

**TRI-VALLEY GROUNDWATER MANAGEMENT DISTRICT**

**PO Box 936**

**Benton, CA 93512**

**e-mail [tvgmdsec@gmail.com](mailto:tvgmdsec@gmail.com)**

**website [tvgmd.org](http://tvgmd.org)**

**BOARD OF DIRECTORS**

Carol Ann Mitchell, Chairperson

Phil West, Vice-Chairperson

Marion Dunn, Secretary

Richard Moss

Frank Ormiston

Dr. Dave Doonan

Fred Stump, District 2 Supervisor

**MEETING AGENDA**

March 27, 2019 at 6:30 p.m.

Benton Community Center

Call Meeting to Order

Pledge of Allegiance

1. Roll Call
2. Public Comment
3. Approval of Minutes – January 23,2019
4. Approval of Warrant List of Expenditures (if any)
5. Correspondence  
[SEE ATTACHMENT A: Notice of Violation of the Lahontan Water Board’s Water Quality Control Plan (Basin Plan), 2017 Fish Mortality Events in the Lower Owens Watershed, Los Angeles Department of Water and Power, Inyo County]
6. District Board of Directors brief report of activities
7. Staff Update and Discussion of Mono County and Sierra Club’s CEQA Litigation Against LADWP Related to Dewatering of Long/Little Round Valleys  
[SEE ATTACHMENT B: Order Overruling Demurrer to First Amended Verified Petition for Writ of Mandate; ATTACHMENT C: Respondent City of Los Angeles and Los Angeles Department of Water and Power’s Answer to First Amended Verified Petition for Writ of Mandate]
8. Staff update and discussion of actions and activities of the Owens Valley Groundwater Authority

9. Staff update on status of revised District Bylaws and Rules
10. Presentation on Inyo-Mono Integrated Resources Water Management Program by Holly Alpert, Inyo-Mono IRWM Director
11. Discussion and recommendation to Mono County Board of Supervisors for appointment of new member to District Board of Directors
12. Staff update and discussion on Coyote Springs' Request for District and Mono County approvals related to groundwater extraction and export activities
13. Schedule next meeting – April 24, 2019 at 6:30 PM at the Chalfant Community Center
14. Adjournment

# **ATTACHMENT A**

**NOTICE OF VIOLATION OF THE LAHONTAN WATER BOARD'S WATER QUALITY CONTROL PLAN (BASIN PLAN), 2017 FISH MORTALITY EVENTS IN THE LOWER OWENS WATERSHED, LOS ANGELES DEPARTMENT OF WATER AND POWER, INYO COUNTY**

**[Lahontan Regional Water Quality Control Board,  
March 19, 2019]**



**Lahontan Regional Water Quality Control Board**

March 19, 2019

**CERTIFIED MAIL: 70091410000179385236**

Clarence Martin, Aqueduct Manager  
Los Angeles Department of Water and Power  
300 Mandich Street  
Bishop, CA 93514  
[Clarence.Martin@ladwp.com](mailto:Clarence.Martin@ladwp.com)

**Notice of Violation of the Lahontan Water Board’s *Water Quality Control Plan for the Lahontan Region (Basin Plan)*, 2017 Fish Mortality Events in the Lower Owens Watershed, Los Angeles Department of Water and Power, Inyo County**

The purpose of this letter is to inform the Los Angeles Department of Water and Power (LADWP) that Lahontan Regional Water Quality Control Board (Lahontan Water Board) staff is alleging that LADWP has violated the Lahontan Water Board’s *Water Quality Control Plan for the Lahontan Region (Basin Plan)* by allowing water resource management activities to result in hypoxic (low dissolved oxygen) conditions that led to fish mortality events in the Lower Owens River and in several off-channel lakes (Goose Lake, Billy Lake, and Twin Lakes) in 2017.

These violations are subject to enforcement, including administrative civil liability (fines) of up to \$10,000 per day for each violation pursuant to the California Water Code, section 13385, subdivision (a)(4) for violation of the Basin Plan Prohibitions. LADWP’s response to this Notice will be taken into consideration by Lahontan Water Board staff when determining if and what additional enforcement to take.

**NOTICE OF VIOLATION**

The Basin Plan (Chapter 4) prescribes the following region-wide waste discharge prohibition.

*“The discharge of waste that causes violation of any numeric water quality objective contained in this Plan is prohibited.”*

The Basin Plan (Chapter 3) prescribes the following water quality objective for dissolved oxygen that applies to all surface waters.

*“The dissolved oxygen concentration, as percent saturation, shall not be depressed by more than 10 percent, nor shall the minimum dissolved oxygen*

PETER C. PUMPHREY, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

*concentration be less than 80 percent of saturation. For waters with the beneficial uses of COLD, COLD with SPWN, WARM, and WARM with SPWN, the minimum dissolved oxygen concentration shall not be less than that specified in Table 3-6."*

Table 3-6  
WATER QUALITY CRITERIA FOR  
AMBIENT DISSOLVED OXYGEN CONCENTRATION<sup>1,2</sup>

	Beneficial Use Class			
	COLD & SPWN <sup>3</sup>	COLD	WARM & SPWN <sup>3</sup>	WARM
30 Day Mean	NA <sup>4</sup>	6.5	NA	5.5
7 Day Mean	9.5 (6.5)	NA	6.0	NA
7 Day Mean Minimum	NA	5.0	NA	4.0
1 Day Minimum <sup>5,6</sup>	8.0 (5.0)	4.0	5.0	3.0

<sup>1</sup> From: USEPA. 1986. Ambient water quality criteria for dissolved oxygen. Values are in milligrams per liter (mg/L).

<sup>2</sup> These are water column concentrations recommended to achieve the required intergravel dissolved oxygen concentrations shown in parentheses. For species that have early life stages exposed directly to the water column (SPWN), the figures in parentheses apply.

<sup>3</sup> Includes all embryonic and larval stages and all juvenile forms to 30-days following hatching (SPWN).

<sup>4</sup> NA (Not Applicable).

<sup>5</sup> For highly manipulatable discharges, further restrictions apply.

<sup>6</sup> All minima should be considered as instantaneous concentrations to be achieved at all times.

The Owens River below Tinemaha Reservoir is assigned the following beneficial uses: municipal and domestic supply (MUN); agricultural supply (AGR); groundwater recharge (GWR); contact and noncontact water recreation (REC-1, REC-2); commercial and sportfishing (COMM); cold freshwater habitat (COLD); wildlife habitat (WILD); rare, threatened, or endangered species (RARE); and spawning, reproduction, and development (SPWN). Goose Lake, Billy Lake, and Twin Lakes are all considered minor surface waters in the Lower Owens Hydrologic Area (watershed) and are assigned the following beneficial uses: MUN; AGR; industrial service supply (IND); GWR; REC-1 and REC-2; COMM; warm freshwater habitat (WARM); COLD; WILD; RARE; and SPWN.

