

Water negotiations sought

LADWP to pump 03-04 amounts while interim plan is developed for next three years

By Darcy Ellis
Editor

Hoping to avoid "annual fights" between Inyo County and the City of

Los Angeles over the latter's yearly pumping programs, county officials have proposed a deal in which the two would embark on a search for long-lasting solutions.

Unprecedented in nature, the deal will reportedly allow Inyo and L.A. officials about three years to hammer out a fix to perceived problems of the Inyo-L.A. Long-Term Water Agreement, while laying in place an interim pumping plan for the Los Angeles Department of Water and Power.

While officials from both sides conceded there were no guarantees the proposed "mutual gains bargaining" would yield success, Inyo and L.A. representatives essentially agreed last Friday it was worth a try.

Reportedly at stake for the entities is the adequate achievement of the Water Agreement's goals: protection of valley resources and the provision of a reliable water source for the city and its residents.

And for Inyo County, its officials reported last week, also at stake is

LADWP being able to move ahead with a pumping program it feels, for the large part, would worsen sub-par vegetation conditions.

It was during discussions of LADWP's 2003-04 runoff year pumping program at Friday's Inyo-L.A. Standing Committee meeting in Bishop that county officials proposed the deal.

County Water Department Director Greg James had set forth three options the county is considering. See WATER, page A-3

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ing taking to prevent the plan from going forward with the amounts – total of 89,800 acre-feet of groundwater – set by LADWP.

Also at issue between the two has been whether the more-restrictive Drought Recovery Policy is still in effect; Inyo says it is since vegetation in some areas is disconnected from water tables, L.A. says the DRP's soil moisture goals have been fulfilled and therefore LADWP is able to pump higher amounts.

James explained that the county Board of Supervisors had directed staff to do either of the following to prevent what it felt would be further death to dependent vegetation:

- Seek Dispute Resolution (a process that is essentially tantamount to a lawsuit) on the grounds that the Drought Recovery Policy is still in effect and the '03-04 pumping program would have to be approved by the Standing Committee
- Seek Dispute Resolution on the grounds that LADWP's '03-04 plan will not meet the vegetation protection goals of the Water Agreement
- Or seek mitigation in those areas where Inyo believes conditions have been below baseline for so long that mitigation is required

But rather than pursue Dispute Resolution on single issues year after year, James explained, Inyo County would rather work cooperatively with the city to address a "major flaw" in the Water Agreement from which most smaller disputes seem to stem: the document's on/off provisions, which determine how much LADWP is allowed to pump each runoff year.

The on/off provisions would have allowed LADWP to pump about twice as much groundwater as it is proposing this runoff year.

According to James, Inyo County would like to utilize a mutual gains bargaining facilitator in developing a better management mechanism than the on/off provisions currently provide. However, the county does not want negotiations to drag on for indefinite amounts of time while LADWP continues to pump the disputed amounts of groundwater.

County officials pushed for a

timeline to hold both sides to development of an interim pumping program, one that James said should preferably be similar to the Drought Recovery Policy.

Inyo County Water Commissioner Judy Fowler, speaking as a Standing Committee member, said LADWP's decision to cancel the DRP (no specific language exists for deciding its termination) was serious cause for concern, and urged LADWP to consider the county's proposal.

"We are truly outraged by this," she said, referring on behalf of valley citizens to DWP's "unilateral" attempt to end the DRP, "and consider it extremely, extremely important."

County Supervisor Julie Bear, meanwhile, said, "it is extremely critical for the county that we study the on/off provisions and that we come up with a better management strategy."

LADWP Assistant General Water Manager Jerry Gewe said that the city "fully concurs" with Inyo's concerns over the adequacy of the on/off provisions. He said "we realize there are flaws in that procedure," and noted the city would be glad to work with Inyo in developing a better mechanism.

L.A. Water and Power Commissioner Dominick Rubalcava explained that LADWP's decision to go with an 89,800 acre-feet pumping program rather than the full amount allowed by the on/off provisions is proof that the city also does not have confidence in the management strategy. According to Rubalcava, LADWP is set to lose \$30 million this year alone by not pumping the full 164,000 acre-feet or so allowed by the on/off provisions. He said better science has come to life since the provisions were established.

But L.A. officials reported that LADWP still plans to move forward with the current pumping plan, which they repeatedly noted was "conservative." County Administrator Rene Mendez was at times prompted by the comments to question how receptive LADWP was to the idea if it still intended to pump 89,800 acre-feet of groundwater. He explained the county would need to have a more conservative interim pumping plan in place while cooperative on/off analysis

took place.

L.A. officials at one point returned from a five-minute caucus to report that the city was willing to address the Water Agreement's on/off provisions, but still felt 89,800 acre-feet was a conservative number. LADWP Aqueduct Manager Gene Coufal did say, however, that the city would be willing to sit down and work out an interim program.

Mendez had told L.A. officials that Inyo was not interested in wasting its time. County Water Department Director Greg James reported that Inyo wants to be able to move forward with other avenues (like Dispute Resolution) for protecting the valley if its proposal is a no-go. Supervisor Michael Dorame had earlier in the meeting cited an old saying that, "If you become a good loser, you'll always be a good loser," and said he did not think Inyo County would let itself get in that position.

Gewe and other L.A. officials eventually agreed with Inyo representatives that both staffs would develop an interim program between now and Sept. 1.

But, as officials pointed out, LADWP also during that time will continue to pump according to its 89,800 acre-feet plan – something that raised concerns from audience members, including Daniel Pritchett of the California Native Plant Society Bristlecone chapter.

Mendez explained that without an attempt at an interim plan, the county would have to move forward with Dispute Resolution,

and by the time the dispute is resolved L.A. will have already pumped all of its 89,800 a.f.

James noted that taking the time to develop an interim pumping plan now would at least save some of that water, and would prevent LADWP from being able to pump contested amounts over the next three years.

Despite additional explanations, doubts still lingered in the audience.

Pritchett expressed concern that any negotiations would merely include "the same cast of characters beating their heads together," citing lack of success at the Inyo-L.A. Technical Group level in working out disagreements. He noted that the Technical Group is supposed to be the arena for working through technical disagreements, but at the May meeting, officials merely noted "philosophical differences" over the 2003-04 pumping program. According to Pritchett, Jerry Gewe's statement earlier in the Standing Committee meeting – that the city takes issue with some of the Inyo Water Department's figures – is precisely the sort of information that should be discussed by the Technical Group and which is consistently not.

"What grounds is there for any reasonable expectation of success with these negotiations given the (past) behavior of those involved?" he asked.

James noted in response that a professional facilitator would be working with Inyo and L.A., which continued to profess its

willingness to work out a compromise with the county.

Standing Committee officials tentatively agreed to meet again on Sept. 10 in Los Angeles, at which time it is expected they will consider approval of the interim pumping plan.