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

SIERRA CLUB, and OWENS VALLEY COMMITTEE)	Case No.: SICV CV 08-46888
)	
Plaintiffs/Petitioners)	PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY ADJUDICATION
v.)	
)	
CITY OF LOS ANGELES; LOS ANGELES DEPARTMENT OF WATER AND POWER; BOARD OF COMMISSIONERS OF THE DEPARTMENT OF WATER AND POWER; COUNTY OF INYO and DOES 1 - 50)	Date: TBA Time: TBA Dept.: TBA
)	Judge: The Hon. Lee Cooper
_____ Defendants/Respondents _____)	
)	
CALIFORNIA DEPARTMENT OF FISH AND GAME; and CALIFORNIA STATE LANDS COMMISSION and DOES 51-100)	
_____ Real Parties in Interest. _____)	

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I. INTRODUCTION

Petitioners/Plaintiffs Sierra Club and Owens Valley Committee (“OVC”) bring this Motion for Summary Adjudication to enforce the terms of a Memorandum of Understanding (“MOU”), entered into by the County of Inyo, the City of Los Angeles Department of Water and Power (“City” or “DWP”), the Sierra Club, OVC, the California Department of Fish and Game (“DFG”), the State Lands Commission, and Carla Scheidlinger, and to enforce other legal commitments made by the City and County with respect to the implementation of the Lower Owens River Project (“LORP”).

The root of this controversy lies in the City’s failure to comply with the California Environmental Quality Act (“CEQA”), Public Resources Code, section 21000 *et seq.*, at the time the City began its augmented groundwater pumping program in the Owens Valley in 1971. It is now 2009, and Plaintiffs’ lack the assurance that the City’s obligation to mitigate the environmental damage caused to the Owens Valley through augmented groundwater pumping through implementation of LORP will be successfully carried out.

The MOU requires the City to undertake a number of obligations in mitigation for damages attributable to its ground-water pumping project initiated in 1970. The principal mitigation feature of the MOU is the Lower Owens River Project. Plaintiffs seek an order from the Court requiring the City to direct the preparation of a LORP Ecosystem Management Plan that satisfies the City’s obligation to mitigate for previous environmental harm done in the Owens Valley by successfully implementing the LORP through a LORP Ecosystem Management Plan that is consistent with the MOU.

The MOU requires the LORP Plan contain certain measures relating to adaptive management of all four areas of LORP to ensure prescribed goals of the Project, as set forth in the MOU, will be realized, must provide for consultation by the Standing Committee with DFG with respect to the amount, duration, and timing of habitat flows, and comport with procedures prescribed in the Action Plan. This has not been done, and certain promises made to Sierra Club and OVC in the MOU, with respect to directing the preparation of the LORP Plan consistent with the prescriptions in the MOU, have not been honored.

1 As the City has failed to abide by its legal duties in connection with directing the
2 preparation of a legally adequate LORP Ecosystem Management Plan, and the
3 recommendations of the consultant with respect to augmentation of seasonal habitat flows.
4 Plaintiffs seek an order from this Court directing the City to comply with the MOU by
5 directing the preparation of a LORP Ecosystem Management Plan that meets the requirements
6 of the MOU, and to amend the LORP Project Description.

7 Plaintiffs seek to enforce the terms of the MOU with respect to LORP. This is the same
8 goal that Plaintiffs sought in *Sierra Club v. City of Los Angeles*, Inyo County Superior Court,
9 Case No. S1CVCV01-29768, in which this Court sanctioned the City for failing to honor its
10 Order involving compliance with provisions of the MOU relating to implementation of the
11 LORP Project. In this case, the City's duty to direct and assist the consultants in the
12 preparation of a LORP Ecosystem Management Plan that meets the requirements of the MOU
13 is at issue. Plaintiffs ask the Court to address in this Motion the City's failure to direct and
14 assist the consultants in preparing a LORP Ecosystem Management Plan that satisfies the
15 requirements of the MOU (1) with respect to the adaptive management of terrestrial habitat
16 indicator species, and (2) that ensures the Standing Committee will consult with the
17 Department of Fish and Game as to the amount, duration, timing, and ramping pattern of the
18 annual habitat flows. Plaintiffs also ask the Court to address City's failure to include
19 recommendations of the LORP consultant with respect to seasonal habitat flows in the Project
20 Description.

21 Plaintiffs lack assurance, as parties to the MOU, that the LORP, as implemented will
22 successfully mitigate the adverse environmental impacts caused by the City's augmented
23 groundwater pumping program. Plaintiffs will obtain such assurance only if the provisions of
24 the MOU relating to implementation of the LORP through the LORP Ecosystem Management
25 Plan are adhered to, and the Court orders the City to cause the consultants to prepare a LORP
26 Ecosystem Management Plan that contains adaptive management protocols, and prescribes
27 procedures for the Standing Committee consultation with DFG, that meet the specific
28 requirements of the MOU. Plaintiffs will obtain assurance that the recommendations of the

1 consultant with respect to augmentation of seasonal habitat flows will be implemented as an
2 integral feature of adaptive management only if the Court orders that the Project Description be
3 supplemented.

4 Section IIc of the LORP provides that “The LORP Plan *will provide* that the four
5 physical features of the LORP *will be implemented and managed* as set forth below.”
6 (Emphasis added). The MOU sets forth management prescriptions relating to flow regime, and
7 water releases relating to the areas of the LORP. These prescriptions include: Standing
8 Committee consultation with DFG relating to “amount, duration, and timing of flows necessary
9 to achieve the goals for the system under varying hydrologic scenarios”, adoption of adaptive
10 management protocols sufficient to meet specified goals of the LORP Project, and consistency
11 of the LORP Plan with the Action Plan. (See Declaration of Joseph Brajevich in Support of
12 Defendants’ Motion for Summary Adjudication (“Brajevich Decl. A”), Exhibit A (MOU, II.))
13 In preparing the Plan under the directions of the City and County, the Consultant is bound by
14 the constraints imposed by the MOU. (See Brajevich Decl., Exh A, MOU IIA (“DWP and the
15 County will direct and assist Consultants in the preparation and implementation of the LORP
16 Ecosystem Management Action Plan.))