In 2017, total snowpack was the second highest in recorded history. LADWP's perceived risk to Los Angeles Aqueduct System (LAAS) infrastructure (primarily infrastructure on Owens Dry Lake) caused LADWP to divert/spread large volumes of water beginning May 6, 2017, into adjacent basins and pastureland to attenuate peak flows. The spreading releases peaked on July 1 and ended by August 30. Flow within the Lower Owens River inlet peaked at 325 cfs on June 26, 2017, and remained high through July 26, 2017. California Department of Fish and Wildlife began receiving reports of fish kills throughout the Lower Owens River in June 2017. California Department of Fish Wildlife staff investigated these reports on June 20 and July 11, 2017, and documented large numbers of dead largemouth bass, sunfish, carp, bullhead catfish, and red swamp crayfish in the Lower Owens River and in the off-channel lakes (Goose Lake, Billy Lake, and Twin Lakes). No living fish, with the exception of western mosquitofish, were observed at any locations; note that mosquitofish are able to extract

oxygen from the air-water interface, allowing the species to survive hypoxic conditions. Dissolved oxygen and water temperature data were collected in the field at each location during those investigations.

Lahontan Water Board staff was provided water quality monitoring data collected at various locations along the Lower Owens River (between Mazurka Canyon Road, four miles west of Independence, to the Lower Owens River Pump Back Station south of Lone Pine Lower Owens River) between March 22 and July 21, 2017 (Enclosure), as well as photo-documentation of fish mortality at some of these locations. The monitoring data documents severe declines in dissolved oxygen concentrations and the onset of hypoxia within the Lower Owens River beginning in mid-June 2017, which coincides with the timing of LADWP's spreading activities. For the temperature ranges observed during 2017, California Department of Fish and Wildlife staff have indicated that the fish species present in the Lower Owens River would have become stressed at dissolved oxygen concentrations around 1.0 mg/L, and would not survive prolonged exposure to oxygen levels below 0.5 mg/L. Based on the data provided, dissolved oxygen concentrations declined to lethal levels by June 20, 2017, at most locations being monitored and culminated in the fish kills documented by California Department of Fish and Wildlife staff on June 20 and July 11, 2017.

On February 20, 2019, LADWP informed Water Board staff that spreading activities were being initiated in the Big Pine area and from the Owens River into the McNally canals (east of Bishop) in anticipation of a higher than normal runoff event in 2019. Water Board staff expressed concern with respect to mobilizing sediment and nutrients during spreading activities and the potential for water quality impacts to result from return flows discharging directly to the Owens River and/or other surface waters. On February 22, 2019, Water Board staff recommended to LADWP that it develop and implement a water quality monitoring plan for surface waters that could potentially be affected, either directly or indirectly, by spreading activities. On February 25, 2019, LADWP verbally agreed to prepare and implement such a plan. As of the date of this notice, LADWP has not provided any documentation or notification that a water quality monitoring plan has or is being developed or that water quality monitoring is being implemented to monitor its ongoing spreading activities in the Big Pine area or the McNally canals.

LADWP's spreading activities, in combination with its management of waters, which has led to unmitigated potential for hypoxic conditions, resulted in lethal levels of dissolved oxygen and fish mortality events in the Lower Owens River and in several off-channel lakes (Goose Lake, Billy Lake, and Twin Lakes) following the 2017 snowmelt runoff event. By discharging sediment and nutrients during the spreading activities, LADWP violated the Basin Plan water quality objective for dissolved oxygen, which constitutes a violation of the waste discharge prohibition cited above.

The above-referenced alleged violations are serious, and repeat violations are not acceptable. LADWP has not conducted a comprehensive evaluation of potential options and mitigation available to avoid, minimize, or mitigate the impacts from spreading water. Water Board staff continue to assess the alleged violations and may pursue

enforcement action as necessary, depending on LADWP's response and actions regarding this Notice of Violation.

If you have any questions, please contact me at (760) 241-7404 ([patrice.copeland@waterboards.ca.gov](mailto:patrice.copeland@waterboards.ca.gov)) or Jan Zimmerman, Senior Engineering Geologist, at (760) 241-7376 ([jan.zimmerman@waterboards.ca.gov](mailto:jan.zimmerman@waterboards.ca.gov)).



Patrice Copeland, P.G.  
Supervising Engineering Geologist

Enc: Water Quality Data (March – July 2017)

cc: Katherine Rubin, Los Angeles Department of Water and Power  
([Katherine.rubin@ladwp.com](mailto:Katherine.rubin@ladwp.com))  
Heidi Calvert, California Dept. of Fish and Wildlife  
Nancee Murray, Senior Staff Counsel, California Dept. of Fish and Wildlife  
Elizabeth Beryt, State Water Resources Control Board, Office of Chief Council  
Doug Smith, Assistant Executive Officer, Lahontan Water Board  
Jan Zimmerman, Senior Engineering Geologist, Lahontan Water Board  
Jeff Brooks, Enforcement Coordinator, Lahontan Water Board  
Naomi Kaplowitz, State Water Resources Control Board, Office of Enforcement

**ENCLOSURE**

**Water Quality Data  
(March – July 2017)**



Mazourka Road Bridge			Manzanar Road Bridge			Reinhackle LORP Station			Narrow Gauge Road Bridge			Old Keeler Bridge Station			Pumpback Station Pool			Billy Lake at Gate 139			LORP Two Culverts			LORP North of Goose Lake Return			LORP below Black Rock Return					
Date	Time	Temp (C)	DO (mg/l)	Time	Temp (C)	DO (mg/l)	Time	Temp (C)	DO (mg/l)	Date	Time	Temp (C)	DO (mg/l)	Time	Temp (C)	DO (mg/l)	Date	Time	Temp (C)	DO (mg/l)	Time	Temp (C)	DO (mg/l)	Time	Temp (C)	DO (mg/l)	Time	Temp (C)	DO (mg/l)			
3/22/2017	13:15	11.5	5.2	13:40	10.7	6.1	14:55	10.7	5.8	3/22/2017	14:25	11.2	6.2	14:05	11.1	5.9	3/22/2017															
3/31/2017	12:40	8.9	5.0	13:50	8.6	7.2		9.0	6.1	3/31/2017	15:00	8.4	7.3	14:40	9.0	6.4	3/31/2017															
4/5/2017	11:00	11.7	3.9	11:25	10.0	5.4				4/5/2017							4/5/2017															
4/7/2017	12:45	13.9	3.9	13:00	12.4	6.7	14:15	12.0	5.5	4/7/2017	13:40	11.4	8.1	13:25	11.4	5.9	4/7/2017															
4/12/2017	12:05	12.8	3.4	12:25	13.6	4.3	13:50	12.9	5.6	4/12/2017	13:30	11.2	6.2	12:55	11.5	4.7	4/12/2017															
4/14/2017	8:45	12.4	2.7	9:10	12.1	3.7	10:20	12.8	3.5	4/14/2017	9:40	11.0	4.8	10:00	11.2	5.9	4/14/2017															
4/24/2017	12:30	13.8	3.9	12:50	13.5	4.3	14:00	13.8	3.5	4/24/2017	13:20	14.5	3.0	13:40	15.2	3.7	4/24/2017															
4/28/2017	10:15	12.8	4.0	10:35	11.8	4.5	11:45	12.1	4.0	4/28/2017	11:00	12.5	4.4	11:20	13.2	4.4	4/28/2017															
5/23/2017	13:05	20.4	1.9	13:20	19.0	3.6	14:25	18.4	2.8	5/23/2017	13:35	18.4	4.0	14:00	19.3	4.1	5/23/2017															
5/29/2017	11:10	18.3	1.7	11:25	20.0	1.4	12:45	21.1	1.5	5/29/2017	11:45	19.7	2.4	12:05	19.9	3.1	5/29/2017															
6/6/2017	12:00	21.7	1.4	12:20	20.0	2.2	13:20	20.7	1.1	6/6/2017	12:40	20.6	2.0	13:00	21.4	2.1	6/6/2017															
6/13/2017	10:40	18.7	1.4	11:30	17.4	2.7				6/13/2017							6/13/2017															
6/19/2017	9:10	24.7	0.3	9:30	24.3	0.6	11:15	24.3	0.8	6/19/2017	9:50	21.7	1.4	10:30	22.1	2.8	6/19/2017															
6/20/2017	11:40	25.3	0.3							6/20/2017							6/20/2017	11:45	23.6	1.0	12:00	25.5	0.3	12:30	25.2	0.3						
6/22/2017				8:45	24.7	0.4	9:30	24.9	0.2	6/22/2017	9:10	23.9	0.5				6/22/2017															
6/23/2017										6/23/2017	14:15	25.6	0.3	13:50	25.7	0.5	13:20	25.4	1.5	6/23/2017								14:30	25.2	1.84		
6/28/2017	10:30	24.1	0.3	11:00	23.6	0.2	12:30	24.4	0.3	6/28/2017	11:15	23.2	0.3	11:30	23.9	0.3	12:00	24.7	0.2	6/28/2017				10:20	23.5	0.3	10:00	22.0	0.4	9:50	20.8	1.3
7/7/2017	8:30	23.8	0.4	10:55	23.2	0.2	12:35	23.4	0.3	7/7/2017	12:15	23.5	0.2	11:50	24.3	0.3	11:30	24.8	0.6	7/7/2017	8:40	22.4	0.5	8:50	23.6	0.4	9:05	22.7	1.0	9:45	21.8	1.8
7/13/2017	12:15	24.6	0.8	13:25	24.5	1.6	14:30	24.6	0.5	7/13/2017	14:15	24.4	0.5	13:55	24.9	0.4	7/13/2017	12:25	24.2	0.5	12:45	24.5	0.8	13:00	24.6	4.2						
7/21/2017	12:00	24.0	1.2	13:00	23.5	0.9	14:20	23.7	1.1	7/21/2017	14:10	22.9	1.1	13:50	23.4	1.5	13:35	24.5	1.1	7/21/2017	12:10	23.3	0.9	12:20	23.7	1.2						

