipitation. This vegetation should not be affected by groundwater pumping or changes in surface water management practices.

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Type "B" Classification contains rabbitbrush and Nevada salt-bush communities with evapotranspiration greater than precipitation. The management goal would be to avoid creating conditions that would cause live vegetation cover in any area to be less than vegetation density that could be maintained by precipitation in an area not affected by pumping.

The Type "C" Classification contains grassland/meadow vegetation communities with evapotranspiration greater than precipitation. The long term goal would be to manage groundwater pumping and surface water management practices to avoid significant adverse changes in the vegetation in any area. Such changes are defined in the plan.

Type "D" Classification contains riparian/marshland vegetation where evapotranspiration is greater than precipitation. The management goal for Type "D" is the same as for Type "C" areas.

Type "E" Classification contains areas where water is provided to City-owned lands for alfalfa, pasture, recreation, wildlife habitat, livestock, and enhancement/mitigation projects. The primary goal for this classification is to avoid significant adverse changes in vegetation from what existed on such lands in the 1981-82 runoff year.

The plan includes provisions for the automatic turn off of wells if monitoring indicates the potential for adverse impacts due to pumping. Should management goals not be met, there are a number of mitigation measures which can be taken, including rotating

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pumping, application of water to the affected area, and other mitigation that the parties would agree to.

The amount of groundwater to be pumped would take into consideration the projected soil moisture conditions at each monitoring site. The Technical Group would make these projections by comparing the estimated amount of soil moisture available to the vegetation with the estimated required water needs of the vegetation for the growing season. Using these figures, by April 20 of each year, the DWP would prepare and submit to Inyo County a proposed operations plan and pumping program for the year beginning April 1.

Other provisions of the document are: the transfer of the water systems in the towns of Lone Pine, Independence and Laws from the DWP to Inyo County (or other Owens Valley public entities); the release of DWP surplus lands in and near Valley towns; the sale or lease of lands to the County and the City of Bishop for use as a public park or other public purpose; existing enhancement/mitigation projects would be continued and maintained; increasing the flow in the Lower Owens River Project by constructing a pumpback station near Keeler Bridge to return water to the Los Angeles Aqueduct; and seismic studies at South Haiwce Dam to determine if the reservoir could be operated at a reduced level and for recreational purposes. Additionally, DWP would provide funding for the County to initiate and continue a three year salt cedar control effort; funding to the County for

MEMORANDUM OF UNDERSTANDING

The negotiating teams from the County of Inyo and the City of Los Angeles Department of Water and Power agree this 31st day of March, 1989, as follows:

1. Following lengthy negotiations, all members of each negotiating team are in full accord and agreement with each of the provisions on the attached document entitled "Concepts for a Preliminary Agreement on a Long Term Groundwater Management Plan for the Owens Valley".
2. All members of each negotiating team recommend to the Inyo County Board of Supervisors, the Los Angeles City Council, and the City of Los Angeles Board of Water and Power Commissioners the approval of the attached document.

IN WITNESS WHEREOF, a principal member of each negotiating team has executed this Memorandum of Understanding on the date first written above.

COUNTY OF INYO

DEPARTMENT OF WATER AND POWER
OF THE CITY OF LOS ANGELES

By H.B. Irwin
H.B. IRWIN
Supervisor, 1st District

By Rick J. Caruso
RICK J. CARUSO
President, Board of Water
and Power Commissioners

*Provisions concerning
ranch lessees of
the City of Los Angeles
are found on pages
10, 11 and 42.*

Greg James

**CONCEPTS FOR A PRELIMINARY 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 THE OWENS VALLEY**

March 31, 1989

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CONCEPTS FOR A PRELIMINARY 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 THE OWENS VALLEY

GOALS AND PRINCIPLES FOR MANAGEMENT OF GROUNDWATER PUMPING

Unless otherwise specified, these conceptual goals and principles would apply only within the Owens Valley. The Owens Valley would be defined as the area between the Inyo-Mono County line on the north to the southern extent of the Owens Lake watershed on the south. The Inyo County/Los Angeles Standing Committee and the Inyo/Los Angeles Technical Group would continue in existence to represent the parties in implementing these goals and principles.

I. MANAGEMENT AREAS

- A. Each well field area would be included in a designated management area. The boundaries of each management area would be established so as to contain all vegetation that could be impacted as a result of groundwater pumping from the well field area during "worst case" conditions (multiple dry years along with heavy pumping). Each management area would be divided into subzones. Each subzone would contain one monitoring site and one or more Department production wells.
- B. The vegetation and groundwater conditions within the management areas would be carefully monitored to assure that the goals and principles of this groundwater management plan are met.
- C. If a new well were to be constructed outside of a designated management area, or if, outside of a designated management area, groundwater pumping were to be found through monitor-

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ing or other means, to impact or to potentially impact vegetation, or were found to have the potential for other significant adverse environmental impacts, the Technical Group would expand the management area and composite subzones as necessary, or would designate a new management area along with its composite subzones. The appropriate vegetation classifications for management would be established within the new area and each composite subzone would be managed in accordance with these goals and principles.

- D. It would be recognized that vegetation composition and density varies for reasons other than groundwater pumping, from period to period, depending upon weather, precipitation, surface water spreading, and other factors.

II. MANAGEMENT MAPS

Color coded management maps would be prepared showing Owens Valley vegetation classified by vegetation communities, management areas, subzones, and monitoring sites. The Department's vegetation inventories that were conducted between 1984 and 1987, would be used in compiling these maps. The vegetation would be classified as follows:

- A. Type A Classification. This classification would be comprised of vegetation communities with evapotranspiration approximately equal to average annual precipitation. This classification would be shown as white on the management maps.

- B. Type B Classification. This classification would be comprised of rabbitbrush and Nevada saltbush communities with

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evapotranspiration greater than precipitation. This classification would be shown as yellow on the management maps.

- C. Type C Classification. This classification would be comprised of grasslands/meadow vegetation communities with evapotranspiration greater than precipitation. The communities comprising this classification exist because of high groundwater conditions, natural surface water drainage, and/or surface water management practices in the area, i.e., conveyance facilities, wet year water spreading, etc. This classification would be shown as green on the management maps.
- D. Type D Classification. This classification would be comprised of riparian/marshland vegetation communities with evapotranspiration greater than precipitation. The communities comprising this classification exist because of high groundwater conditions, natural surface water drainage, and/or surface water management practices in the area, i.e., conveyance facilities, wet year spreading, etc. This classification would be shown as red on the management maps.
- E. Type E Classification. This classification would be comprised of areas where water is provided to City-owned lands for alfalfa production, pasture, recreation uses, wildlife habitats, livestock, and enhancement/mitigation projects. This classification would be shown as blue on the management maps.

III. MANAGEMENT STRATEGY

- A. The overall goal of managing the water resources within the Owens Valley would be to create no significant adverse

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impact in the Owens Valley which cannot be avoided or acceptably mitigated while providing a reliable supply of water for export to Los Angeles and for use in the Owens Valley. Additionally, the amount of change in the valley's environment would be limited to that specified in these goals and principles, and long term groundwater mining would not occur in any area of the Owens Valley. (Groundwater mining would be defined as a condition that exists when more water is pumped from the groundwater aquifer over an extended period, than is replaced by nature and/or man, resulting in a long term continuous declining water table.)