17 II.

18 STATEMENT OF FACTS

19 A. **The City’s Ground-Water Pumping Program**

20 In 1970, the City and DWP constructed a second aqueduct to export water from Inyo
21 County to the City (the first aqueduct was completed in about 1913). The City and DWP
22 proposed to supply the aqueduct, in part, with ground water produced through increased
23 groundwater pumping in Inyo County (hereafter, the “groundwater pumping project”).
24 (Plaintiffs’ Undisputed Fact (UF No. 1.)

25 Initiated in 1970, the groundwater-pumping project has caused significant environmental
26 impacts in Inyo County. The groundwater pumping project reduced groundwater levels,
27 damaged and destroyed springs and seeps, damaged and destroyed meadows, wetlands, and
28

1 other vegetation, and harmed wildlife. The City began the project prior to complying with
2 CEQA. (UF No. 2.)

3 In 1972, the County sued the City and DWP under CEQA to require them to prepare an
4 EIR on their groundwater-pumping project. In 1973, the Third District Court of Appeal held
5 that the City and DWP had violated CEQA and ordered the issuance of a peremptory writ of
6 mandamus that required the City and DWP to prepare an EIR. *County of Inyo v. Yorty* (1973)
7 32 Cal.App.3d 795. Although the City and DWP issued EIRs in 1976 and 1979, the Third
8 District Court of Appeals found both not to be in compliance with CEQA. *County of Inyo v.*
9 *City of Los Angeles* (1977) 71 Cal.App.3d 185; *County of Inyo v. City of Los Angeles* (1981)
10 124 Cal.App.3d 1. (UF No. 3.)

11 In October 1991, the County, the City, and DWP approved the Inyo County/Los Angeles
12 Long-Term Water Agreement (“Inyo-Los Angeles Agreement”), which was intended, *inter*
13 *alia*, to provide environmental protection to the Owens Valley from the effects of the City’s
14 groundwater pumping and water exports and to identify measures required to mitigate past and
15 future damage to the environment of Inyo County as a result of groundwater pumping. The
16 Agreement described the LORP as a mitigation measure and a feature of the augmented
17 groundwater-pumping project, and it committed the City and DWP to implement the LORP.

18 In connection with DWP’s augmented groundwater pumping project and the Inyo-Los
19 Angeles Agreement, the City, DWP and the County together completed a third EIR in
20 October 1991 (“the 1991 EIR”). In the 1991 EIR, the City and DWP acknowledged that the
21 groundwater-pumping project had caused significant environmental damage in the Owens
22 Valley. The 1991 EIR purported to address all water management practices and facilities
23 associated with DWP’s second aqueduct, and projects and water management practices
24 identified in the Agreement.

25 The 1991 EIR described the LORP as a mitigation measure to compensate for significant
26 environmental impacts caused by the City’s groundwater-pumping project between 1970 and
27 1990, and it set forth the nature of these impacts. As described in the EIR, the LORP would
28 restore flows to about 60 miles of the lower Owens (which has been partly dry since 1913

1 when the City diverted the river into its first aqueduct), and it would restore wildlife habitat
2 along the sixty-mile riparian corridor, in the Owens Lake Delta, and in other wetland areas
3 near or adjacent to the river.

4 On October 15, 1991, the DWP Board passed a resolution in which it certified the 1991
5 EIR and issued findings required by CEQA. On October 18, 1991, the Los Angeles City
6 Council passed an identical resolution. In the resolutions, the City Council and DWP Board
7 committed to implement the LORP; and found that the LORP would mitigate significant
8 environmental impacts caused by the City's groundwater pumping project between 1970 and
9 1990, including impacts to flows and vegetation at certain springs, meadow and riparian
10 vegetation on formerly irrigated lands, and wildlife species dependent upon destroyed or
11 altered vegetation.

12 In 1991, the City filed a Return of Compliance and Motion for Order Discharging Writ
13 in the Third District Court of Appeal. The Return stated that the City had adopted a (third)
14 new Final Environmental Impact Report ("EIR") for the augmented groundwater pumping
15 program and had adopted a Long-Term Groundwater Management Plan Agreement. In light
16 of comments submitted by OVC, Sierra Club, and DFG, maintaining the 1991 (third) EIR was
17 inadequate, the Court of Appeal declined to discharge the writ. (Only after the 1997 MOU,
18 describing *inter alia*, the LORP, was signed by the parties to this lawsuit, did the Court
19 discharge the writ. See *infra*, II.B.

20 **B. The 1997 Memorandum of Understanding**

21 In March 1997, the City, DWP, the County, the State Lands Commission, DFG, OVC,
22 the Sierra Club, and Carla Scheidlinger signed the MOU. Under the MOU, the City agreed
23 that DWP, as the lead agency under CEQA, would release a draft EIR for the LORP by June
24 13, 2000; that DWP would present a final EIR to the DWP Board by 2002; and that DWP
25 would commence flows of 40 cfs in the lower Owens River by June 13, 2003. (UF No. 6;
26 Brajevich Decl., Exh. A., MOU IIF., H.) Under the terms of the MOU, the City and the
27 County promised to direct consultants in the preparation of a LORP Ecosystem Management
28 Plan which would serve as a template for management and successful implementation of

1 LORP. (UF No. 4; *Id.*, MOU IIA.) The MOU specified certain requirements that the Plan
2 must contain, and contemplated that the LORP Plan would be completed prior to
3 implementation of the LORP project. (*Id.*)

4 In light of the execution of the MOU, the parties and the *amici* jointly moved the Third
5 District Court of Appeals for discharge of 1973 writ of mandate requiring the City to prepare a
6 legally adequate EIR in connection with its augmented ground-water pumping project. On
7 June 13, 1997, the Third District Court of Appeals discharged the writ, in expectation that the
8 provisions of the Long Term Water Agreement and the mitigation projects contemplated in
9 the Final EIR and MOU would be timely and successfully implemented, and managed under
10 the LORP Ecosystem Management Plan, in accord with the MOU. The Inyo-Los Angeles
11 Long-term Water Agreement and the MOU became effective upon discharge of the Court's
12 writ.

