

Agenda

County of Inyo Board of Supervisors

Board of Supervisors Room
County Administrative Center
224 North Edwards
Independence, California

All members of the public are encouraged to participate in the discussion of any items on the Agenda. Anyone wishing to speak, please obtain a card from the Board Clerk and indicate each item you would like to discuss. Return the completed card to the Board Clerk before the Board considers the item (s) upon which you wish to speak. You will be allowed to speak about each item before the Board takes action on it.

Any member of the public may also make comments during the scheduled "Public Comment" period on this agenda concerning any subject related to the Board of Supervisors or County Government. No card needs to be submitted in order to speak during the "Public Comment" period.

Public Notices: (1) In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at (760) 878-0373. (28 CFR 35.102-35.104 ADA Title II). Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Clerk of the Board 72 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format. (Government Code Section 54954.2). (2) If a writing, that is a public record relating to an agenda item for an open session of a regular meeting of the Board of Supervisors, is distributed less than 72 hours prior to the meeting, the writing shall be available for public inspection at the Office of the Clerk of the Board of Supervisors, 224 N. Edwards, Independence, California and is available per Government Code § 54957.5(b)(1).

Note: Historically the Board does break for lunch, the timing of a lunch break is made at the discretion of the Chairperson and at the Board's convenience.

SPECIAL MEETING

April 29, 2013

9:00 a.m. PLEDGE OF ALLEGIANCE

1. PUBLIC COMMENT

CLOSED SESSION

2. PERSONNEL [Pursuant to Government Code §54957]. Public Employee Performance Evaluation - Title – Director of Water Department.

COMMENT (Portion of the Agenda when Board takes comment from the public and County staff)

3. COUNTY DEPARTMENT REPORTS (Reports limited to two minutes)

DEPARTMENTAL (To be considered at the Board's convenience)

- 4. AGRICULTURAL COMMISSIONER – Request Board find that consistent with the adopted Authorized Position Review Policy: A) the availability of funding for the position of Seasonal Field Assistants exists as certified by the Agricultural Commissioner and concurred with by the County Administrator and the Auditor-Controller; B) and where if the County was facing layoffs, the position could be filled by internal candidates meeting the qualifications for the position, but since no layoffs are pending, an open recruitment would be appropriate to ensure qualified applicants apply; and C) approve the hiring of two seasonal Field Assistants I at Range 050PT (\$13,90 - \$16.87 per hour), contingent upon the Board's adoption of future budgets.**
- 5. WATER DEPARTMENT – Request Board review LADWP's proposed Annual Operations Plan and provide direction as to the County's comments on the proposed plan.**
- 6. PLANNING – Request Board review draft correspondence regarding the National Forest System Land Management Planning Directives, provide input; and authorize the Chairperson to sign.**
- 7. COUNTY ADMINISTRATOR – Personnel – Request Board approve the May 1, 2013 through April 30, 2016 Comprehensive Memorandum of Understanding between the County of Inyo and the Deputy Sheriff's Association; and authorize the Chairperson to sign.**
- 8. COUNTY ADMINISTRATOR – Personnel – Request Board consider approval of an Agreement between the County of Inyo and William Avery & Associates for Executive Recruitment Services for County Counsel, in an amount not to exceed \$27,000 for the period of April 29, 2013 through December 31, 2013, contingent upon the Board's adoption of future budgets; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained.**

9. **COUNTY ADMINISTRATOR – Emergency Services** – Request Board discuss and consider Staff's recommendation regarding continuation of the local emergency, The Death Valley Roadeater Emergency, that resulted in flooding in the eastern portion of Inyo County during the month of August 2012, per Resolution #2012-32.
10. **CLERK OF THE BOARD** – Request approval of the minutes of the Board of Supervisors Meetings as follows: A) the Regular Meeting of April 2, 2013; B) the Special Meeting of April 4, 2013; C) the Special Meeting of April 8 & 9, 2013; and D) the Regular Meeting of April 16, 2013.

TIMED ITEMS (Items will not be considered before scheduled time)

CORRESPONDENCE - ACTION

BOARD MEMBERS AND STAFF REPORTS

COMMENT (Portion of the Agenda when the Board takes comment from the public and County staff)

11. **PUBLIC COMMENT**

CLOSED SESSION

12. **PERSONNEL [Pursuant to Government Code §54957]**. Public Employee Appointment – Title - County Counsel.