YSI 55 DO/T sensor used; device calibrated before each field event

Empty cells have no data collected on given day

Dissolved Oxygen (DO) is milligrams per liter; temperature (Temp) in degree centigrade

Dead fish noted starting from 6/9/17 to 6/28/17 (carp, bass, catfish, crayfish) from Mazourka Road Bridge to Pumpback Station

Various degrees of Hydrogen sulfide odor were noted at lower DOs around/below 0.5 mg/L

# **ATTACHMENT B**

## **ORDER OVERRULING DEMURRER TO FIRST AMENDED VERIFIED PETITION FOR WRIT OF MANDATE**

**[California Superior Court for Alameda County,  
February 22, 2019]**

**SERVICE LIST**  
*County of Mono v. City of Los Angeles, et al.*  
Case No. RG18923377

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CALIFORNIA DEPARTMENT OF FISH  
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Los Angeles, CA 90013-1256

Attorneys for Real Party in Interest  
CALIFORNIA DEPARTMENT OF FISH  
AND WILDLIFE

I declare under penalty of perjury that the following is true and correct

Executed on February 22, 2019 at Oakland, California.

Chad Finke

Executive Officer/Clerk of the Superior Court

by



*Pam Williams Deputy Clerk*



21105422

FILED  
ALAMEDA COUNTY

FEB 20 2019

CLERK OF THE SUPERIOR COURT  
By Pam Williams Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

COUNTY OF MONO et al,

Petitioners,

v.

CITY OF LOS ANGELES, et al.

Respondents.

Case No. RG18-923377

ORDER OVERRULING DEMURRER TO  
FIRST AMENDED VERIFIED PETITION  
FOR WRIT OF MANDATE.

DATE 1/18/19

TIME 9:00 AM

DEPT 15

The demurrer of the City of Los Angeles et al (collectively "the City") to the petition of the County of Mono et al (collectively "Mono") for a writ of mandate directing the City to comply with CEQA came on for hearing on 1/18/19, in Department 15 of this Court, the Honorable Evelio Grillo presiding. After consideration of the briefing and the argument, IT IS ORDERED: The demurrer of the City to the petition of Mono is OVERRULED.

ALLEGATIONS IN COMPLAINT

The City owns land. (1AP, para 14.) The land is the habitat of the Bi-State Sage Grouse. (1AP, para 17-24.)

1 The City leased 6,400 acres and the leases included 5 acre-feet/acre. (1AP, para 14.)  
2 This would result in the land receiving up to 32,000 acre-feet. (1AP, para 25.) The City  
3 historically provided an average of 3.9-4.7 acre-feet for a total of 35,000-30,000. (1AP, para 15.)

4 In March 2018, the City proposed new leases that provided no water. (1AP, para 25.)  
5 Mono and the City exchanged correspondence on the proposed new leases. (1AP, para 26-27.)

6 On 5/1/18, the City notified Mono that the City would offer leases for 2018 that would be  
7 at 0.71 acre-feet/acre, or 4,600 AF for the 6,400 acre area. (1AP, para 28.) Mono made a  
8 competing proposal. The City maintained its position that the leases would be offered at 0.71  
9 acre-feet/acre. (1AP, para 29-30.)

10 The City did not initiate or complete any administrative process or CEQA review before  
11 or as part of its decision to cease the historic practice of offering leases with 5 acre-feet/acre and  
12 to commence offering leases with 0.71 AF/acre. (1AP, para 31, 36-37.)

13 The 1AP asserts a single cause of action under CEQA alleging that the City's change in  
14 the terms of its proposed leases for the 6,400 acres was a "project" under CEQA (PRC 21065),  
15 that the project was subject to discretionary approval (PRC 21080; 14 CCR 15378(a)(1)), that  
16 this required CEQA review, and that the City did not conduct CEQA review. (1AP, para 42-  
17 53.)  
18  
19  
20

#### 21 REQUEST FOR JUDICIAL NOTICE

22 The City's RJN filed 11/9/18 asks the court to take judicial notice of (A) a Notice of  
23 Preparation dated 8/15/18 and (B) a LADWP Approval Board letter dated 2/2/10 with attached  
24 Ranch Leases and LADWP Resolution 010-217 dated 2/2/10. The City seeks permissive judicial  
25 notice under Evid Code 452. The requests are DENIED.  
26

1 Petitioner's RJN filed 1/8/19 asks the court to take judicial notice of (A) a letter from the  
2 LADWP dated 6/6/18 and (B) a letter from the City of Los Angeles dated 5/1/18. Petitioners  
3 seek permissive judicial notice under Evid Code 452. The requests are DENIED.