13 The MOU augments the description of the LORP in the Inyo-Los Angeles Agreement
14 and the 1991 EIR. The 1991 EIR identified the LORP as compensatory mitigation for
15 significant adverse environmental impacts related to groundwater pumping by DWP from
16 1970 to 1990 that were difficult to quantify. The MOU specifies the goals of the LORP, the
17 timeframe for development and implementation, and specific actions. (UF No. 5; *see*
18 Brajevich Decl., Exh. A, (MOU, § II A, B, C, E, F, H).) It also provides certain minimum
19 requirements for the LORP related to flows, habitats and species to be addressed, and adaptive
20 management and monitoring. (*Id.*) The goal of the LORP is the establishment of a healthy
21 and functioning Lower Owens River riverine-riparian ecosystem, and the establishment of
22 healthy functioning ecosystems in the other physical features of the LORP, for the benefit of
23 biodiversity and threatened and endangered species, while providing for the continuation of
24 sustainable uses, including recreation, livestock grazing, agriculture, and other activities. (*Id.*,
25 MOU, § II B.) The LORP is intended to create and maintain diverse natural habitats
26 consistent with the needs of specified habitat indicator species in all four physical features of
27 the LORP. (*Id.* MOU, § II B1.)

28 There are four critical physical features of the LORP set forth in the MOU:

1 a. A continuous flow will be established and maintained in the river channel
2 from at or near the intake structure that diverts the Owens River into the Los Angeles
3 Aqueduct, to the pumpback system located near the river delta. A base flow of approximately
4 40 cfs from at or near the intake to the pumpback system to be maintained year round, as well
5 as seasonal habitat flows of approximately 200 cfs during years of average or above-average
6 runoff in the Owens River watershed are required.

7 b. The establishment of the Owens River Delta Habitat Area, which is to
8 enhance and maintain existing habitat consisting of riparian areas and ponds suitable for
9 shorebirds, waterfowl, and other animals and to establish and maintain new habitat consisting
10 of riparian areas and ponds suitable for shorebirds, waterfowl, and other wildlife and fishery
11 resources within the Delta Habitat Area.

12 c. The maintenance and/or establishment of certain off-river lakes and ponds
13 to sustain diverse habitat for fisheries, waterfowl, shorebirds, and other wildlife and fishery
14 resources.

15 d. Creation and maintenance of a 1,500 acre Blackrock Waterfowl Habitat
16 Area. (UF No. 6; Brajevich Decl., Exh. A.)

17 **C. History of LORP Implementation Under The MOU**

18 **1. The City Failed to Complete Timely Environmental Documentation and**
19 **Initials Flows Into the River Channel**

20 The history of the City's non-compliance with the provisions of the MOU is probative in
21 connection with the City's compliance with the MOU with respect to supervising the
22 preparation of the LORP Plan.

23 DWP did not complete the LORP Draft EIR by June 13, 2000, as required by the MOU.
24 The MOU signatories agreed to several extensions for completion of the Draft EIR. DWP did
25 not complete the LORP Draft EIR by the agreed upon extensions. (UF No. 7.) On December
26 24, 2001, Plaintiffs filed an action in Inyo County Superior Court seeking an order directing
27 DWP to comply with the MOU provisions requiring completion of the LORP Draft EIR and
28 implementation of the LORP by the dates prescribed by the MOU. (UF No. 8.) By

1 stipulation and court order, DWP agreed to complete and release the Draft EIR by August 31,
2 2002. DWP failed to comply with the Stipulation and Order. (*Id.*) On September 12, 2002,
3 this Court issued an Order directing DWP to complete and release the LORP Draft EIR by
4 November 1, 2002. (*Id.*) On November 1, 2002, LADWP released the LORP Draft EIR for
5 public review and comment. (*Id.*)

6 The MOU requires DWP to commence the base flow of 40 cfs in the river channel by
7 June 13, 2003. On June 13, 2003, DWP failed to commence the base flow of 40-cfs in the
8 river channel. The parties entered in a Stipulation and Order that prescribes schedules and
9 deadlines for the completion of tasks related to LORP that were necessary for LORP
10 implementation. On June 24, 2005 this Court issued a Statement of Decision finding that the
11 City violated the Order in that it failed to perform certain tasks by prescribed deadlines. (UF
12 No. 9.) The Court determined that the threat of immediate sanctions was necessary to force
13 the City to meet its obligation in a timely manner. (*Id.*)

14 In August 2005 the Court imposed limitations on groundwater pumping until 40 cfs
15 flows were introduced into the River, ordered the City to pay the County \$5000 per day until 40
16 cfs flows were introduced into the River, and ordered the establishment of base flows by July
17 25, 2007. (UF No. 11.) On July 22, 2007, this Court signed an Order establishing protocols
18 for monitoring and reporting baseflows.

19 **2. History of LORP Ecosystem Management Plan**

20 A draft LORP Ecosystem Management Plan was first prepared in May 1999 by the
21 MOU Consultant Ecosystem Sciences, Inc. A revised draft Plan was developed in August
22 2002.¹ In September 2003 Ecosystem Sciences released the “Lower Owens River Project
23 (LORP): Draft Report / Baseline Data Methodologies.” This report summarized the
24 methodology of the long-term monitoring program that had been designed and reported on the
25 baseline data that had been collected.

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28 ¹ According to the FEIR (at p. 1-5): “A revised draft LORP Plan was developed in August
2002, and is available for review.” (*See also* Draft EIR at 1-5 (“A revised draft LORP Plan
was developed in August 2002”).)

1 On July 20, 2004, the Board of Water and Power Commissioners approved the LORP
2 Project and certified the FEIR/EIS. The FEIR/EIS contained adaptive management protocols
3 for LORP that were contained in the Project Description in the FEIR. These adaptive
4 management protocols did not include augmentations of the habitat flows, as recommended
5 by the consultants in the 2002 draft LORP Ecosystem Management Plan. By resolution dated
6 November 21, 2005 the County also approved LORP and certified the FEIR as a responsible
7 agency. In September 2004, Ecosystem Sciences released the “Lower Owens River Project
8 Monitoring Methodologies: Baseline, Second Draft Report.” By letter dated December 10,
9 2004 to the MOU signatories, Sierra Club and OVC requested a meeting among the
10 signatories to have dispute resolution with respect to the adequacy of the LORP Ecosystem
11 Management Plan and the Project Description set forth in the Final EIR.

12 The Sierra Club and OVC December 10, 2004 letter was supplemented by letters dated
13 December 23, 2004 and January 7, 2005 to the signatories, concerning the LORP Ecosystem
14 Management Plan and the Project Description approved by the City. (UF No. 12-13;
15 Declaration of Donald B. Mooney in Support of Motion for Summary Adjudication (“Mooney
16 Decl., Exhibits A, B and C.)