- B. As used in these goals and principles, "significant adverse impact", "significant", "mitigation", and "feasible" would be defined as under the California Environmental/Quality Act ("CEQA") unless otherwise specifically defined.
- C. Monitoring sites and shallow monitoring wells would be established inside and outside each management zone and subzone as deemed feasible and necessary. The type of monitoring that would be conducted at each site would vary as deemed necessary. Monitoring could include, but would not be limited to, measurement of retained soil water, water levels in deep and shallow wells, analysis of vegetation, and the use of photographic monitoring. All monitoring, analysis and interpretation of results would be done jointly by the parties. The Department would install the necessary monitoring sites and monitoring wells, and would maintain these sites and wells. There would be no limitation on the number of monitoring sites.

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Each designated subzone, the location of each monitoring site and each monitoring well, the method for locating additional monitoring sites, the type of monitoring to be conducted at each site, the standardized procedures for analysis and interpretation of monitoring results, including the determination of available soil water and the amount of soil water required by vegetation, would be and set forth in a technical document that would be called a "Green Book". This "Green Book" would be attached as a technical appendix to the overall plan or its accompanying environmental impact report (EIR). Provisions would be included in the overall agreement for increasing, decreasing, or changing the management areas, the subzones, the monitoring sites, the type of monitoring, the procedures for analyzing and interpreting monitoring results, and for modifying the provisions of the "Green Book" as a result of information gained from ongoing research and cooperative studies, or for other reasons as may be necessary.

- D. These goals and principles and the other provisions of the overall agreement would not alter in any way the water supplied or available to Indian lands in the Owens Valley.
- E. An overall goal throughout the Owens Valley would be to provide protection of rare and endangered species as required by law.

IV. MANAGEMENT GOALS

The management goals and principles for each vegetation classification zone within each management area are described below. For the purposes of making certain determinations required by these

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management goals, changes in vegetation would be considered "attributable to groundwater pumping, or to a change in surface water management practices," if the change would not have occurred but for groundwater pumping and/or a change in surface water management practices. This would be determined by the Technical Group primarily by a comparison of the area affected by groundwater pumping and/or changes in surface water management practices, with an area of similar vegetation, soils, rainfall, and other relevant conditions where such changes have not occurred.

A. Type A Vegetation Classification (white)

This zone, composed of vegetation with a calculated ET rate approximately equal to precipitation, should not be affected by groundwater pumping or by changes in surface water management practices since such vegetation survives on available precipitation.

B. Type B Vegetation Classification (yellow)

(Rabbitbrush and Nevada saltbush scrub communities - evapotranspiration greater than precipitation.) The goal would be to manage groundwater pumping so as to avoid creating conditions that would cause live vegetation cover in any subzone to be less than the vegetation density that could be maintained by precipitation in a comparable area with similar vegetation not affected by groundwater pumping and not dependent on groundwater.

Under this management policy, an area with vegetation now falling within the Type B classification could, over time, change to an area with vegetation that would fall into the

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Type A classification. Such change would not be expected to occur in all subzones that have Type B vegetation.

One of the tools to be used in meeting the management goal would be the turning off of wells in a subzone if soil moisture in that subzone were to be less than the estimated water requirements of the vegetation for the growing season. (See Section VI.) Notwithstanding this requirement, if in a subzone a significant amount of live vegetation cover were to decrease to below the density that would be maintained by precipitation, and this decrease were to be attributable to groundwater pumping, the Technical Group would immediately develop a reasonable and feasible mitigation plan to revegetate the affected area of the subzone.

The mitigation plan would be implemented by the Department. If necessary, this plan would provide for surface water application and/or reduction of groundwater pumping (if groundwater pumping has not already been terminated in the affected subzone in accordance with the provisions of Section VI) to assist in revegetating the affected area. Revegetation would include replanting the affected area, or creating other conditions such that native vegetation scrub communities would become established within a reasonable time period. This activity would occur unless other environmental mitigation were to be agreed to by the parties.

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C and D. Type C and Type D Vegetation Classifications (green and red)

(Grasslands/Meadow and Riparian/Marshland Vegetation - evapotranspiration greater than precipitation; groundwater and/or surface water dependent.)

The goal over the long term would be to manage groundwater pumping and surface water management practices so as to avoid significant adverse changes in the vegetation in any area. One of the tools to be used in meeting this goal would be the turning off of wells in a subzone if soil water in that subzone were to be less than the estimated water requirements of the vegetation in that subzone for the growing season. (See Section VI.) Notwithstanding this requirement, any significant adverse change in vegetation in any subzone attributable to groundwater pumping or to surface water management practices would be mitigated as soon as a reasonable and feasible mitigation plan could be developed by the Technical Group and implemented by the Department.

A change in vegetation would be considered a significant adverse change if in any subzone area, a significant amount of vegetation now comprising the Type C classification were to change to vegetation that would fall within either the Type B or the Type A classification. A change also would be considered a significant adverse change if in any subzone area, a significant amount of vegetation now comprising the Type D classification were to change to vegetation that would fall within the Type C, Type B, or Type A classification. These would not be the only changes that could be

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considered significant adverse changes in Type C or Type D vegetation. Such other changes that the parties could consider as significant, could include, but would not be limited to, significant decreases in live vegetation cover in any subzone area attributable to groundwater pumping or to changes in surface water management practices.

It would be recognized that Type C and D classifications would be comprised of several vegetation communities defined in the "Land Classification and Natural Community Descriptions for the Owens Valley" (1987). A change in vegetation from one of these communities to another, as long as the change is not to a community that would fall outside the same classification, would not be considered a significant adverse change. It also would be recognized that a decrease in salt cedar density in the Type D classification would not be considered a significant adverse impact.

Any mitigation plan developed by the Technical Group could include restoring vegetation density in an area where there has been a significant decline in density, and/or restoring vegetation in an affected subzone area to a vegetation community that falls within the classification shown on the relevant vegetation management map as soon as it could be reasonably restored. Mitigation activities could include, but would not be limited to, surface water application or reduction in groundwater pumping (if groundwater pumping has not already been terminated in the affected area in accordance with the provisions of Section VI). Mitigation of a significant adverse change in vegetation would

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occur unless the change were to be acceptable to the parties, or if other environmental mitigation were to be agreed to by the parties.

The Department would continue to operate canals in accordance with its practices from 1970. Any permanent change in canal operations, compared to past practices, would be subject to prior Standing Committee approval. The Department would continue its management practices to control aquatic weeds and ditch bank vegetation in order to maintain canals in a clean and efficient manner.

✓ E. Type E Vegetation Classification (blue)

(Lands supplied with water.) The primary goal would be to avoid significant adverse changes in vegetation from that which existed on such lands during the 1981-82 runoff year. Significant adverse changes would be determined as set forth in the management goals for the Type C and Type D vegetation; however, the conversion of cultivated land by the Department or its lessee to other irrigated uses would not be considered a significant adverse change. Another primary goal would be to avoid significant decreases in recreational uses and wildlife habitats that in the past have been dependent on water supplied by the Department.

