

Original printed on Inyo County letterhead

September 20, 2005

Mr. Wayne Natri
U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, California 94105-3901

Subject: Lower Owens River Project—EPA Grant Funds

Dear Mr. Natri:

In 1991, the County of Inyo, the City of Los Angeles and its Department of Water and Power (“LADWP”) agreed to restore a flow of water to more than sixty miles of the Owens River that has been dry since the river was diverted to the City of Los Angeles in 1913. The County is responsible for approximately one-half of the costs of constructing and operating the Lower Owens River Project (“LORP”). Since the late 1990s, because of the efforts of Congressmen, Jerry Lewis and Buck McKeon, Congress has earmarked \$5,393,033.00 in grant funds to assist the County of Inyo in funding a portion of its share of the restoration project. These grant funds are administered by the EPA.

An Environmental Impact Statement (“EIS”) that addresses the environmental impacts of the LORP is required to be prepared by the EPA before the grant funds can be provided to the County. From 2000 to 2004, LADWP, the County and EPA worked on the development of an environmental document called an EIR/EIS that addressed the LORP and that was intended to fulfill responsibilities under both state and federal law. In May 2004, LADWP announced that in order to complete the EIR/EIS by a court-ordered deadline, it would have to complete the EIR/EIS without further involvement of the County or EPA. In July 2004, LADWP adopted the EIR/EIS that addressed the LORP. Thereafter, EPA concluded that the EIS portion of the EIR/EIS was not adequate to satisfy its responsibilities under federal law.

Earlier this year, LADWP, the County and EPA agreed upon a process for completing the EIS. Under the agreed upon process, a consultant, Montgomery Watson Harza is working with EPA to develop the EIS. At the time of the execution of the agreement, it was estimated that the process will allow EPA to publish a Record of Decision concerning the EIS on approximately February 17, 2006. The U.S. Army Corps of Engineers (“Corps”), which must issue certain permits before LADWP can begin implementation of the LORP, estimates that it will be able to issue the required permits approximately 30 calendar days after the publication of the Record of Decision.

Last August, the Inyo County Superior Court issued an order that requires LADWP to re-establish a permanent baseflow of approximately 40 cubic feet per second in the Lower Owens River by July 25, 2007. The Court also ordered LADWP to pay \$5,000.00 a day until the flow in the river is re-established, and placed other sanctions on LADWP.

LADWP reports that if the Record of Decision is not published until mid-February, and the Corps permits are not issued until mid-March, it will not have sufficient time to complete necessary construction work in time to allow it to comply with the Court-ordered deadline of July 25, 2007 for re-establishing the flow in the river. The Corps has informed LADWP that if the EPA grant funding is not used in the project, thereby eliminating the need for an EIS, the Corps will be able to perform its own environmental assessment pursuant to its regulatory and permitting role, and will be able to issue the permits necessary to allow the implementation of the LORP before the end of this calendar year.

To expedite the implementation of the LORP, LADWP will forego the \$862,200.00 in EPA grant funds earmarked for LADWP, and LADWP has offered to fully compensate the County of Inyo if the County were to forego its earmarked EPA grant funds. Last week, the County of Inyo and LADWP entered into the attached agreement that memorializes the funding commitments offered by LADWP.

As a result of LADWP's commitment to fully compensate the County in the amount of the EPA grant funds, the County will not be utilizing the EPA grant funds earmarked to assist the County in funding a portion of its share of the LORP costs. Accordingly, the County requests the rescission of the existing contract between EPA and the County for the provision of a portion of these grant funds.

Although LADWP will be compensating the County for foregoing the grant funds, and the County will be able to use a significant portion of the Court-ordered \$5,000.00 a day payments to fund a portion of the County's share of the LORP, the County still lacks sufficient funds to fully cover its share of the ongoing operation, monitoring, maintenance, and adaptive management costs that will be associated with the permanent restoration of the river. Consequently, even though the County is foregoing the use of EPA grant funds at this time, please let me know if EPA is aware of a means that would allow the County to use some or all of the earmarked grant funds for these ongoing "post-construction" costs.

In closing, on behalf of the County of Inyo, I want to thank the EPA, you, and your staff for the assistance and cooperation that have been provided to the County.

Very truly yours,

Ted Williams
Chair, Inyo County Board of Supervisors

cc: Congressman Buck McKeon
Alexis Strauss, EPA
Tom Hagler, EPA
Bruce Henderson, U.S. Army Corps of Engineers
Tom Erb, LADWP
Joseph Brajevich, LADWP
Mark Hill, Ecosystem Sciences, Inc.

Congressman Jerry Lewis
Nancy Woo, EPA
Janet Parrish, EPA
Ron Deaton, LADWP
Clarence Martin, LADWP
David B. Ebersold, Montgomery Watson Harza