17 By letter dated December 30, 2004 to the signatories, Deputy Attorney General Gordon
18 Burns, notified the signatories that it was joining the letter sent on December 10, 2004 by
19 Sierra Club and OVC, and raised additional issues that should be discussed. (UF No. 14;
20 Mooney Decl, Exh. D.) One additional issue was that “neither the LORP Plan nor the EIR
21 appear to mention CDFG’s role in consulting with the Standing Committee with respect to the
22 habitat flows.” (*Id.*)

23 When the issues were not resolved through dispute resolution, a related action, *Sierra*
24 *Club v. City of Los Angeles*, CV 05-37969, was filed in January 2005, and remains pending in
25 this Court.

26 Ecosystems Sciences submitted to the City and County a “third draft” of the LORP
27 Monitoring, Adaptive Management, and Reporting Plan by memorandum dated August 11,
28 2006. A copy was distributed to Sierra Club and OVC, but no comments were solicited.

1 By letter dated September 29, 2006, to Gene Coufal (DWP) and Thomas Brooks (Inyo
2 County Water Department), Sierra Club and OVC commented on the August draft
3 Monitoring, Adaptive Management and Reporting Plan. (UF No. 15; Mooney Decl., Exh. E.)
4 In that letter Sierra Club and OVC pointed out that the draft document did not comport with
5 the requirements of the MOU, and failed to address the concerns of Sierra Club and OVC that
6 had previously been expressed. (*Id.*) Sierra Club and OVC presented in this letter a detailed
7 summary of the views of Drs. Robert Twiss and Duncan Patten, two authorities in adaptive
8 management retained as expert consultants.² Sierra Club and OVC received no reply to that
9 letter. (*Id.*)

10 By letter dated November 17, 2006, to the legal representatives of the signatories, Sierra
11 Club and OVC submitted additional comments on the draft August, 2006 Monitoring
12 Methodologies, Adaptive Management, and Reporting document, and included the Patten-
13 Twiss report in full. (UF No. 16, Mooney Decl., Exh F.) By letter dated February 14, 2007,
14 the County and the City jointly responded to Sierra Club and OVC's letter of November 17,
15 2006. (UF No. 17, Mooney Decl., Exh. G.) The letter reported that "ESI is in the process of
16 preparing another draft of the LORP Monitoring, Adaptive Management, and Reporting
17 Plan." The letter offered no responses to the contentions made by Sierra Club and OVC in
18 their letters.

19 A new (fourth) draft Monitoring, Adaptive, Management and Reporting Plan was
20 produced in April, 2007, and was the subject of a *second* request by OVC and Sierra Club for
21 a meeting of the signatories for dispute resolution. In this letter dated August 10, 2007, Sierra
22 Club and OVC identified a number of disputes concerning the adequacy of the April 12, 2007
23 draft Adaptive Management, Reporting and Monitoring Plan and the LORP Ecosystem
24 Management Plan. (UF No. 18, Mooney Decl. Exh. H.) In their letter, Sierra Club and OVC
25 identified the following issues for dispute resolution:
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28 ² Professor Duncan Patten has filed a declaration in Support of Plaintiffs' Motion for
Summary Adjudication.

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- I. The requirement of the MOU that the Department of Fish and Game be consulted by the Standing Committee in connection with implementing the Annual Habitat Flow has again been disregarded in the April 12, 2007 Draft.
- II. The LORP Ecosystem Management Plan, as described in the April 2007 Plan document, is not an integrated Plan, as required by the MOU.
- III. The April 12, 2007 Plan contains no habitat flow management prescriptions that address the hydrologically varying sections of the river channel; the Riverine-Riparian Ecosystem Element of the LORP Plan, (as modified through the April Plan) does not recommend the amount, duration and timing of habitat flows in the hydrologically varying sections of the river channel under varying hydrological scenarios.
- IV. The April Plan, as it relates to adaptive management is unclear, internally inconsistent, and in some instances, so vague as to be meaningless to serve adaptive management purposes.
- V. The LORP Ecosystem Management Plan, as defined in the April 2007 document, is not the product of City-County collaborative direction and advice to the consultants.
- VI. The Consultants have flawed assumptions concerning the LORP that taint the LORP Plan and that require necessary modifications in any final document.

Sierra Club and OVC pointed out additionally that even though the base flows had been initiated, there was still (as of April 2007) no final complete, integrated LORP Ecosystem Management Plan that would serve to guide the City and County in implementing the project. (*Id.*)

A fifth “Final Draft Monitoring, Adaptive Management and Reporting Plan” dated September 28, 2007, “as directed by City of Los Angeles, Department of Water and Power, and Inyo County Water Department,” was prepared. The cover page did not bear the name of Ecosystems Sciences, Inc., the MOU consultant.

By letter dated December 11, 2007, Sierra Club and OVC submitted comments on the September 28, 2007 “Final Monitoring, Adaptive Management, and Reporting Plan.” (UF No. 20; Mooney Decl., Exh. I.) The issues raised with respect to this document were similar but not identical to those raised in the August 10, 2007 letter.

A sixth “Final Draft Lower Owens River Project Monitoring, Adaptive Management and Reporting Plan,” dated February 8, 2008, was distributed to the MOU signatories.

1 By letter dated April 14, 2008 Sierra Club and OVC commented, and raised the
2 following issues, *inter alia*:

- 3 I. The Adaptive Management Protocols in the Chapter 3 Draft Final Plan
4 do not ensure LORP will be successfully implemented or that project
5 goals will be attained, as the MOU requires.
- 6 II. The LORP Final Plan was not prepared according to the procedures
7 described in the LORP Ecosystem Management Plan Action Plan and
8 Concept document, as required by the MOU.
- 9 III. The Final Plan provides no adequate or consistent management
10 protocols for seasonal habitat flows under varying hydrologic
11 conditions or in hydrologically varying sections of the River.
- 12 IV. The Plan is internally contradictory concerning the need for Adaptive
13 Management during the first fifteen years of the LORP Project.
- 14 V. CDFG's [Consultation] role remains ambiguous. (UF No. 21, Mooney
15 Decl. Exh. J.)

16 A Final Monitoring, Adaptive Management, and Reporting Plan, dated April 28, 2008
17 has been filed with this Court by the City. (A copy of the Plan is attached as Exhibit B to the
18 Declaration of Joseph Brajevich in Support of Defendants' Motion for Summary
19 Adjudication.)