The Department would continue to provide water for Los Angeles-owned lands in Inyo County in an amount sufficient so that the water related uses of such lands that were made during the 1981-82 runoff year would continue to be made. The Department would continue to provide water to Los Angeles-owned lands in the Olancha/Cartego area such

that the lands that have received water in the past would continue to receive water. Additionally, the Department would provide water to any enhancement/mitigation projects added since 1981-1982, unless the parties were to agree to reduce or eliminate such water supply.

It would be recognized that successive dry years could result in insufficient water to meet all needs. During periods of dry year water shortages, the parties would evaluate existing conditions. A program providing for reasonable reductions in irrigation water supply for Los Angeles-owned lands in the Owens Valley could be implemented if such a program were to be approved by the parties.

V. GROUNDWATER PUMPING PROGRAM

- A. By the first of each month the Technical Group would project the "water balance" for each monitoring site. These monthly projections would be made unless the Technical Group were to determine that monthly projections were unnecessary. In making these water balance projections, the Technical Group would compare the estimated amount of soil moisture available to vegetation with the estimated required water needs of the vegetation for the growing season (or appropriate portion thereof) at each monitoring site. These projections would be made in accordance with procedures contained in the "Green Book".

The growing season used when water balance projections are made between January 1st and August 31st would be the growing season (or appropriate portion thereof) during that calendar year and no precipitation would be included in such

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water balance projections. The growing season used when water balance projections are made between September 1st through December 31st would be the growing season during the following calendar year. One-half of the average annual precipitation that would be expected between October 1st and July 1st would be included in the October 1st water balance projection. No precipitation would be included in the November 1st and December 1st water balance projections.

- B. If as of April 1st, the projected amount of available soil water in any subzone were to be less than the estimated water needs of the vegetation, but greater than 85 percent of such estimated needs, the parties would jointly determine the amount of groundwater pumping for any such subzone. However, if as of April 1st, the projected amount of available soil water in any subzone were to be less than 85 percent of the estimated water needs, the Department's production wells in that subzone would be immediately turned off.

If as of July 1st or as of October 1st, the projected amount of available soil water in any subzone were to be less than the estimated water needs of the vegetation for the growing season (or appropriate portion thereof), the Department's production wells in that subzone would be immediately turned off.

In the event that wells were to be turned off in any subzone, the Technical Group would promptly evaluate existing vegetation conditions in that subzone and determine whether any wells could be turned on. Only those wells whose opera-

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tion would not contribute to the causation of a significant adverse change in vegetation in the subzone could be turned on. Wells in that subzone could also be turned on if the Technical Group were to find that the implementation of compensatory or other mitigation warranted such action.

If the Technical Group were not to agree to turn on wells in a subzone, the Department would have the option of leaving such wells off until the soil water in the subzone has recovered, or of unilaterally implementing a reasonable and feasible mitigation plan that would cause the soil water in the subzone to recover. Once the soil water in the subzone has recovered to the level where the amount available to vegetation is equal to the estimated water needs of the vegetation for the growing season, or appropriate portion thereof, (as determined by the monthly water balance projections), the Department could turn on the wells in that subzone. A well in a subzone that has been turned off could be turned on to supply water for mitigation in that subzone.

These provisions would not prohibit the Department from implementing such reasonable and feasible mitigation as may be necessary to cause an increase in the soil water in a subzone prior to the occurrence of a projected soil water deficit.

A disagreement over whether wells would be turned on would be subject to dispute resolution. Certain town supply wells, irrigation supply wells, fish hatchery supply wells, enhancement/mitigation project supply wells, and other wells not affecting areas with groundwater dependent vegetation

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would be designated by the Technical Group as exempt from automatic turn-off.

The overall agreement would contain provisions for modifying this soil moisture "triggering mechanism" for turning off wells, and would contain provisions for substituting an entirely different triggering mechanism. Such a modification or substitution would be made upon agreement of the parties. A disagreement between the parties over such a modification or substitution would be subject to dispute resolution.

C. By April 20th of each year, the Department would prepare and submit to Inyo County a proposed operations plan and pumping program for the twelve (12) month period beginning on April 1st. (In the event of two consecutive dry years when actual and forecasted Owens Valley runoff for the April to September period is below normal and averages less than 75 percent of normal, the Department would prepare a proposed plan for the six (6) month period beginning on April 1st and October 1st, and submit such plans by April 20th and October 20th.)

1. A proposed plan would include, but not be limited to, the following:

- Owens Valley Runoff estimate (annual)
- Projected groundwater production by well field (monthly)
- Projected total aqueduct reservoir storage levels (monthly)
- Projected aqueduct deliveries to Los³ Angeles (monthly)
- Projected water uses in the Owens Valley (monthly)

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- Water balance projections at each monitoring site

2. Inyo County would review the Department's proposed plan of operations and provide comments to the City within 10 days of receipt of the plan.

3. The Department would meet with County representatives within 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 would determine appropriate revisions to the plan, provide the revised plan to the County within ten days after the meeting, and implement the plan.

5. The April 1st pumping program could be modified by the Department during the period covered by the plan to meet changing conditions. The Department would notify the County, in advance, of any planned significant modifications. The

County would have the opportunity to comment on any such modifications.

6. Information and records pertaining to the Department's operations and runoff conditions would be reported to Inyo County throughout the year.

7. The proposed plan and any modifications to the plan would be consistent with these goals and principles.

D. A primary goal would be to manage groundwater pumping to avoid causing significant adverse impacts in

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non-Department-owned wells in the Owens Valley. Any such impacts would be promptly mitigated by the Department.

VI. NEW WELLS AND PRODUCTION CAPACITY

The Department's current groundwater pumping capacity could be increased to provide for increased operational flexibility and to facilitate rotational pumping. It would be desirable, but not required, that this additional pumping capacity be developed with consideration of the following priorities: first, by replacing existing wells that have perforations in the shallow aquifer zone; second, by replacing existing wells that have perforations only in deeper zones; third, by constructing new rotational wells; and fourth, by converting wells that now supply enhancement/mitigation projects into Department production wells. The construction of new wells would be subject to CEQA.

A. Replacing Wells with Shallow Perforations

A current program of replacing 12 production wells with perforations in the upper aquifer zones with wells with perforations only in a lower zone would be continued. (6 replacement wells have been drilled and 6 wells are scheduled to be drilled during the 1989-90 fiscal year.) In addition to the initial 12 wells, certain other shallow perforated wells would be replaced with new wells perforated in a lower zone separated by confinement from the upper aquifer.

The replaced production wells would be converted into properly sealed monitoring wells or would be abandoned in accordance with State water well standards. The sealing of a monitoring well would be designed to prevent cross flow

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between aquifers. The Department after discussion with the County would determine the location of each replacement well (within the same well field as the well replaced), the zones to be perforated, whether the existing wells would be converted to monitoring wells or abandoned, and the schedule for sealing or abandonment.

The new replacement well would generally reflect optimum design parameters considering location, economics and current practice in the industry in addition to the potential impacts of the well's operation. The Department would schedule and contract for construction of the replacement well.