4 The court denies the requests because the City is effectively turning the demurrer into an  
5 evidentiary hearing. "The hearing on demurrer may not be turned into a contested evidentiary  
6 hearing through the guise of having the court take judicial notice of documents whose  
7 truthfulness or proper interpretation are disputable." (*Fremont Indem. Co. v. Fremont General*  
8 *Corp.* (2007) 148 Cal.App.4th 97, 114.) "[A] court cannot by means of judicial notice convert a  
9 demurrer into an incomplete evidentiary hearing in which the demurring party can present  
10 documentary evidence and the opposing party is bound by what that evidence appears to show."  
11 (*Fremont*, 148 Cal.App.4th at 115.) (See also *Richtek USA, Inc. v. uPI Semiconductor*  
12 *Corporation* (2015) 242 Cal.App.4th 651, 660.)

14 If the court were to have granted the requests, the documents do not compel the  
15 conclusion that the City exhausted the CEQA procedure in 2010. The LADWP Approval Board  
16 Letter dated 2/2/10 is a recommendation by the LADWP to the City Board. This is not a City  
17 resolution. This is a staff letter that would be in a CEQA administrative record. (City RJN, Exh  
18 B. page 12.) The Letter implies states that the City Attorney determined that the Ranch Leases  
19 are categorically exempt from CEQA under "the City of Los Angeles Guidelines for the  
20 implementation of [CEQA]." It is unclear what effect the court is to give to an opinion based on  
21 compliance with the City of Los Angeles Guidelines for CEQA. (City RJN, Exh B. page 19.)  
22 The City's Resolution dated 2/2/10 makes no express CEQA finding. The Resolution states only  
23 that the leases were "approved as to form and legality by the City Attorney." (City RJN, Exh B,  
24 page 20.) If the court did consider these documents, then the court would construe them in favor  
25  
26

1 of petitioners at the demurrer stage and find that the City did not make a CEQA finding in a City  
2 resolution.

3 If the court were to have granted the requests, noticeably absent in the City's request for  
4 judicial notice is a Notice of Determination under Pub Res Code 21552(b). The City relies on  
5 *City of Chula Vista v. County of San Diego* (1994) 23 Cal.App.4th 1713, 1719, for the  
6 proposition that the court can take judicial notice of CEQA documents. In *City of Chula Vista*,  
7 the court could take judicial notice of a city resolution, which defined a service contract as a  
8 CEQA project and a notice of determination, which set a clear starting point for the CEQA  
9 statute of limitations. In this case, in contrast, the City made no express finding that the Ranch  
10 leases were CEQA exempt and the City apparently did not file a Notice of Determination.  
11

12  
13 DEMURRER BASED ON UNCERTAINTY

14 The demurer is OVERRULED to the extent it is based on uncertainty.

15 The City asserts that Mono must identify the leases with greater certainty – dates, parties,  
16 properties, etc. The allegations in the complaint are adequate. The City's demurer states that for  
17 purposes of the demurrer it has identified "the only operative leases in Mono County that the  
18 FAP could be referencing." (Dmr at 11:7-8.) Therefore, although the petition could be more  
19 specific, the petition has placed the City on notice of the allegations against it.  
20

21  
22 DEMURRER BASED ON STATUTE OF LIMITATIONS.

23 The petition alleges that the City did not initiate or complete any administrative process  
24 or CEQA review before or as part of its decision to cease the historic practice of offering leases  
25 with 5 acre-feet/acre and to commence offering leases with 0.71 acre-feet/acre. (1AP, para 31,  
26

1 36-37.) Therefore, the court applies the 180 day CEQA statute of limitations. A lawsuit must be  
2 filed “within 180 days from the date of the public agency's decision to carry out or approve the  
3 project, or, if a project is undertaken without a formal decision by the public agency, within 180  
4 days from the date of commencement of the project.” (Pub Res. Code §21167(d); 14 CCR  
5 15112.)

6 The petition alleges that the City’s “decision” was the 5/1/18 notification. (1AP, para  
7 28.) Construing all the factual allegations in support of petitioners, this is supported by the  
8 factual allegations. The petition was filed on 9/27/18, which is within 180 days.

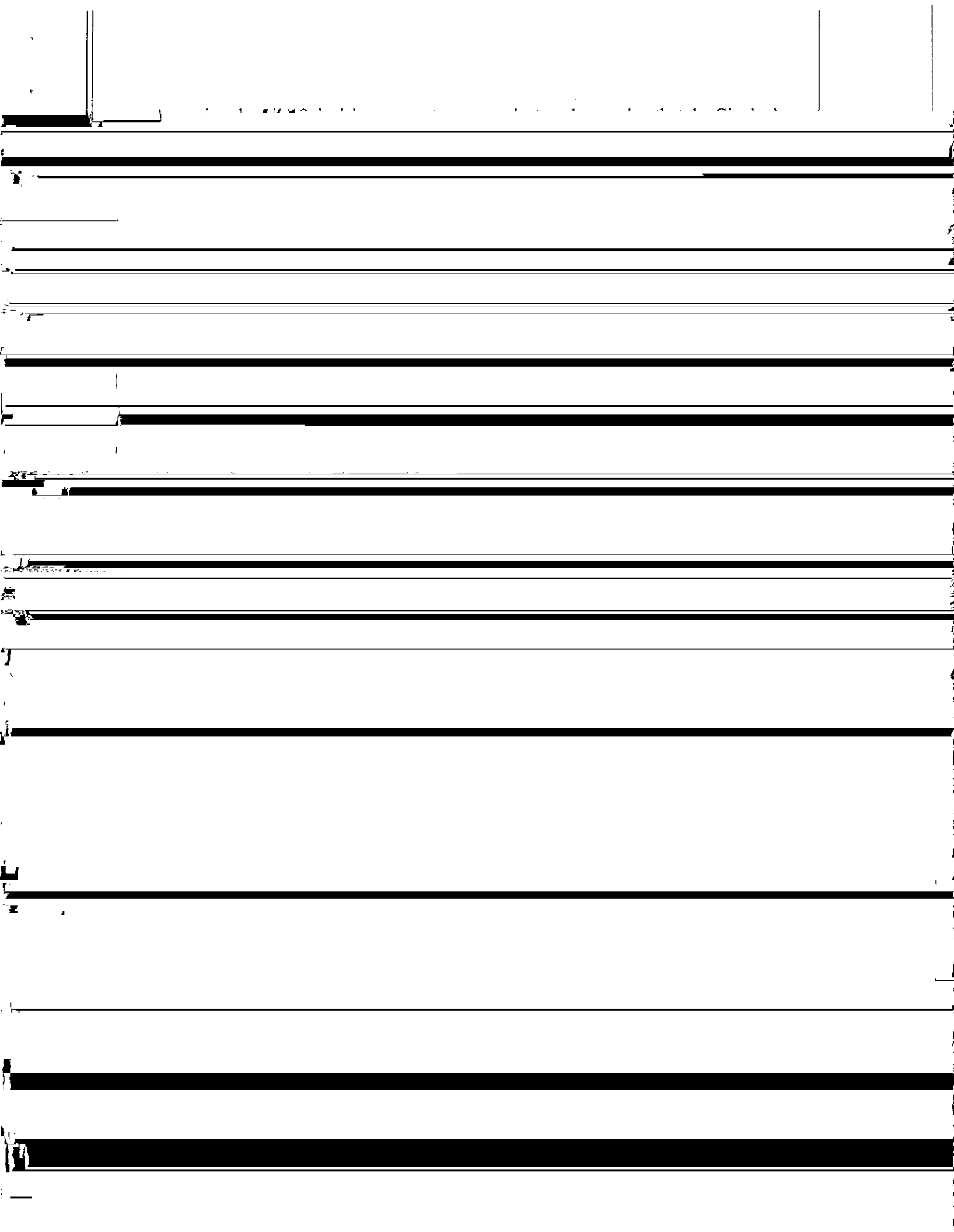
9 The City asserts that the 5/1/18 decision was not a new project and was instead a  
10 continuation of the City’s 2010 decision to approve the Ranch Leases and related Resolution.  
11 This is plausible, but the City’s 2010 decision to approve the Ranch Leases is not alleged in the  
12 complaint and the court denied the City’s request for judicial notice.  
13