20 By letter dated May 30, 2008, Sierra Club and OVC reinitiated dispute resolution under
21 Section VI of the 1997 MOU. (UF No. 22, Mooney Decl., Exh. K.) As previously recited,
22 Sierra Club and OVC had reinitiated dispute resolution by letter dated August 10, 2007 in
23 connection with the LORP Monitoring Methodologies, Adaptive Management, and Reporting
24 Plan (April 12, 2007). (*Id.*)

25 By letter dated July 30, 2008 Sierra Club and OVC summarized their concerns, as set
26 out in their May 30, 2008 letter requesting reinitiation of dispute resolution. (UF No. 23,
27 Mooney Decl., Exh. L.)

28 At the August 7, 2008 dispute resolution meeting, Sierra Club, OVC, and DFG
representatives were presented with a written document, jointly prepared by the City and the
County, which summarily rejected Sierra Club's and OVC's contentions, most of which had

1 been continuously raised (and never substantively responded to) since August 2004. (UF No.
2 24, Exh. M.)

3 By letter dated August 18, 2008, Sierra Club and OVC amended their May 30, 2008
4 Reinitiation of Dispute Resolution letter to include the issues relating to compliance with the
5 habitat indicator species requirements of the MOU raised by DFG at the August 7, 2008
6 meeting. (UF No. 25, Mooney Decl., Exh. N.) After discussing the issues relating to
7 compliance with the habitat indicator species requirements at the August 7, 2008 meeting, the
8 City and County declined to order revision of the Plan to address the DFG's concerns. (UF
9 No. 26.) On September 3, 2008, Sierra Club and OVC sent a dispute resolution letter to the
10 City and County relating to compliance with the habitat indicator species requirements of the
11 MOU. (UF No. 27, Mooney Decl., Exh. O.)

12 **D. Provisions of the MOU Relating to Contents of the Plan.**

13 The MOU provides that the Los Angeles Department of Water and Power ("DWP") and
14 Inyo County "will direct and assist" Consultants in the preparation and implementation of the
15 LORP Ecosystem Management Plan. (Brajevich Decl., Exh. A (MOU, § IIA).) The MOU
16 provides that the procedures to be followed in the preparation of the plan are described in the
17 LORP Action Plan "based upon the LORP Phase I and LORP Phase II studies which were
18 performed by Mr. Mark Hill, Dr. Bill Platt's, and others..." (*Id.*) The MOU requires the
19 LORP Plan to address the four physical features of the LORP: (1) the Lower Owens River
20 Riverine-Riparian Ecosystem, (2) the Owens River Delta Area, (3) Off River Lakes and
21 Ponds, and (4) the Blackrock Waterfowl Habitat Area. (UF No. 30; Brajevich Decl., Exh. A
22 (MOU § II, A, 1.)) The MOU requires that in the Delta Habitat Area, in Off River Lakes and
23 Ponds, and in the Blackrock Waterfowl Habitat Area, "diverse natural habitats will be created
24 and maintained through flow and land management, to the extent feasible, consistent with the
25 needs of the habitat indicator species." (Brajevich Decl., Exh. A (MOU, § II A2.; MOU, § II
26 A3; MOU, § II A 4).)

27 The goal of the LORP as stated in the MOU is "the establishment of a healthy,
28 functioning Lower Owens River riverine-riparian ecosystem, and the establishment of healthy,

1 functioning ecosystems in the other physical features of the LORP, for the benefit of
2 biodiversity and Threatened and Endangered Species, while providing for the continuation of
3 sustainable uses including recreation, livestock grazing, agriculture and other activities.”
4 (Brajevich Decl., MOU, § II B.) This goal includes establishment and maintenance of
5 “diverse riverine, riparian, and wetland habitat in a healthy ecological condition. (*Id.*, MOU,
6 § II B 1.)

7 The MOU requires the LORP Plan to provide that LORP will be implemented and
8 managed, *inter alia*;

9 (1) to create and sustain healthy and diverse riparian and aquatic
10 habitats, and a healthy warm water recreational fishery in the Lower Owens
11 Riverine-Riparian System (*Id.* MOU, § II C1a);

12 (2) to create and maintain diverse natural habitats through flow and land
13 management, to the extent feasible, *consistent with the needs of the “habitat
indicator species” for the riverine-riparian system* (*Id.* MOU, § II C1a);

14 (3) so that the amount, duration and timing of seasonal habitat flows will
15 be determined by the Standing Committee in consultation with Fish and Game
16 (*Id.*, MOU, § IIC1bii);

17 (4) to identify monitoring sites and water flow gaging stations to
18 implement a program for data collection, analysis, and reporting, “which will
19 identify pathways to allow feed-back to indicate where adaptive modifications
20 to management are necessary.” (*Id.*, MOU, § IIE);

21 (5) to provide that when “the reported information reveals that adaptive
22 modifications to the LORP management are necessary to ensure the successful
23 implementation of the Project, or the attainment of LORP goals, such adaptive
24 modifications will be made.” (*Id.*, MOU, § IIE)

25 III.

26 LEGAL ARGUMENT

27 A motion for summary adjudication shall be granted if all the papers submitted show
28 that there is no viable affirmative defense against a cause of action and that the moving party
is entitled to adjudication as a matter of law. (Code Civ. Pro. § 437c(f)(1).) A summary
adjudication must completely dispose of the cause of action, defense, damage claim or duty

1 issue to which it is directed. (*Id.*; see *Hood v. Superior Court* (1995) 33 Cal.App.4th 319,
2 321.)

3 **A. Standard of Review of the MOU as a Mitigation Plan With Respect to the LORP**

4 The provisions of an MOU are enforceable as contractual obligations of the parties.
5 *Youngman v. Nevada Irrigation District* (1969) 70 Cal.2d 240, 248; *Dicky v. Raisin Proration*
6 *Zone No. 1* (1944) 24 Cal.2d 796, 810. The Sierra Club and OVC, as *amici* in *Inyo County v.*
7 *City of Los Angeles* and as signatories to the MOU, have a direct and beneficial interest in
8 enforcing the MOU’s terms to ensure that the City and DWP implement the LORP in accord
9 with the requirements of the MOU and that the LORP Ecosystem Management Plan be
10 prepared consistent with the MOU’s requirements. Plaintiffs also have a direct and beneficial
11 interest in the successful implementation of the mitigation measures and development of the
12 LORP Plan through adaptive management, as required by the MOU.