An aquifer test of up to 72 hours duration would be conducted on each new well. One existing or new monitoring well with appropriate perforations would be needed for the aquifer test. The Technical Group would determine the location of this monitoring well and the need for any additional monitoring wells and the length of the aquifer test.

All data generated from the well construction process would promptly be made available to the County. The County would make application for and obtain any well construction permits required by the County or any subdivision thereof.

It would be recognized that this replacement well program could result in a change in the areas that could be affected by pumping from existing wells. Therefore, additional monitoring of groundwater tables and vegetation would be implemented as necessary outside of existing management

areas, and management areas and subzones would be altered or created as necessary.

B. Replacing Other Existing Wells

The Department could replace such wells that due to age, deteriorated physical condition of the well, or mechanical malfunction were in need of replacement. Such wells would be identified by the Department for replacement. The provisions of paragraph VII (A) above would apply to the process of replacing the well selected by the Department.

C. New Rotational Wells

The Department could construct new wells in areas outside of existing well fields where hydrogeologic conditions are favorable, and where the operation of that well would not cause a change in vegetation that would be inconsistent with these goals and principles. One of the first sites to be considered for the construction of new rotational wells would be a new production well or wells completed below the upper confining basalt layer in the area of Deep Test Well No. 2. (See Technical Group's Deep Test Well Study Report.)

Prior to the Department's construction of new rotational wells, the well would be jointly evaluated by the Technical Group as to the potential impact of its operation in the valley's vegetation and environment. The evaluation would include the drilling of one or more test holes, if needed, to develop information on the hydrogeologic conditions at the site, an inventory and classification of vegetation that could be affected by the operation of the well, and the assessment of any other potential significant impacts.

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Each new rotational well would generally reflect optimum design parameters considering location, economics, and current practice in the industry. The Department would schedule and contract for construction of the rotational well. An aquifer test as described in Section VII (A) above would be performed on each new well.

The Technical Group would designate a management area, subzone and monitoring site requirements for each new well. The siting and the operation of the well would be consistent with these goals and principles.

Only one well would initially be constructed and operated in any new area. No additional well(s) would be installed in the area until the initial well has been operated for at least six (6) months in order to gain information on the area and to minimize the potential for adverse impacts.

During this initial period of operation, the Technical Group would monitor water levels and vegetation conditions in accordance with a jointly developed monitoring program. Additional wells could be installed by the Department in the area if operation of the initial well were to indicate no impacts that would be inconsistent with these goals and principles. Monitoring wells would be installed as necessary to evaluate any potential effects of the operation of the new well or wells on wells not owned by the Department.

The EIR on the overall agreement would describe the impacts of the construction and operation of several new rotational wells. The construction and operation of any new wells not

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described in this EIR would be the subject of a subsequent CEQA review.

D. Conversion of Enhancement/Mitigation Project Wells

The Technical Group could agree that some existing wells that now supply enhancement/mitigation projects could be converted to Department production wells. Wells that are the only source of supply for an enhancement/mitigation project would not be converted. Water for the enhancement/mitigation project formerly supplied by a converted well would be supplied as necessary from Department production wells. Unless otherwise agreed by the Technical Group, any enhancement/mitigation well converted to a production well would not later be reverted to an enhancement/mitigation well. Converted wells would be subject to the turn-off provisions of Section VI. Conversion of enhancement/mitigation wells would be done as soon as feasible.

VII. GROUNDWATER PUMPING ON THE BISHOP CONE

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

Before the Department could increase groundwater pumping above present levels, or construct any new wells on the Cone, the parties would have to agree on a method for deter-

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mining the exact amount of water annually used on Los Angeles-owned lands on the Cone. This agreement would be based on a jointly conducted audit of such water uses. The goal would be to reach this agreement by June 30, 1990.

Once such an accounting agreement was reached, the Department's annual groundwater extractions from the Cone would be limited to an amount not greater than the total amount of water used on Los Angeles-owned lands on the Cone during that year. Annual groundwater extractions by the Department would be the total of all groundwater pumped by the Department on the Cone, plus the amount of artesian water that flowed out of the casing of uncapped wells on the Cone during the year. Water used on Los Angeles-owned lands, would be the quantity of water supplied to such lands, including conveyance losses, less any return flow to the aqueduct system.

- B. The overall management goals and principles and the specific goals and principles for each vegetation classification would apply to vegetation on the Cone, except that the management goals for Type B Vegetation Classification would be as follows on the Cone:

Type B Vegetation Classification (yellow)

The goal over the long term would be to manage groundwater pumping and surface water management practices so as to avoid significant adverse changes in the vegetation in any subzone. A change in vegetation would be considered a significant adverse change if in any area of a subzone, a significant amount of vegetation now comprising the Type B classification were to change to vegetation that would fall

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within the Type A classification. This would not be the only change that could be considered a significant adverse change in Type B vegetation. Such other changes that the parties could consider significant could include, but would not be limited to, significant decreases in live vegetation cover attributable to groundwater pumping or to changes in surface water management practices.

The Type B classification would be comprised of several vegetation communities defined in the "Land Classification and Natural Community Descriptions for the Owens Valley" (1987). It would be recognized that a change in vegetation from one of these communities to another, as long as the change is not to a community that would fall outside the Type B classification, would not be considered a significant adverse impact.

Any significant adverse change in vegetation attributable to groundwater pumping would be mitigated as soon as a reasonable and feasible mitigation plan could be developed by the Technical Group and implemented by the Department. The mitigation would consist of such activity as may be necessary to restore the vegetation in the affected area of a subzone to a vegetation community that falls within the Type B classification map as soon as it could be reasonably restored. This mitigation could include, but would not be limited to, surface water application or reduction in groundwater pumping (if groundwater pumping has not already been terminated in the affected area in accordance with the provisions of Section VI). This mitigation would occur

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unless the change were to be acceptable to the parties, or if other environmental mitigation were to be agreed to by the parties.

VIII. GROUNDWATER RECHARGE FACILITIES

It would be recognized that development of new groundwater storage facilities in the Owens Valley and in the Rose Valley could be beneficial. The development of any such facilities in the Owens Valley would be subject to agreement of the parties. The development of such facilities by the Department in Rose Valley would be discussed in advance with the County. The development of any new groundwater recharge and extraction facilities would be subject to "CEQA."

IX. COOPERATIVE STUDIES

It would be recognized that additional cooperative studies related to the effects of groundwater pumping on the environment of the Owens Valley would be necessary. The reasonable costs of studies implemented under the overall agreement would be funded by the Department.

X. MITIGATION

In addition to the mitigation measures described above, any significant adverse impacts to the environment of the Owens Valley attributable to groundwater pumping or to Department management practices, would be mitigated as soon as feasible mitigation could reasonably be implemented. Mitigation could include, but would not be limited to:

- A. Avoiding impact altogether by not taking a certain action or parts of an action, such as avoiding significant effects on sensitive areas such as riparian zones and meadow areas.