14 A change in water use can be the continuation of a prior project or a new CEQA project.  
15 In *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, the court held that the court should read  
16 the word “project” broadly and that a change in plans for water acquisition can be a new CEQA  
17 project. In *County of Inyo v. City of Angeles* (1977) 71 Cal.App.3d 185, 195, the court again  
18 stated that a proposed change in water acquisition and use can be a CEQA project. The court  
19 was very specific:  
20

21 The project which forms both the scope of his litigation and the subject of the EIR  
22 mandated by this court is the department of water and power’s program for  
23 increasing the average rate of groundwater extraction and use (both for export and  
24 in-valley use) above the baseline rate reasonably representing the average rate of  
25 groundwater extraction and use (both for export and in-valley use) preceding the  
26 second aqueduct’s availability for use.

(71 Cal.App.3d at 196.) This is a demurrer, so the court construes the factual allegations in favor  
of petitioners. The 5/1/18 decision was arguably a new project.





1 allocation. (Reply at 12:9-10.) In *Communities for a Better Environment v. South Coast Air*  
2 *Quality Management District* (2010) 48 Cal.4th 310 (“*CBE*”), the project proponent,  
3 ConocoPhillips, argued that “the analytical baseline for a project employing existing equipment  
4 should be the maximum permitted operating capacity of the equipment, even if the equipment is  
5 operating below those levels at the time the environmental analysis is begun.” (*CBE*, 48 Cal.4<sup>th</sup>  
6 at 316.) The Supreme Court disagreed and unanimously held that CEQA requires that the  
7 baseline should reflect “established levels of a particular use,” and not the “merely hypothetical  
8 conditions allowable under the permits....” Therefore, even if the court had taken judicial notice  
9 of the leases, it would not have changed the conclusion that the petition adequately alleges that  
10 the City decided to initiate a CEQA project on 5/1/18.  
11

12 Finally, and again if the court had taken judicial notice of the Ranch Leases, then Mono’s  
13 theory is not that the leases were improperly approved pursuant to a categorical exemptions in  
14 2010 (which would be barred by the 180 day statute of limitations) but that the City in 2018  
15 made a change of policy and practice regarding the removal of water from lands and  
16 habitat. (Ptn, para 28.) Under *CBE*, 48 Cal.4th 310, a contract that reserves discretion to use “up  
17 to” a certain amount does not preclude a CEQA challenge to a change of policy or practice  
18 within a contractual grant of discretion.  
19

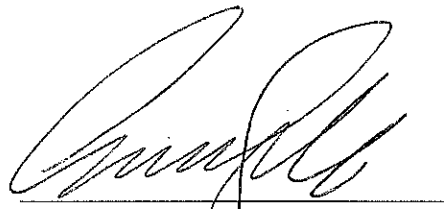
20 The court has found no authority suggesting that a grant of discretion in a contract can  
21 excuse compliance with CEQA. The City relies on *City of Chula Vista v. County of San Diego*  
22 (1994) 23 Cal.App.4th 1713, 1721, for the proposition that if a contract permits a range of  
23 actions then any action within the contractually permitted range is not a new CEQA project.  
24 This reading of *City of Chula Vista* would appear to be contrary to the Supreme Court’s  
25 subsequent decision in *CBE, supra*. In addition, *City of Chula Vista* concerned the different  
26

1 issue of whether the contract at issue and the approved CEQA "project" were materially  
2 different. In *City of Chula Vista*, the contract permitted an increase from 1,300 drums to 2,000  
3 drums and the board of supervisors' resolution specifically approved an agreement providing for  
4 storage of up to 2,000 drums. That is different from the issue in *CBE* and (arguably) in this case  
5 of whether a contractually permitted proposed change requires CEQA review because it is a  
6 substantial change from an established environmental baseline.

7  
8 CONCLUSION

9  
10 The demurrer of the City to the petition of Mono is OVERRULED. The City must file an  
11 answer on or before 3/15/19.

12  
13 Dated: February 10, 2019

14   
15 Evelio Grillo  
16 Judge of the Superior Court

CLERK'S CERTIFICATE OF SERVICE BY MAIL  
CCP 1013a(3)

CASE NAME: COUNTY OF MONO v. CITY OF LOS ANGELES, et al. RG18-923377

I certify that the following is true and correct: I am the clerk in Dept. 15 of the Superior Court of California, County of Alameda and not a party to this cause. I served **ORDER OVERRULING DEMURRER TO FIRST AMENDED VERIFIED PETITION FOR WRIT OF MANDATE** by placing copies in envelopes addressed as shown below and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

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**JULIA L. BOND (SBN: 166587)**  
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# **ATTACHMENT C**

**RESPONDENT CITY OF LOS ANGELES AND LOS  
ANGELES DEPARTMENT OF WATER AND POWER'S  
ANSWER TO FIRST AMENDED VERIFIED PETITION FOR  
WRIT OF MANDATE**

**[City of Los Angeles, et al.,  
March 15, 2019]**

1 MICHAEL N. FEUER, City Attorney (SBN 111529)  
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EXEMPT FROM FILING FEES  
GOV'T CODE § 6103

13 Attorneys for Respondents CITY OF LOS  
14 ANGELES, CITY OF LOS ANGELES  
DEPARTMENT OF WATER AND POWER,  
15 and LOS ANGELES DEPARTMENT OF  
WATER AND POWER BOARD OF  
16 COMMISSIONERS

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

18 **COUNTY OF ALAMEDA**

19 COUNTY OF MONO and SIERRA CLUB,

20 Petitioners

21 v.

22 CITY OF LOS ANGELES, LOS ANGELES  
DEPARTMENT OF WATER AND POWER;  
23 LOS ANGELES DEPARTMENT OF  
WATER AND POWER BOARD OF  
24 COMMISSIONERS; and DOES 1 through 20;

25 Respondents

26 CALIFORNIA DEPARTMENT OF FISH  
27 AND WILDLIFE; and DOES 21 through 40

28 Real Parties in Interest.

Case No. RG18923377

ASSIGNED FOR ALL PURPOSES TO:  
JUDGE EVELIO GRILLO, DEPT. 15

**RESPONDENTS CITY OF LOS  
ANGELES AND LOS ANGELES  
DEPARTMENT OF WATER AND  
POWER'S ANSWER TO FIRST  
AMENDED VERIFIED PETITION FOR  
WRIT OF MANDATE**

Trial Date: None Set

1 Defendants and Respondents the City of Los Angeles and Los Angeles Department of  
2 Water and Power (collectively, "the City" or "City") hereby answer the First Amended Verified  
3 Petition for Writ of Mandate ("Petition") brought by Petitioners County of Mono and Sierra Club  
4 (collectively, "Petitioners") in the above-captioned action. For ease of reference, certain headings  
5 in the Petition are repeated, but should not be construed as an admission or adoption of any part of  
6 the Petition. Accordingly, the City admit, deny and allege as follows:

### 7 INTRODUCTION

8 1. Answering Paragraph 1, the City alleges that the allegations in this Paragraph  
9 constitute a characterization of Petitioners' claims, to which no response is required and the  
10 Petition speaks for itself. Except as expressly alleged herein, the City denies, generally and  
11 specifically, the allegations in Paragraph 1 of the Petition.