13 The LORP is a mitigation component of the City’s augmented groundwater pumping
14 program, and is intended to compensate for unquantified damage done in the Owens Valley
15 attributable to that project, commenced in 1970.³ As an essential element of that project, the
16 City has a duty to ensure implementation of the LORP strictly in accord with the MOU’s
17 requirements, insofar as the MOU prescribes goals, standards, and procedures for
18 implementation of LORP.

19 Public Resources Code section 21002.1(b) provides: “Each public agency shall mitigate or
20 avoid significant effects on the environment of projects that it carries out or approves whenever
21 it is feasible to do so.” Public Resources Code section 21081.6(b) requires that “a public
22

23 ³ LORP is an integral component of the Long-Term Water Agreement between the County
24 and the City and is described therein in Section XII, pp 28 *et seq.* LORP was identified in the
25 1991 EIR as compensatory mitigation for impacts that were considered difficult to quantify or
26 mitigate directly. Resolution of the Board of Water and Power Commissioners, City of Los
27 Angeles, July 22, 2004, approving LORP. The Resolution recites in its first paragraph that the:

28 City of Los Angeles Department of Water and Power has an obligation to
implement feasible mitigation measures adopted by the Board in the 1991
EIR for environmental impacts associated with groundwater pumping and
surface water management practices in the Owens Valley from 1970-1990.
(Resolution, p. 1).

1 agency shall provide that measures to mitigate or avoid significant effects on the environment
2 are fully enforceable through permit conditions, agreements, or other measures.” CEQA
3 Guidelines section 15126.4(a)(2) requires that mitigation measures must be fully enforceable.

4 In *Lincoln Place Tenants’ Association v. City of Los Angeles* (2005) 130 Cal.App. 4th
5 1491, 1508, the Court held that adopted mitigation measures must be scrupulously enforced:

6 Having placed these conditions on the demolition segment of the
7 redevelopment project, the city cannot simply ignore them.
8 Mitigating conditions are not mere expressions of hope.

9 The *Lincoln Place* court cited Public Resources Code section 21002.1(b) in support of its
10 ruling, and also cited *Federation of Hillside and Canyon Associations v. City of Los Angeles*
11 (2000) 83 Cal.App.4th 1252, 1261 (“The purpose of these requirements is to ensure that
12 feasible mitigation measures will actually be implemented as a condition of development and
13 not merely adopted and then neglected or disregarded.”) In the present action, Plaintiffs
14 request the Court to scrutinize the City’s compliance with its duty to direct the consultants in
15 the preparation of a LORP Plan that meets all of the MOU’s applicable requirements and that
16 will result in effective mitigation for environmental damage already done in the Owens Valley
17 as a result of the augmented pumping project.

18 Section V of the MOU recites that because the “consultants” concept of resource planning
19 is based upon holistic management principles with a goal of promoting biodiversity and
20 sustainable uses, the Parties have agreed to vest consultants with the responsibility to develop
21 many of the plans identified in the MOU.” The MOU further notes that the vesting of the
22 responsibility is based “upon their professional record and their exercise of independent
23 judgment.”

24 However, ESI’s exercise of “independent judgment” in connection with development of
25 LORP plans must be exercised consistent with applicable provisions of the MOU prescribing
26 features of the LORP Ecosystem Management Plan. MOU section IIA requires that DWP and
27 the County “direct and assist consultants in the preparation and implementation of the LORP
28 ecosystem management plan.” The City and County are bound by the prescriptions in the

1 MOU relating to the Plan and have a duty to direct and assist the consultants in a manner that
2 assures other signatories to the MOU that the Plan will comport with the MOU requirements.

3 **B. Plaintiffs are Entitled to Summary Adjudication as to the First Cause of Action**
4 **Regarding Adaptive Management Protocols**

5 Plaintiffs' First Cause of Action asserts that the adaptive management protocol in the Final
6 Adaptive Management Reporting, and Monitoring Plan relating to terrestrial habitat for
7 habitat indicator species is not consistent with the MOU's requirements.

8 **1. The Adaptive Management Protocol For Terrestrial Habitat of Habitat**
9 **Indicator Species Does Not Ensure that LORP Will Be Successfully**
10 **Implemented and That Project Goals Will Be Attained**

11 The 1997 MOU defines adaptive management as a method for managing LORP that
12 provides for modifying project management to *ensure the project's successful implementation*
13 *and/or the attainment of the project goals, should ongoing data collection and analysis reveal*
14 *that such modifications are necessary.* (MOU, § ID (emphasis added).) The MOU requires
15 that if the "reported information reveals that adaptive modifications to the LORP management
16 are necessary to ensure the successful implementation of the project, or the attainment of
17 LORP goals, such adaptive modifications *will be made.*" (MOU, § IIE) (emphasis added).)

18 The adaptive management protocol set forth in the Plan with respect to terrestrial habitat
19 for the habitat indicator species in all four areas of LORP does not ensure successful
20 implementation and/or the attainment of the project goals by the end of the fifteen-year period
21 in which monitoring, reporting and adaptive management are required.

22 These LORP goals are stated in the MOU:

- 23 a. the *enhancement* of several environmental features along the river.
- 24 b. the establishment of a *healthy*, functioning Lower Owens River riverine-
25 riparian system, for the benefit of *biodiversity and Threatened and*
26 *Endangered Species.*
- 27 c. the *establishment and maintenance* of diverse riverine, riparian, and wetland
28 habitats in a *healthy* ecological condition.

1 d. the creation and establishment of *diverse natural habitats consistent with the*
2 *needs of habitat indicator species.* (Brajevich Decl., Exh. A, MOU § II, B
(emphasis added).)

3 The Plan’s protocol for adaptively managing Terrestrial Habitat in the Riverine-Riparian
4 Area, Delta Habitat Area, and Blackrock Waterfowl Area states that adaptive management is
5 required only if:

6 habitat for the majority of indicator species has decreased in quantity
7 and quality compared to baseline conditions.” (Plan, Chart 3.12 at
3.36.)