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- B. Minimizing impacts by limiting the degree or magnitude of the action or parts of an action such as management of pumping through well design, well location, pumping rotation, and cyclical pumping.
- C. Rectifying the adverse impact by revegetating, repairing, rehabilitating, or restoring the impacted environment such as irrigation or revegetation of certain areas if necessary.
- D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the operation, with projects such as groundwater recharge.
- E. Compensating for the impact by replacing or providing substitute resources or environments, with projects such as the Lower Owens River, parks rehabilitation and development, land releases, and regreening areas off-site from the area of impact.

PROJECTS AND OTHER PROVISIONS

XI. ENHANCEMENT/MITIGATION PROJECTS

All existing enhancement/mitigation projects would continue unless the parties were to agree to modify or discontinue a project. Periodic evaluations of the projects would be made by the parties. Subject to the provisions of Section VII (D), enhancement/mitigation projects would continue to be supplied by enhancement/mitigation wells as necessary. New enhancement projects could be implemented if such projects were to be approved by the parties.

XII. TOWN WATER SYSTEMS

Los Angeles would transfer ownership of the water systems in the towns of Lone Pine, Independence, and Laws to the County or to another Owens Valley public entity or entities. The transfer of ownership would be for a price of \$1.00 per water system. The method of transfer would be a lease purchase agreement wherein transfer of ownership of each system would be complete at the end of five (5) years from the beginning of the overall agreement.

Prior to the transfer of the water systems, the County would have an independent engineering firm inspect each of the systems for compliance with all requirements of the California Department of Health Services and other agencies, and perform a structural assessment of the Independence Reservoir including its ability to withstand seismic events. The costs of this inspection would be funded by the Department. Prior to the transfer of the systems, the Department will make any repairs or alterations that would be necessary to bring each distribution system into compliance with all such regulations.

During the five (5) year lease period, Los Angeles would be responsible for the operation and maintenance of the wells, pumps, reservoirs and chlorination equipment supplying the water systems of the three towns. Treated water would be supplied by the Department as needed to each of the three town water systems at no cost up to the annual amounts set forth below:

<u>System</u>	<u>Amount in Acre Feet</u>
Lone Pine	550
Independence	450
Laws	50

The County (or other public entity operating the water system) would pay the Department for water used in excess of these totals in an amount that would reflect the cost of operating and maintaining the wells and reservoirs.

Also during the initial five (5) year lease period, the Department would improve the Independence town reservoir if needed to provide a facility that would have an expected service life of at least fifteen (15) years with routine maintenance and would meet all Department of Health Services requirements. Further, the Department, at its option, would either upgrade the reservoir as needed to meet seismic requirements agreed upon by the parties, or would agree to fully repair any damage to the reservoir caused by earthquake during a 15 year following the transfer of the water system. The Lone Pine reservoir would be replaced by the Department with a new reservoir with a 500,000 gallon capacity.

During the five (5) year lease period, the County or the public entity or entities would set the water rates for the three town water systems, operate and maintain all components of the water systems (except the wells, pumps, chlorination equipment, and reservoirs), begin the transition for operating and maintaining the chlorination equipment, would handle all billing and related matters, and would establish a capital reserve fund for replacement of components of the systems in the event of emergency or deterioration.

At the end of the five (5) year lease period, the County or other public entity or entities would assume total ownership and operation of each town water system, except that the Department would

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continue to own and operate the wells and supply untreated water to each water system as described above.

It would be recognized that Los Angeles has leased the town water system in Big Pine to the Big Pine Community Services District. It also would be recognized that the lease requires certain considerations favorable to the District in the event of a permanent transfer of the town water systems in the other Owens Valley towns as part of an overall settlement of litigation. In view of this, the goal would be to provide the same benefits and opportunities to the Big Pine water system as would be available to the three other Owens Valley water systems. This would include providing untreated water to the system without charge up to 500 acre feet per year.

XIII. LOWER OWENS RIVER

The long term agreement would provide that the parties, together with the California Department of Fish and Game would complete a management plan that is now in preparation for the lower Owens River by July 1, 1990. The County and the Department would actively seek to secure funding for the construction and operation of the lower Owens River project from the State of California and from other funding sources. The project would be constructed by the Department within three (3) years after final approval of the long term agreement unless otherwise agreed by the parties. The project would be the subject of a "CEQA" review separate from the EIR on the long term agreement.

The project plan would include a pumpback station from the river near Keeler Bridge to the Los Angeles aqueduct. The pumpback system would be capable of pumping up to 50 cfs from the river to

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the aqueduct. Due to seasonal fluctuation in the flow of the river, the average annual pumping in any year would not exceed approximately 35cfs. The plan would also provide that water releases would be made to the river above Blackrock Gate on the Los Angeles aqueduct, that the existence of off-river lakes and ponds now supplied by the existing project would be continued, and for a water release from the pumpback station to supply the southern end of the river and the Delta.

In addition to the above, the management plan would provide for, but not be limited to, the following:

- The water flow and schedules needed to maintain a healthy and productive warm water fishery in the lower Owens River and in the off-river lakes and ponds.
- The specific water diversion and release points to supply the project.
- The locations of ponds and pools in and adjacent to the lower Owens River, and the proposed methods to manage these to produce and maintain a viable fishery.
- The requirements for channel maintenance.
- The plans for fish stocking.
- The plans for tule and other plant control in the river and the off stream ponds and lakes.

The Department would construct, operate, and maintain the pumpback system. The total cost of the construction of the pumpback system, new release structures, channel modifications, and other

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necessary work for initial operation of the project is estimated by the Department to be approximately \$7.5 million. The Department would fund initial construction costs and the State of California, the County or other sources would contribute fifty percent of actual costs up to \$3.75 million to the Department. The Department would pay for the annual cost of operating the pumpback system less any funds received from other non-County sources. The Department and the County would jointly operate and fund the non-pumpback portions of the project.

XIV. HAIWEE RESERVOIRS

The Department would conduct and finance seismic studies required by the California State Department of Water Resources to determine if South Haiwee Dam could be safely operated at reduced storage levels. The Department and the County would develop a recreation plan for South Haiwee reservoir, and the Department would open this facility to public recreation pursuant to the plan. The recreation plan would be implemented and operated by the County or by a concessionaire.

In the event that the continued operation of South Haiwee were not to be allowed, the parties would jointly develop a plan for North Haiwee Reservoir and such plan would be implemented if feasible. Any plan would take into consideration Los Angeles' operating and security needs. The plan would also take into consideration the fluctuations of water levels and the requirements for water treatment.

XV. FINANCIAL ASSISTANCE

A. Salt Cedar Control

The Department would provide funding to the County for an initial three (3) year salt cedar control effort and for an annual maintenance and control effort in the Owens Valley area. This effort would be conducted by Inyo County. The salt cedar control effort would be commenced as soon as feasible following approval of the overall agreement.

The initial salt cedar control effort would be focused on those acres on the valley floor identified in Technical Group's "Saltcedar Control Study Report" as having a high density of salt cedar composition. The following priority for control would be implemented:

1. Lower Owens River Channel
2. Tinemaha Reservoir and Owens Valley north of Tinemaha Reservoir
3. Perennial Streams, Canals, and Ditches
4. Springs and Seep Areas
5. High Water Table Meadows
6. Spreading Areas that Normally Receive Water
7. Spreading Areas that Receive Water Only in Very High Runoff Years

The annual control program would be based on the same priorities as described above. The funding of the initial program would be \$350,000 for the first year and \$200,000 for the second and third years. The \$350,000 payment would be made within 60 days of the final approval of the overall agreement. Thereafter, the second and the third year pay-

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ments would be made by the 12th month and the 24th month after the making of the first payment, respectively.