12 2. Answering Paragraph 2, the City alleges that the allegations in this Paragraph  
13 constitute a characterization of Petitioners' claims, to which no response is required and the  
14 Petition speaks for itself. The City alleges that the Petition purports to concern approximately  
15 6,400 acres of land owned by the City in Mono County ("Property"). Except as expressly alleged  
16 herein, the City denies, generally and specifically, the allegations in Paragraph 2 of the Petition.

17 3. Answering Paragraph 3, the allegations are comprised of characterizations of  
18 Petitioners' claims and Petitioners' legal conclusions, which requiring no response. Except as  
19 specifically admitted, alleged or denied herein, the City denies each and every allegation in  
20 Paragraph 3.

21 4. Answering Paragraph 4, the allegations are comprised of the allegations are  
22 comprised of characterizations of Petitioners' claims and Petitioners' legal conclusions, which  
23 requiring no response. Except as specifically admitted, alleged or denied herein, the City denies  
24 each and every allegation in Paragraph 4.

### 25 PARTIES

26 5. Answering Paragraph 5, the City admits that Petitioner County of Mono is a  
27 political subdivision of the State of California. Except as specifically admitted, alleged or denied  
28 herein, the City denies each and every remaining allegation in Paragraph 5.

1       6.       Answering Paragraph 6, the City lacks sufficient information and belief regarding  
2 the allegations in Paragraph 6 of the Petition, and on that basis denies, generally and specifically,  
3 those allegations.

4       7.       Answering Paragraph 7, the City admits that it is a municipal corporation organized  
5 under the laws of the State of California and the Charter, and that it is the owner of the Property.  
6 Except as expressly alleged herein, the City denies, generally and specifically the allegations in  
7 Paragraph 7 of the Petition.

8       8.       Answering Paragraph 8, the City admits that Los Angeles Department of Water and  
9 Power is a political subdivision of the City, and is responsible for control and management of the  
10 Property. Except as expressly alleged herein, the City denies, generally and specifically the  
11 allegations in Paragraph 8 of the Petition.

12       9.       Answering Paragraph 9, the City admits that Los Angeles Department of Water and  
13 Power is governed by its Board of Commissioners. Except as expressly alleged herein, the City  
14 denies, generally and specifically the allegations in Paragraph 9 of the Petition.

15       10.       Answering Paragraph 10, the City lacks sufficient information and belief regarding  
16 the allegations in Paragraph 10 of the Petition, and on that basis denies, generally and specifically,  
17 those allegations.

18       11.       Answering Paragraph 11, the City admits that Real Party in Interest California  
19 Department of Fish and Wildlife is a political subdivision of the State of California. Except as  
20 expressly alleged herein, the City denies, generally and specifically the allegations in Paragraph 11  
21 of the Petition.

22       12.       Answering Paragraph 12, the City lacks sufficient information and belief regarding  
23 the allegations in Paragraph 12 of the Petition, and on that basis denies, generally and specifically,  
24 those allegations.

25                                       **BACKGROUND INFORMATION**

26       13.       Answering Paragraph 13, the City admits that it owns over 62,000 acres of  
27 property, including senior water rights, in Mono County. Except as expressly alleged herein, the  
28 City denies, generally and specifically the allegations in Paragraph 13 of the Petition.



1           14.     Answering Paragraph 14, the City admits that it has entered into several lease  
2 agreements over portions of the Property. These leases speak for themselves and no response  
3 regarding their contents is required. Except as expressly alleged herein, the City denies, generally  
4 and specifically the allegations in Paragraph 14 of the Petition.

5           15.     The City denies, generally and specifically the allegations in Paragraph 15 of the  
6 Petition.

7           16.     Answering Paragraph 16, the City lacks sufficient information and belief regarding  
8 the allegations in Paragraph 16 of the Petition, and on that basis denies, generally and specifically,  
9 those allegations.

10          17.     Answering Paragraph 17, the City lacks sufficient information and belief regarding  
11 the allegations in Paragraph 17 of the Petition, and on that basis denies, generally and specifically,  
12 those allegations.

13          18.     Answering Paragraph 18, the City lacks sufficient information and belief regarding  
14 the allegations in Paragraph 18 of the Petition, and on that basis denies, generally and specifically,  
15 those allegations.

16          19.     Answering Paragraph 19, the City lacks sufficient information and belief regarding  
17 the allegations in Paragraph 19 of the Petition, and on that basis denies, generally and specifically,  
18 those allegations.

19          20.     Answering Paragraph 20, the City lacks sufficient information and belief regarding  
20 the allegations in Paragraph 20 of the Petition, and on that basis denies, generally and specifically,  
21 those allegations.

22          21.     Answering Paragraph 21, the City lacks sufficient information and belief regarding  
23 the allegations in Paragraph 21 of the Petition, and on that basis denies, generally and specifically,  
24 those allegations.

25          22.     Answering Paragraph 22, the City lacks sufficient information and belief regarding  
26 the allegations in Paragraph 22 of the Petition, and on that basis denies, generally and specifically,  
27 those allegations.

28          23.     Answering Paragraph 23, the City lacks sufficient information and belief regarding

1 the allegations in Paragraph 23 of the Petition, and on that basis denies, generally and specifically,  
2 those allegations.

3 24. Answering Paragraph 24, the City alleges that the case *Desert Survivors, et al. v.*  
4 *U.S. Department of the Interior* (2018) N.D. Cal., Case No. 3:16-cv-01165-JCS speaks for itself.  
5 Except as specifically admitted, alleged or denied herein, the City denies each and every allegation  
6 in Paragraph 24.

7 25. Answering Paragraph 25, the City admits that the leases entered into in 2009  
8 expired on December 31, 2013 and have been in “holdover” status since January 1, 2014. The  
9 leases speak for themselves and no response regarding their contents is required. Except as  
10 specifically admitted, alleged or denied herein, the City denies each and every allegation in  
11 Paragraph 25.

12 26. Answering Paragraph 26, the City alleges that the April 19, 2018 Correspondence  
13 from Mono County to Los Angeles Mayor Eric Garcetti speaks for itself and no response  
14 regarding its contents is required. Except as specifically admitted, alleged or denied herein, the  
15 City denies each and every allegation in Paragraph 26.

16 27. Answering Paragraph 27, the City alleges that the May 1, 2018 Correspondence  
17 from Los Angeles Mayor Eric Garcetti to Mono County speaks for itself and no response  
18 regarding its contents is required. Except as specifically admitted, alleged or denied herein, the  
19 City denies each and every allegation in Paragraph 27.

20 28. Answering Paragraph 28, the City admits that on or about May 1, 2018, it notified  
21 the lessees in Mono County Leases that they will be provided with approximately 4,600 acre feet  
22 of water. Except as specifically admitted, alleged or denied herein, the City denies each and every  
23 allegation in Paragraph 28.