8 No gain above baseline conditions would not promote the LORP goal of the
9 “enhancement” of environmental features along the River, the *creation* and establishment of
10 diverse natural habitats consistent with the needs of habitat indicator species, or the
11 *establishment* and *maintenance* of diverse riverine, riparian, and wetland habitats in a healthy
12 ecological condition. (MOU § II B.1.) (Patten Decl. at ¶ 5.) No gain above baseline
13 conditions would not promote the MOU requirement that in the Delta Habitat area, in Off
14 River Lakes and Ponds and the Blackrock Waterfowl Habitat area “adverse natural habitats
15 will be created and maintained through flow and land management to the extent feasible...”
16 (MOU, § IIA2 – II A-4)...” (See Patten Decl. at ¶ 5.)

17 With respect to the LORP objective of establishing diverse natural habitats consistent with
18 the needs of the habitat indicator species, the Plan’s protocol relating to terrestrial habitat
19 states that if the (terrestrial) habitat for the majority of indicator species has “increased in
20 quantity and quality compared to baseline conditions” continued monitoring will be
21 performed. (Plan at 3-36.) Adaptive management is only required if at the end of some
22 unspecified period “habitat for the majority of indicator species has decreased in quantity and
23 quality compared to baseline conditions.” (*Id.*) No adaptive management is required if there
24 is *maintenance* of baseline conditions for the majority of habitat indicator species.
25 Maintenance of baseline conditions for the majority of habitat indicator species does not
26 ensure realization of the project goals, set out *supra*, insofar as it does not ensure the creation
27 and establishment of *new* habitat relative to baseline conditions. To perform adaptive
28 management only when the habitat for the majority of indicator species has “decreased in

1 quantity and quality compared to baseline conditions,” does not ensure that there will be the
2 creation and establishment of diverse natural habitats consistent with the needs of habitat
3 indicator species” in each component area of the LORP, as required by the MOU.⁴
4 (Brajevich Decl., Exh. A, (MOU II B1).)

5 Thus, to ensure the success of the project, consistent with the goals set forth in the project,
6 adaptive management protocols cannot be limited in applicability only to situations involving
7 a failure to maintain habitat even at baseline values. In order to be consistent with the LORP
8 goals set out in Section II B of the MOU and with the LORP requirement that diverse riparian,
9 riverine habitats be established, created and maintained through flow and management
10 (Brajevich Decl., Exh. A, (MOU, §§II B1, II C1(a))), an appropriate trigger for adaptive
11 management in terrestrial habitat would be *an insufficient increase in quantity and quality of*
12 *habitat* for the majority of habitat indicator species compare to baseline conditions
13 commensurate with modeled expectations. (Patten Decl., ¶ 12.) A more effective trigger,
14 consistent with the vegetation projections required by the Action Plan, would be based on
15 projections of increases in quantity and quality of habitat for the majority of indicator species.
16 (*Id.*) Although these anticipated targets need not be hard and fast, the conceptual model
17 should at a minimum identify the general type and extent of increases the project might
18 produce. (*Id.*) If the anticipated targets are not met, adaptive management of terrestrial
19 habitat should be considered.

20 The LORP Plan fails to state when the protocols relating to terrestrial habitat are to be
21 applied, whether after 3 years, 5 years, or even 15 years after project implementation. Given
22 this silence, Sierra Club and OVC must have assurance that at the end of the first 15 years of
23
24
25

26 ⁴ Under the protocol for terrestrial habitat indicator species if the habitat for the majority of
27 indicator species has increased in quantity and quality, the quantity and quality of habitat of the
28 other (49%) of habitat indicator species becomes irrelevant for adaptive management purposes.
Thus, if the habitat for less than a majority of the habitat indicator species has decreased in
quantity and quality, no adaptive management is required.

1 the project, the consultants will not find the project successful, even though there has been no
2 net habitat gain for the habitat indicator species *above* baseline conditions.⁵

3 Plaintiffs respectfully request that the Court grant summary adjudication as to the First
4 Cause of Action and direct that the City direct preparation of a LORP Plan that ensures,
5 through adaptive management, that the habitat goals and other requirements of the LORP
6 Project relating to terrestrial habitat for habitat indicator species in the Riverine-Riparian
7 Area, Delta Habitat Area, and Blackrock Waterfowl Area and that declares that the existing
8 terrestrial habitat adaptive management protocol are accomplished;

9 **C. Plaintiffs are Entitled to Summary Adjudication as to the Third Cause of**
10 **Action Regarding The LORP Plan’s Failure to Provide for Implementation**
11 **of the Plan Through Consultation with DFG**

12 Plaintiffs Third Cause of Action alleges that the LORP Plan fails to provide for the
13 implementation of the seasonal habitat flows through consultation with DFG by the Standing
14 Committee with respect to amount duration, and timing of flows. The MOU requires that the
15 “*LORP Plan will provide that the four physical features of the LORP will be implemented and*
16 *managed as set forth below.*” (Brajevich Decl., Exh. (MOU, § II C (emphasis added)).)
17 Section II C 1b(ii) requires:

18 The amount of the annual habitat flow will be set by the Standing
19 Committee . . . in consultation with DFG, and be based upon on the Lower
20 Owens River Riverine-Riparian Ecosystem element of the LORP Plan,
21 which will recommend the amount, duration, and timing of flows
22 necessary to achieve the goals of the system under various hydrologic
23 scenarios.

24 The Plan provides for Fish and Game providing advice to the MOU consultant only
25 through the Scientific Team. (Plan at 3-5, Figure 3.1.) Thus, the Plan violates the MOU when
26 it relegates DFG to an advisory role that reports to the Scientific Team, rather than to the
27 Standing Committee, with respect to the magnitude, duration, timing, and ramping of the
28 annual habitat flows. (Brajevich Decl, Exh. A, MOU §II C 1b (ii)). *The Plan fails to provide*

29 ⁵ If the monitoring during the 15th year of the Project shows the habitat remains constant
30 relative to baseline or makes only minor gains, adaptive management may not take place, since
31 it is contemplated only for the first fifteen years of LORP. Plan at 1-17.

1 that the LORP will be implemented and managed through consultation by the Standing
2 Committee with DFG with respect to the amount, duration, timing, and ramping of habitat
3 flow, in violation of section II C of the MOU.