The first annual payment would be made to the County by July 10th following the making of the third year payment. This payment would be in the amount of \$50,000. Thereafter, each annual payment would be made by July 10th, and the amount of each payment would be the previous year's payment adjusted upward or downward each year in accordance with the _____ consumer price index. The maximum adjustment would not exceed five (5) percent in any year. The annual payment would be placed in trust by the County and would be used only for the purposes of salt cedar control. If, at any time, \$150,000 or more were to be accumulated in the trust, the Department would not make additional payments until the funds in the trust had been expended. The annual funding for salt cedar would continue unless the parties were to agree that the salt cedar control program were to be reduced in scale or terminated. It would be recognized that even with an initial and an annual control effort, salt cedar may not be fully controlled in the Owens Valley.

B. Park Rehabilitation, Development, and Maintenance

The Department would provide funding to the County for rehabilitation of existing County parks and campgrounds, development of new County campgrounds, parks, and recreational facilities and programs, and for the annual operation and maintenance of existing and new facilities and programs. These facilities would be located on lands owned by the City of Los Angeles.

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During the ten (10) years following final approval of the overall agreement, the County would rehabilitate certain existing parks and campgrounds and develop certain new parks, campgrounds, recreational facilities and programs. These facilities would be developed in accordance with a master plan now being prepared by the County, or in accordance with such future plans as may be developed by the County.

Among the first facilities that would be considered for rehabilitation would be the Pleasant Valley Campground, the Baker Creek Campground, Dehy Park, and Diaz Lake. Among the first new facilities and programs that would be considered for development would be certain campgrounds along the Owens River from Pleasant Valley Reservoir to the Owens River Delta, and a recreational use and management plan for that reach of the Owens River. The construction of new facilities and any significant changes in existing facilities would be subject to a CEQA review.

During this ten (10) year period, the Department would provide up to \$2,000,000 to the County for the above purposes. The amount of funds that would be provided in any year would be based upon the work that would be undertaken on such activities by the County during that year. The funds provided would only be used by the County for the purposes described above.

To financially assist the County in the operation and maintenance of existing and new parks, recreational facilities and programs operated by the County on lands owned by the

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City of Los Angeles, the Department would make an annual payment to the County. The initial payment would be made within 60 days of the final approval of the overall agreement. If the final approval were to occur during the month of July, the payment would be \$100,000. If final approval were to occur between August 1st and June 30th, the payment would be the sum of \$100,000 prorated. The proration would be based upon the month of the July-June fiscal year when final approval occurs. For example, if final approval were to occur in either January or June, the payment would be 5/12 of \$100,000, or 1/12 of \$100,000, respectively.

After the initial payment, an annual payment would be made by July 10th of each year, and the amount of the payment for the first full fiscal year following final approval would be \$100,000. Each year thereafter, the amount of the annual payment would be the previous year's payment adjusted upward or downward each year in accordance with the _____ consumer price index. The maximum adjustment would not exceed five (5) percent in any year. The annual funding would be placed in trust by the County and would be used only for the purposes of operation and maintenance of existing and new parks, recreational facilities and programs. If at anytime \$300,000 or more were to be accumulated in the trust, the Department would not make additional payments until the funds in the trust had been expended. This annual funding would continue unless the parties were to agree that the operation and maintenance program were to be reduced in scale or terminated.

C. Water and Environmental Activities

The Department would assist the County in funding water and environmentally related activities by making an annual payment to the County. The first payment would be made within 60 days of the final approval of the agreement. If final approval were to occur during the month of July, the payment would be \$750,000. If final approval were to occur between August 1st and June 30th, the payment would be the sum of \$750,000 prorated as set forth in paragraph B above.

After the initial payment, an annual payment would be made by July 10th of each year, and the amount of the payment for the first full fiscal year following final approval would be \$750,000. Each year thereafter, the amount of the annual payment would be the previous year's payment adjusted upward or downward each year in accordance with the _____ consumer price index. The maximum adjustment would not exceed five (5) percent in any year. The annual funding would be placed in trust by the County and would be used only for the purposes of water and environmentally related activities. If at anytime \$1,500,000 or more were to be accumulated in the trust, the Department would not make additional payments until the funds in the trust had been expended. This annual funding would continue unless the parties were to agree that the program were to be reduced in scale or terminated.

(Between July 1, 1989 and the final approval of the overall agreement, the parties would determine the appropriate July-June fiscal year funding that would be provided by the Department to the County for its water and environmentally related activities.)

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D. General Financial Assistance to the County

To assist the County in providing services to its citizens, the Department would make an annual contribution to the County. The first contribution would be made within 60 days of the final approval of the overall agreement. If final approval were to occur during the month of July, the contribution would be \$1,000,000. If final approval were to occur between August 1st and June 30th, the contribution would be the sum of \$1,000,000 prorated as set forth in paragraph B above.

After the initial contribution, an annual contribution payment would be made by July 10th of each year, and the amount of the contribution payment for the first full fiscal year following final approval would be \$1,000,000. Each year thereafter, the amount of the annual contribution would be the previous year's contribution adjusted annually in accordance with the formula for assessment of Los Angeles-owned property as set forth in present Article XIII, Section 11 of the California Constitution.

In the event that Los Angeles' existing geothermal leases in the Coso Geothermal area of Inyo County were to be developed in such a manner that the County were to receive possessory interest taxes on such leases, such taxes received by the County would be credited to the Department for up to one-half of the total annual general financial contribution to the County. Such credit would only be made if the possessory interest taxes received were not subject to a claim for refund, legal challenges, or to refund for other reasons.

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E. Assistance for Costs of Lower Owens River Pumpback System

In the event that Inyo County were to be required to fund any portion (up to \$3.75 million) of the costs of constructing the Owens River pumpback system, Los Angeles would loan Inyo County the amount of the County's share of such costs. The County would repay such loan without interest and would make annual payments in the amount of \$300,000 until the loan is fully repaid.

F. Big Pine Ditch System

The Department would provide up to \$100,000 for reconstruction and upgrading of the existing ditch system and for construction of additional ditches to supply additional properties in the town of Big Pine. The ditch system would be planned, constructed, operated, and maintained by a Big Pine entity or organization separate from the Department or the County, except for existing ditches on DWP land which would continue to be maintained by DWP. This entity or organization would obtain all necessary rights of way prior to construction.

The Department would make a flow of up to six (6) cfs available to supply the ditch system with water. Water to replace any water used by this project would come from a new well, which would be constructed by the Department west of Big Pine. This well would also supply water to the Big Pine Water System.

The stockholders of the Big Pine Water Association would have to approve the use of existing ditches. (The Depart-

ment would not unreasonably refuse such approval.) Water rights of all stockholders would be protected.