24 29. Answering Paragraph 29, the City alleges that the May 3, 2018 Correspondence  
25 speaks for itself and no response regarding its contents is required. Except as specifically  
26 admitted, alleged or denied herein, the City denies each and every allegation in Paragraph 29.

27 30. Answering Paragraph 30, the City admits that it provided lessees in Mono County  
28 with water in 2018. The City further admits and avers that it has never committed to providing

1 lessees with a guaranteed amount of water and has maintained its discretion regarding the amount  
2 of water, if any, to provide to lessees. The City further avers that it distributed over 7,400 acre-  
3 feet of water onto lands in Long Valley in 2018. Except as specifically admitted, alleged or  
4 denied herein, the City denies each and every allegation in Paragraph 30.

5 31. Answering Paragraph 31, the City admits that it spread water in 2018 to benefit B-  
6 State Sage Grouse habitat. Except as specifically admitted, alleged or denied herein, the City  
7 denies each and every allegation in Paragraph 31.

8 32. Answering Paragraph 32, the allegations are comprised of characterizations of  
9 Petitioners' claims and Petitioners' legal conclusions, which requiring no response. Except as  
10 specifically admitted, alleged or denied herein, the City denies each and every allegation in  
11 Paragraph 32.

12 33. Answering Paragraph 33, the allegations are comprised of characterizations of  
13 Petitioners' claims and Petitioners' legal conclusions, which requiring no response. Except as  
14 specifically admitted, alleged or denied herein, the City denies each and every allegation in  
15 Paragraph 33.

16 **JURISDICTION AND VENUE**

17 34. Answering Paragraph 34, the allegations are comprised of legal conclusions  
18 requiring no response. Except as specifically admitted, alleged or denied herein, the City denies  
19 each and every allegation in Paragraph 34.

20 35. Answering Paragraph 35, the allegations are comprised of legal conclusions  
21 requiring no response. Except as specifically admitted, alleged or denied herein, the City denies  
22 each and every allegation in Paragraph 35.

23 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**  
24 **AND INADEQUACY OF REMEDY**

25 36. Answering Paragraph 36, the allegations are comprised legal conclusions requiring  
26 no response. Except as specifically admitted, alleged or denied herein, the City denies each and  
27 every allegation in Paragraph 36.

28 37. Answering Paragraph 37, the allegations are comprised of characterizations of

1 Petitioners' claims and Petitioners' legal conclusions, which requiring no response. Except as  
2 specifically admitted, alleged or denied herein, the City denies each and every allegation in  
3 Paragraph 37.

4 38. Answering Paragraph 38, the City alleges that the document attached to the Petition  
5 as Exhibit A speaks for itself. The remaining allegations are comprised of characterizations of  
6 Petitioners' claims and Petitioners' legal conclusions, which requiring no response. Except as  
7 specifically admitted, alleged or denied herein, the City denies each and every allegation in  
8 Paragraph 38.

9 39. Answering Paragraph 39, the allegations are comprised of legal conclusions  
10 requiring no response. The City denies that Petitioners are entitled to the relief requested or any  
11 relief whatsoever. Except as specifically admitted, alleged or denied herein, the City denies each  
12 and every allegation in Paragraph 39.

13 40. Answering Paragraph 40, the allegations are comprised of legal conclusions  
14 requiring no response. Except as specifically admitted, alleged or denied herein, the City denies  
15 each and every allegation in Paragraph 40.

16 **STANDING**

17 41. Answering Paragraph 41, the allegations are comprised of legal conclusions  
18 requiring no response. Except as specifically admitted, alleged or denied herein, the City denies  
19 each and every allegation in Paragraph 41.

20 **CAUSE OF ACTION**

21 **(Violation of the California Environmental Quality Act,  
22 Public Resources Code, § 21000 *et seq.*)**

23 42. Answering Paragraph 42, the City re-alleges and incorporated by reference each  
24 and every preceding Paragraph of this Answer as if fully set forth herein.

25 43. The City denies each and every allegation in Paragraph 43.

26 44. Answering Paragraph 44, the City alleges that California Environmental Quality  
27 Act ("CEQA"), and specifically Public Resources Code section 21065, speaks for itself. Except as  
28 specifically admitted, alleged or denied herein, the City denies each and every allegation in

1 Paragraph 44.

2 45. Answering Paragraph 45, the City alleges that CEQA Guidelines, and specifically  
3 CEQA Guidelines § 15378(a)(1), speak for themselves. Except as specifically admitted, alleged  
4 or denied herein, the City denies each and every allegation in Paragraph 45.

5 46. Answering Paragraph 46, the City alleges that CEQA Guidelines, and specifically  
6 CEQA Guidelines § 15352(a), speak for themselves. Except as specifically admitted, alleged or  
7 denied herein, the City denies each and every allegation in Paragraph 46.

8 47. Answering Paragraph 47, the City alleges that CEQA and the CEQA Guidelines,  
9 and specifically Public Resources Code, §§ 21100, 21002, and 21002.1(a), and CEQA Guidelines  
10 §§ 15070 and 15081 speak for themselves. The City further alleges that the allegations are  
11 comprised of legal conclusions requiring no response. Except as specifically admitted, alleged or  
12 denied herein, the City denies each and every allegation in Paragraph 47.

13 48. Answering Paragraph 48, the City alleges that the case *Mountain Lion Foundation*  
14 *v. Fish & Game Com.* (1997) 16 Cal.4th 105, 112 speaks for itself. Except as specifically  
15 admitted, alleged or denied herein, the City denies each and every allegation in Paragraph 48.

16 49. Answering Paragraph 49, the City alleges that CEQA Guidelines, and specifically  
17 CEQA Guidelines § 15003, speak for themselves. Except as specifically admitted, alleged or  
18 denied herein, the City denies each and every allegation in Paragraph 49.

19 50. Answering Paragraph 50, the City alleges that CEQA, and specifically Public  
20 Resources Code section 21061, speaks for itself. Except as specifically admitted, alleged or  
21 denied herein, the City denies each and every allegation in Paragraph 50.

22 51. Answering Paragraph 51, the City alleges that CEQA and the case *Laurel Heights*  
23 *Improvement Ass'n of San Francisco v. Regents of the University of California* (1988) 47 Cal.3d  
24 376 speak for themselves. Except as specifically admitted, alleged or denied herein, the City  
25 denies each and every allegation in Paragraph 51.

26 52. The City denies each and every allegation in Paragraph 52.

27 53. The City denies each and every allegation in Paragraph 53. The City further denies  
28 that Petitioners are entitled to the relief requested or any relief whatsoever.

1 **PRAYER FOR RELIEF**

2 54. Answering subparagraphs "1" through "4" of the Prayer, the City denies all of the  
3 allegations in those paragraphs, denies that Petitioners are entitled to the relief requested or any  
4 relief whatsoever, and denies that the City has engaged in any unlawful practices.

5 **AFFIRMATIVE DEFENSES**

6 As separate and distinct answers and defenses to the First Amended Verified Petition as a  
7 whole and to each cause of action set forth therein, the City alleges as follows below. By alleging  
8 the separate and additional defenses set forth below, the City is not in any way agreeing or  
9 conceding it has the burden of proof or the burden of persuasion on any of these issues.