4 The MOU itself prescribes the amount of maximum habitat flows under various
5 hydrologic scenarios. “In years when runoff is forecasted to be less than average, the habitat
6 flows will be reduced from 200 cfs to as low as 40 cfs in general proportion to the forecasted
7 runoff in the watershed.” (*Id.*, MOU, p.12). DFG’s consultative role should maximize its
8 input consistent with its expertise. It is clearly the intent of the MOU to require the Standing
9 Committee to consult with DFG concerning such matters as the timing, duration, and ramping
10 patterns of habitat flows (all of which may have impacts on the “amount” of flow). It would
11 be nonsensical for the MOU to be construed in a manner that limits DFG’s consultation role to
12 a matter (maximum amount released from the headgate) already prescribed by the MOU.⁶

13 In letters dated October 28, 2008 and February 27, 2009, from Deputy Attorney General
14 Marian Moe, counsel for DFG, to counsel for the City, DFG raised its concerns about the
15 Plan’s failure to include consultation from DFG to the Standing Committee. (Mooney Decl.,
16 Exhibits P and Q.) In the February 27, 2009, letter, DFG seeks to confirm the City’s promise
17 that DFG will have an opportunity to consult directly with the Standing Committee at its
18 meeting in April 2009 with respect to setting of the seasonal habitat flows. (Mooney Decl.,
19 Exh. Q.) Although the City appears to have agreed on a process, the Plan itself explicitly
20 contemplates consultation only with the Scientific Team, does not include provisions for
21 consultation with DFG by the Standing Committee, does not describe that process, and fails to
22 set forth the scope of the consultation. While Plaintiffs welcome the City’s effort to address
23

24 ⁶ The prescribed maximum seasonal habitat flows under the MOU pertain to release from the
25 headgates on any one day. It maybe necessary to have peak maximum release for more than
26 one day. The MOU does not prescribe the duration, timing, or ramping pattern of seasonal
27 habitat flows, all of which can affect the total habitat flow, considered over a several day
28 period. The MOU establishes only the maximum amount to be released in any one day under
various hydrological scenarios. The Plan states: “The seasonal habitat flows will established
annually by the Standing Committee in accordance with the provisions of the MOU based
upon LADWP’s Run-off Forecast Model for the Owens Valley and in consultation with
DFG.” (Plan at 3-25.)

1 the consultation issue, Plaintiffs’ claims in this regard are not moot, as the claim goes to the
2 City’s duty to direct the consultants to *amend the Plan* so it comports with the MOU’s
3 requirements.

4 As Figure 3.1 of the Plan does not provide for consultation with DFG by the Standing
5 Committee with respect to the amount, duration, ramping, and timing of the seasonal habitat
6 flows, as required by the MOU, Plaintiffs are entitled to summary adjudication as to the Third
7 Cause of Action.

8 **D. Plaintiffs are Entitled to Summary Adjudication to the Fifth Cause of Action**
9 **Regarding The City and County’s Failure to Follow the Consultant’s**
10 **Recommendation Regarding the Augmentation of Habitat Flows**

11 Plaintiffs’ Fifth Cause of Action alleges that the City and County failed to comply with
12 MOU’s requirements when they both respectively approved the LORP and certified the Final
13 EIR without following the consultant’s recommendations regarding the augmentation of
14 habitat flows. The Project as approved by the City and County, is not consistent with the
15 recommendations of the consultants now contained in the final LORP Plan prepared by the
16 consultants, in violation of section II(I) of the MOU, which provides in relevant part that “the
17 Parties shall not seek through any ...approval...to alter the recommendations of the
18 consultants with respect to the LORP...”⁷

19 The final LORP Adaptive Management, Reporting, and Monitoring Plan prescribes as
20 an adaptive management protocol “modification of the magnitude of seasonal habitat flows”
21 through adjusting the amount of “seasonal habitat flow released at the River Intake and/or
22 release water from spill-gates.” (Plan at 3-8.) This protocol was eliminated from Table 2-19
23 in the FEIR. (Mooney Decl., Exhibit R.) Although other measures allow an adjustment in the
24 duration and timing of peak flow of the habitat flow released from the River Intake, no
25 adaptive management option is listed in the Project Description in which water would be
26 released lower in the river to help flush sediments, imitate a more natural flow pattern, or

27
28 ⁷ Both the LORP Ecosystem Management Plan (2002) and the final LORP Adaptive
Management, Reporting and Monitoring Plan recommend augmentation of the seasonal
habitat flows.

1 achieve LORP goals (other than as a short term water quality measure to provide a refuge for
2 fish at spill-gates during the first three habitat flow releases.) (*See* FEIR at Table 2-19
3 (Riverine-Riparian System Adaptive Management) Mooney Decl., Exhibit R.).

4 In approving the Project, the City and County failed to adopt the recommendations of
5 the consultants embodied in the final integrated LORP Adaptive Management Reporting and
6 Monitoring Plan, or the 2002 LORP Ecosystem Management Plan, in violation of section II(I)
7 of the MOU. As such, the City and County violated the requirements of the MOU.

8 **E. Plaintiffs are Entitled to Summary Adjudication as to the Sixth Cause of Action as**
9 **the City Breached of Memorandum of Understanding**

10 The Plaintiffs Sixth Cause of Action alleges that the City breached its duties and
11 obligations under the MOU. Plaintiffs seek a declaration, pursuant to Code of Civil Procedure
12 section 1060, that the City violated its duties and obligations contained in the MOU as
13 identified in the First, Third, and Fifth Causes of Action, and to declare that the City and
14 County have a legal duty to approve the LORP project in a manner that includes augmentation
15 of habitat flows through adaptive management as part of the Project Description.

16 The City has breached its obligations and duties identified in the First, Third and Fifth
17 Causes of Action. Based upon the foregoing, Plaintiffs are entitled to Declaratory Judgment
18 the City is in

19 breach of all its obligations and duties under the MOU as identified in the First and
20 Third Causes of Action. Plaintiffs also seek Declaratory Judgment that the City breached its
21 MOU obligations to Plaintiffs in that the City failed to direct the preparation of a LORP Plan
22 that meets the requirements of the MOU. Finally, Plaintiffs seek Declaratory Judgment that
23 the City and County failed to adopt the Consultant's recommendations regarding the adaptive
24 management of the habitat flows when each respectively approved the LORP.

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IV.
CONCLUSION

Based upon the foregoing, Plaintiffs respectfully request that the Court grant Plaintiffs' Motion for Summary Adjudication with respect to the First, Third, Fifth and Sixth Causes of Action.

Dated: April 3, 2009

Respectfully submitted,

By: _____
LAURENS H. SILVER
Attorney for Plaintiff Sierra Club

By: _____
DONALD B. MOONEY
Attorney for Plaintiff
Owens Valley Committee