Provisions would be made to insure that the project funds would only be made available to an appropriate entity or organization and only would be made available as construction of the Big Pine ditch system or for other approved projects progressed. Any costs of constructing the ditch system in excess of \$100,000, would have to be secured prior to commencement of funding of the construction of the ditch system. If less than \$100,000 were to be expended on the ditch system, or if no ditch system were to be constructed, the unexpended difference could be used by the Big Pine entity or organization on other projects in Big Pine that have been approved in advance by the Department and the County.

G. Park and Environmental Assistance to City of Bishop

To financially assist the City of Bishop in the operation and maintenance of its park and other environmentally related activities, the Department would make an annual payment to the City of Bishop. The first annual payment would be made within 60 days of final approval of the overall agreement. If final approval were to occur in the month of July, the payment would be \$25,000. If final approval were to occur between August 1st and June 30th, the payment would be the sum of \$25,000 prorated as set forth in paragraph B above. Thereafter, the annual payment would be made by July 10th of each year, and the amount of each payment would be the previous year's payment adjusted upward or downward each year in accordance with the _____ consumer price index.

The maximum adjustment would not exceed five (5) percent in any year.

XVI. RELEASE OF CITY OWNED LANDS

A. Inyo County

Los Angeles would sell at public auction, or sell directly to Inyo County, properties in and near Owens Valley towns totaling 75 acres of surplus Los Angeles-owned land. If there were to be a sale at auction, the minimum bid amount would be based on the fair market value of the property. The location of each property and the schedule for its sale would be determined by the parties. Each parcel sold would be located within general areas designated by boundaries on the attached maps. A precondition of a sale would be that a public water system would have to be available to serve each property after its sale. The approval of and the authorization to sell up to 75 acres of surplus properties within the designated release areas would be given by the Los Angeles City Council as part of the approval of the overall agreement. The Department's Board of Water and Power Commissioners would be authorized to act on behalf of Los Angeles in approving and conducting such sales. The area of any property that is undeveloped as of the date of final approval of the overall agreement, located within the designated release areas, and sold by Los Angeles after final approval of the overall agreement would be credited against the 75 acre total. Each such sale would be subject to a CEQA review.

B. City of Bishop

In addition to the above sales to the County, Los Angeles would sell at public auction, or sell directly to the City of Bishop or the Bishop Community Redevelopment Agency, properties within the Bishop City limits totaling 26 acres of surplus Los Angeles-owned land. The location of each property and the schedule for sale would be agreed upon by the City of Bishop and Los Angeles. Each parcel sold would be located within general areas designated by boundaries on the attached map. The approval of the authorization to sell up to 26 acres of surplus properties within designated release areas would be given by the Los Angeles City Council as part of the approval of the overall agreement. The Department's Board of Water and Power Commissioners would be authorized to act on behalf of the City in approving and conducting such sales. Each sale would be subject to a CEQA review.

In addition to the above described sales, upon request of the County or the City of Bishop, Los Angeles would negotiate in good faith for the sale at public auction of additional surplus Los Angeles-owned land in or near valley towns for specific identified needs. However, this commitment would not require Los Angeles to sell such lands. Any sales would occur subsequent to those described above. A precondition of a sale would be that a public water system would have to be available to serve each property after its sale. Each sale would be subject to a CEQA review. It would be recognized that such sales at public auction could

take considerable time, and would require approval of the Department Board and the Los Angeles City Council, and would have to be in compliance with the Los Angeles City Charter.

C. Lands for Public Purposes

Los Angeles would negotiate in good faith for the sale or lease to the County or to the City of Bishop of any Los Angeles-owned land requested by the County or the City of Bishop for use as a public park or for other public purposes. Any sale of land would be at fair market value and any land sold would be within or adjacent to valley towns.

D. Withdrawn Lands

In exchange for an agreement on land releases, Inyo County would support passage of withdrawn land legislation pertaining to federally owned lands in Inyo County. Such legislation would be in substantially the same form as the draft of such legislation discussed by the parties in the fall of 1987, except that lands in Rose Valley which might be used in conjunction with a groundwater storage program would remain in withdrawn status. The County would support such legislation even though the status of such withdrawn lands may be under review by the Federal Bureau of Land Management as part of the new Bishop Resources Area Management Plan.

XVII. LEGISLATIVE COORDINATION

Neither party would seek nor support any action of any nature which would circumvent the provisions of the overall agreement. The parties would refrain from seeking or supporting any legislation or litigation that would weaken or strengthen local

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or state authority to regulate groundwater or that would affect any provision of the overall agreement.

- A. Neither party would sponsor, take a support position, or seek to amend any legislation that would directly affect any provision of the long-term agreement or that would weaken or strengthen local authority to regulate groundwater unless such sponsorship, support, or amended position were approved by the parties.
- B. Neither party would take a position in opposition to any legislation that could directly affect any provision of the long-term agreement or that would weaken or strengthen local authority to regulate groundwater without first notifying the other party and attempting to reach concurrence on the proposed course of action. Failure to reach agreement on the proposed course of action would not preclude either party from opposing such legislation.

XVIII. EXCHANGE OF INFORMATION AND ACCESS

Each party would make any data or information in its possession that reasonably pertains to purposes of the overall agreement available to the other party on reasonable notice. The parties would recognize that such a free exchange of data and information would be essential to the purposes of the overall agreement.

Each party would provide to the other party reasonable access to its wells water conveyance and control structures for the purpose of such independent monitoring and inspection as would be reasonably necessary to carry out the implementation of the overall agreement.

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XIX. HEALTH AND SAFETY CODE PROJECTS

Any project implemented pursuant to California Health and Safety Code section 42316 would not be a part of the overall agreement.

✓ XX. LEASE CHARGES

Los Angeles or its Department would have the right to seek and use lessee funding for new enhancement/mitigation projects that may be developed on lands leased from Los Angeles. Such funding would be obtained through normal Department ranch leasing practices.

Except as provided above, lease charges and/or other charges for water supplied by Los Angeles and its Department to its Owens Valley lessees would not be increased directly or indirectly as a result of any provision of the overall agreement. This provision would not be construed as preventing rent increases not related to the supply of water, which the City may determine to implement in the ordinary course of business following its usually applicable practices and principles in the determination of the need for rent increases, capitalization of improvements, or land reclassification.

XXI. HOLD HARMLESS

Each party would keep and hold the other party free and harmless from any and all cost, liability damage, or expense including cost of suit or expense for legal service claimed by anyone by reason of injury or damage to person or properties sustained in or on or about any mitigation project or measure as proximate result of, or omissions of the parties, their agents, servants or employees, or arising out of any condition of the property occupied by a mitigation project or measure or arising out of the

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operation of the parties upon, about or above the property occupied by a mitigation project or measure.

XXII. NO EFFECT ON EXISTING WATER RIGHTS

Any water right of either party or of any other person existing prior to the final approval of the overall agreement would not be adversely affected, directly or indirectly, by the overall agreement. No water right of any kind, including but not limited to prescriptive water rights, nor any claim thereto, would arise or would be created in favor of or against any party or other person, directly or indirectly, as a result of the overall agreement.