10 **FIRST AFFIRMATIVE DEFENSE**

11 The Petition fails to allege facts sufficient to state a cause of action against the City.

12 **SECOND AFFIRMATIVE DEFENSE**

13 The Petition is barred by all applicable statutes of limitation, including, but not limited to,  
14 California Code of Civil Procedure sections 343 and 1094.6 and Public Resources Code section  
15 21167.

16 **THIRD AFFIRMATIVE DEFENSE**

17 The Petition is barred due to Petitioners' failure to exhaust administrative remedies. The  
18 Petition is barred by the separation of powers doctrine, the common law exhaustion of  
19 administrative remedies doctrine, and statutory provisions.

20 **FOURTH AFFIRMATIVE DEFENSE**

21 The Petition is barred due to the fact that Petitioners lack standing to sue.

22 **FIFTH AFFIRMATIVE DEFENSE**

23 The City has, at all times relevant hereto, proceeded under and in compliance with all  
24 applicable federal, state, and local laws and regulations.

25 **SIXTH AFFIRMATIVE DEFENSE**

26 The Petition is barred due to the fact that the relief sought is not in the public interest.

27 **SEVENTH AFFIRMATIVE DEFENSE**

28 The Petition is barred by the doctrines of estoppel and waiver.

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**EIGHTH AFFIRMATIVE DEFENSE**

The Petition is barred by the doctrine of laches, in that Petitioners unreasonably delayed raising the claims set forth in the Petition in a manner that has resulted in prejudice to the City.

**NINTH AFFIRMATIVE DEFENSE**

Petitioners are not entitled to any relief in equity, because the balance of harms does not warrant equitable relief.

**TENTH AFFIRMATIVE DEFENSE**

The Petition is barred by the doctrine of unclean hands, as well as other applicable equitable doctrines, for reasons which include, but are not limited to, Petitioners' purpose in filing this action is to use the action for improper purposes.

**ELEVENTH AFFIRMATIVE DEFENSE**

The Petition is barred by the fact that the controversy averred therein is moot.

**TWELFTH AFFIRMATIVE DEFENSE**

The relief requested in the Petition would require the Court to unconstitutionally intrude into the functions reserved to the legislative branch of government and would violate the doctrine of separation of powers. Accordingly, this Court lacks jurisdiction to grant the requested relief.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Petitioners have failed to join as parties numerous persons or entities who have or may have substantial vested rights which may be impaired or lost entirely by virtue of this action. Loss or impairment of the substantial rights of these persons or entities could subject the City to a multiplicity of lawsuits relating thereto, and could result in the imposition of inconsistent legal obligations.

**FOURTEENTH AFFIRMATIVE DEFENSE**

With respect to all actions referred to in the Petition and the whole thereof, the City proceeded in the manner required by law, did not act arbitrarily, capriciously, or wholly without evidentiary support, and did not abuse its discretion. The City made all required findings, which both supported the City actions and were supported by substantial evidence.

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**FIFTEENTH AFFIRMATIVE DEFENSE**

The Petition is barred by Petitioners' failure to comply with the requirements of Public Resources Code sections 21000 *et seq.* and Code of Civil Procedure sections 1085, 1086, 1087, 1088, 1088.5, 1089.5, 1090, 1091, 1094, 1094.5, and 1094.6.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Petitioners have failed to state facts sufficiently to set forth a claim for attorneys' fees.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

The relief requested in the Petition would require the Court to unconstitutionally intrude into the City's plenary authority over municipal affairs as a charter city, as described by the City of Los Angeles Charter and California Constitution Article 11, Section 5. Accordingly, this Court lacks jurisdiction to grant the requested relief.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

The Petition is barred by other affirmative defenses that the City may allege as those defenses become known in connections with this action.

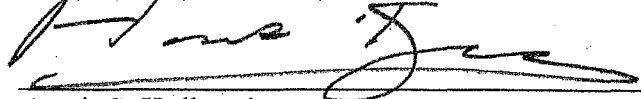
**PRAYER FOR RELIEF**

WHEREFORE, the City pray that judgment be entered as follows:

- 1. That all relief requested in the Petition be denied with prejudice;
  - 2. That Petitioners take nothing by their action;
  - 3. That judgment be entered in the City's favor;
  - 4. That the City be awarded their costs of suit, including reasonable attorney's fees;
- and,
- 5. That the City be granted such other and further relief as the Court deems just and proper.

DATED: March 15, 2019

MEYERS, NAVE, RIBACK, SILVER & WILSON

By: 

Amrit S. Kulkarni  
 Attorneys for Respondents City of Los Angeles,  
 City of Los Angeles Department of Water and  
 Power, and Los Angeles Department of Water and  
 Power Board of Commissioners



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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF ALAMEDA**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Alameda, State of California. My business address is 555 12th Street, Suite 1500, Oakland, CA 94607.

On March 15, 2019, I served true copies of the following document(s) described as **RESPONDENTS CITY OF LOS ANGELES AND LOS ANGELES DEPARTMENT OF WATER AND POWER'S ANSWER TO FIRST AMENDED VERIFIED PETITION FOR WRIT OF MANDATE** on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Meyers, Nave, Riback, Silver & Wilson's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 15, 2019, at Oakland, California.



Melissa Bender

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**SERVICE LIST**  
*County of Mono v. City of Los Angeles, et al.*  
Case No. RG18923377

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# **ATTACHMENT D**

**LOS ANGELES DEPARTMENT OF WATER AND POWER  
PRESS RELEASE REGARDING 2019 IRRIGATION SEASON**

**[Los Angeles Department of Water and Power**

**March 8, 2019]**

## LADWP Announces Plans to Spread Water In Long Valley During Spring Runoff

BISHOP, CA – Earlier this evening, the Inyo Mono Alpine Cattlemen's Association's Spring Tour Dinner Meeting was held at the Talman Pavillion. The meeting included updates on information relevant to ranching interests at the local, regional, state, and federal levels. Staff members from the Los Angeles Department of Water and Power (LADWP) were in attendance and announced that LADWP plans to spread 30,000 acre-feet of water in Long Valley starting this coming May 2019.

In a statement shared by LADWP staff at the dinner, LADWP Senior Assistant General Manager of Water System Rich Harasick said, “It has been a great year for rain and snowfall in California – after recent storms the Eastern Sierra snowpack is 166% of normal as of March 5th. LADWP continues to work on its operational plans and is preparing for the upcoming spring runoff. Efforts are already underway with water spreading started in Inyo County.”

Consistent with past practices, LADWP plans to provide water to its lessees based on LADWP operational needs. In prior years when the Eastern Sierra runoff exceeded the capacity of the aqueduct system, LADWP spread water to its leased lands in the southern Mono area. This was the case during the 2017 record precipitation, when as much water was spread as the land could handle.

LADWP is evaluating this year’s anticipated runoff while also considering the demands of the overall water system, which include customer needs, environmental commitments and hydroelectric generation. Taking these factors into account, LADWP is committed to maximizing the beneficial use of runoff water to the fullest extent and working with its lessees and ranching community to use water efficiently. In order to keep residents and partners of the Eastern Sierra informed of the steps being taken to manage runoff, LADWP will continue to issue additional updates as conditions and operations progress.

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