XXIII. FUTURE AQUEDUCT CAPACITY

Los Angeles would not construct a third aqueduct from the Owens Valley to Los Angeles, or significantly enlarge the capacity of the existing aqueducts.

Los Angeles would not be prevented from replacing deteriorated portions or rerouting sections of the existing aqueducts as long as the approximate overall capacity is maintained.

XXIV. ACKNOWLEDGMENT OF WATER SUPPLY UNCERTAINTIES

Los Angeles and the County would acknowledge in the long term agreement that there are certain risks in maintaining current and projected water supplies to Los Angeles. These foreseeable risks would be a possible reduction in diversions by Los Angeles from the Mono Basin, contamination of the San Fernando Valley Groundwater Basin, uncertainty in the amount of water exports from the Sacramento/San Joaquin Delta, a reduction in now available Colorado River supplies to Southern California and reasonably foreseeable population growth in Los Angeles and Cali-

ifornia. The parties would agree that such foreseeable risks would not be a basis for a future request to a Court to terminate the long term agreement absent agreement by the parties.

XXV. DISPUTE RESOLUTION

If the Standing Committee were to be unable to agree on any of the following, a mediator would try to resolve the area or areas of disagreement within a 60 day time period. Subjects of dispute resolution could include, but would not be limited to:

- A. Whether a significant change in the vegetation is attributable to groundwater pumping, or a change in surface water management practices.
- B. Whether a change in the environment is a significant adverse impact, and whether such impact is attributable to groundwater pumping or a change in surface water management practices.
- C. A reclassification of vegetation inside or outside a management area.
- D. The location of monitoring sites or monitoring wells, the type of monitoring to be conducted at a site, or the interpretation of monitoring results.
- E. A change in the contents of the "Green Book."
- F. The need for mitigation or type of mitigation.
- G. The location of subzones.

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- H. A disagreement over whether or not the "triggering mechanism" based on soil moisture should be modified or changed to a different triggering concept.
- I. Whether a well turned off under the provisions of Section VI should be turned on.
- J. Consistency of a proposed pumping program with the goals and principals of the agreement.
- K. Disagreements over additional cooperative studies.
- L. Whether a well not owned by the Department has been significantly adversely impacted by groundwater pumping by the Department.
- M. Any other matter covered by the overall agreement.

If there were to be no mediated resolution the mediator would present written findings to the Standing Committee within 60 days of becoming involved in the matter . If the Standing Committee were still to be unable to resolve key issues, either party could present the issues to a Superior Court judge for a decision by way of expedited dispute resolution procedures. (These procedures would be similar to those contained in the current LA/Inyo five year agreement.) Unless otherwise agreed by the Standing Committee, the parties would immediately implement and follow the findings of the mediator until there is a decision from the Superior Court Judge. Any decision made by the judge, and any recommendation or finding of the mediator would have to be based upon the "goals", "principles", "guidelines",

"objectives", or other provisions contained in the overall agreement.

XXVI. LENGTH AND FORM OF LONG TERM AGREEMENT

The overall long term agreement would be incorporated into a stipulated judgment that would be filed in the LA/Inyo Groundwater Ordinance Case (Inyo Superior Court No. 12908). The stipulated judgment would have no termination date and no provision for termination by either party. (The judgment of the Court of Appeals in the Inyo/LA EIR case would be satisfied with approval of the EIR.) Provisions would be included in the overall agreement that in the event of a material breach of the agreement by either party, the only remedy available to the other party would be specific performance. Additionally, if a party were to be ordered to specifically perform, that party would be obligated to pay the other party's attorney's fees and such financial penalties as would be deemed reasonable by the Court under the circumstances.

XXVII. PREPARATION OF AN EIR

Los Angeles and Inyo County would jointly prepare an EIR on a long term agreement. A third party consulting firm acceptable to both parties would assist in preparation of the EIR. Inyo County and Los Angeles would have equal input and access to the consultant. Such equal input would be included in the consultant contract. Los Angeles would contract for the consultant and would pay all costs to produce an EIR, including consultant costs. The final content of the EIR would have to be acceptable to both parties.



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The L.A.-Inyo Agreement — Finally

If an easy solution to the legendary fight between the Owens Valley and the city of Los Angeles over the valley's water had been possible, the battle would have ended long ago. There was none. However, the tentative agreement reached by the Los Angeles Department of Water and Power and Inyo County officials this past week seems the next best thing, one that will meet two major goals: to protect the valley environment against Los Angeles' over-pumping the ground water tables while allowing the city to continue drawing a reasonable supply of water from its wells in Owens Valley. The plan should be ratified promptly by Los Angeles and Inyo County governments.

The agreement was concluded after years of negotiation and legal battles between the giant city that had taken Owens Valley water virtually at will for more than half a century and the sparsely populated eastern Sierra county that long has viewed itself as the aggrieved victim of Los Angeles' insatiable growth. Los Angeles would love to pump all the water it could. Inyo County might want the city to go away altogether. But neither was going to happen. And neither side could count on winning in the courts.

A court conclusion implied winners and losers, and continued bitter feelings. A negotiated settlement allows both sides to claim victory.

The major benefit of the settlement is that it permits control of Los Angeles' pumping of valley water to be decided on the basis of evidence of likely damage to the environment and not the arbitrary water-export limits that might have been imposed by a court. If the evidence indicates that the Department of Water and Power is pumping too heavily in one area, Inyo County officials can require that the well be shut down. When a well is closed in one area, the city has the potential

for drawing water from other valley wells.

The city now pumps about 170,000 acre-feet of water from the Owens Valley, which represents nearly one-fifth of the city's annual demand. The well water, along with surface supplies from the Owens River and streams further north in the Mono Basin, flows to Los Angeles by gravity through the 233-mile-long Los Angeles Aqueduct.

Inyo County is to receive more compensation for lost property taxes, money to finance the county's water department and funds for recreation development. There will be more enhancement projects to compensate for past pumping damage. Inyo County officials also scored a considerable symbolic victory by getting the city to turn control of local water systems back to the communities of Lone Pine, Independence and Laws. For years, they suffered the indignity of having their water supplies metered and charged on the same basis as Los Angeles residents.

Both Inyo County and Department of Water and Power officials believe the agreement will be ratified by their governing boards without major opposition. Inyo County supervisors will hold hearings on the agreement in Independence on April 18; Big Pine, April 20; Lone Pine, April 25, and Bishop, April 26, before voting on the pact May 9. The agreement goes to the Los Angeles Board of Water and Power commissioners at its May 11 meeting and then to the City Council for ratification.

The pact will not solve all the problems that separate Los Angeles and Owens Valley. But it does seem to build a solid foundation for a fair future partnership between the Department of Water and Power and Inyo County in joint control of the valley's water supply. That is far better than either side could have expected from a prolonged court battle.



California Fair Political Practices Commission

April 19, 1989

Gregory L. James
County Counsel
County of Inyo
P.O. Box 428
Independence, CA 93526

Re: Letter No. 89-232

Dear Mr. James:

Your letter requesting advice under the Political Reform Act was received on April 18, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jill Stecher an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan
Acting General Counsel

KED:plh

cc: LaJoie H. Gibbons, Jr.
District Attorney