REPORT ON CLOSED SESSION AS REQUIRED BY LAW

CORRESPONDENCE - INFORMATIONAL



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
21
12

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: COUNTY COUNSEL

TO THE BOARD MEETING OF: APRIL 29, 2013

SUBJECT: ISSUES TO BE DISCUSSED IN CLOSED SESSION

DEPARTMENTAL RECOMMENDATION:

PERSONNEL [PURSUANT TO GOVERNMENT CODE § 54957] - Public Employee Performance Evaluation Title:
Director of Water Department

PERSONNEL [Pursuant to Government Code § 54957]. Public Employee Appointment - Title: County Counsel

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.) Approved: <u>[Signature]</u> Date <u>4-24-13</u>
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DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)

(The Original plus 20 copies of this document are required)

[Signature] Date: 4-24-13



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

4

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: George L. Milovich, Agricultural Commissioner/Director of Weights and Measures

FOR THE BOARD MEETING OF: April 29, 2013

SUBJECT: Eastern Sierra Weed Management Area Personnel Action

DEPARTMENTAL RECOMMENDATION:

Request the Board find consistent with the adopted authorized position review policy; (1) the availability of funding for the requested positions, as certified by and concurred with the County Administrator and Auditor-Controller, (2) and where if the County was facing layoffs, the position could be filled by internal candidates meeting the qualifications for the positions, but since no layoffs are pending, an open recruitment would be appropriate to ensure qualified applicants apply; and (3) approve the hiring of two seasonal Field Assistants I 050PT (\$13.90-\$16.87 per hour) and , (4) contingent upon adoption of future fiscal year budgets.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The Eastern Sierra Weed Management Area (ESWMA) division of the Agricultural Commissioner's Office has been awarded a contract in the amount of \$88,249 over three fiscal years to conduct invasive plant management activities at various locations within Inyo and Mono Counties. A portion of these funds are allotted to personnel costs specifically, and ESWMA would like to hire two seasonal employees to fulfill the terms of this contract and for other related weed control activities.

ALTERNATIVES:

Your Board could not approve the personnel actions outlined in the Departmental Recommendation; this is not advised, as it would result in ESWMA being unable to fulfill the terms of this contract.

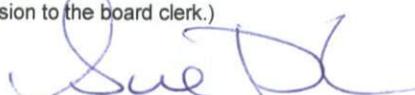
OTHER AGENCY INVOLVEMENT:

N/A

FINANCING:

Resources expended for seasonal employee costs are derived from current contracts and agreements. There will be no fiscal impact to the Inyo County general fund since ESWMA is a Non-General Fund program. Budget 621300 has sufficient funds to finance these costs.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.) Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>4/23/13</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: <u>✓</u> Date <u>4/22/13</u>

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)



Date: 4-24-13



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

5

Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Water Department

FOR THE BOARD MEETING OF: April 29, 2013

SUBJECT: Response to LADWP proposed Annual Operations Plan

DEPARTMENTAL RECOMMENDATION:

Water Department requests that your Board review LADWP's proposed Annual Operations Plan and provide direction as to the County's comments on the proposed plan.

SUMMARY DISCUSSION:

Regarding LADWP's Annual Operations Plan, the Inyo/Los Angeles Long-Term Water Agreement (LTWA) provides that:

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

...

The County through its Technical Group representatives shall review the Department's proposed plan of operations and provide comments to the Department within ten (10) days of receipt of the plan.

Runoff for runoff-year 2013 (April 1, 2013 through March 31, 2014) is forecast to be 54% of normal and runoff-year 2012 was 57% of normal, so the draft Operations Plan is for the period April to October. The draft Operations Plan is attached.

Each year at the beginning of April, in preparation for evaluating the Plan, Water Department staff measures water levels in a number of shallow monitoring wells that we use as indicator wells to assess how water table elevations have changed in each well field over the past year and where the water table is with respect to 1985-1987 baseline levels. These data, shown in Table 1, give an overall view of how the water table has changed throughout the valley. Summarizing Table 1, all indicator wells are below baseline and the water table declined in all well fields. Note that we do not track indicator wells in Bishop, because pumping in Bishop is constrained by the Hillside Decree, nor in Lone Pine, because of the absence of discretionary pumping in that well field.

LADWP's pumping for the 2011-2012 runoff year was planned to be 88,000 acre-feet. Actual pumping was 88,681 acre-feet. Preliminary figures for the amounts planned and actually pumped in each wellfield are given below in Table 2.

Although the proposed Operations Plan is for six months, LADWP states that the proposed plan would result in pumping in the upper-70,000s, unless the County agrees to lower pumping for irrigation in which case the plan would result in pumping in the lower-70,000s. Their proposed irrigation reductions of 20% in Laws and Independence-Oak well fields would reduce pumping by 2,760 acre-feet. It is not clear how their proposed 10% reduction in valley-wide irrigation, because some of that reduction may come from reduced use of surface water. In 2012, valley-wide irrigation was 48,609 acre-feet as of the end of January.

The Water Department is working on estimates of how the water table will change based on pumping in the upper-70,000s, lower-70,000s, and minimum pumping of approximately 60,000 acre-feet. We will have those results available for the Board meeting. The principal issues to address in our comment letter are:

- Are the levels of pumping proposed by LADWP acceptable?
- Should pumping for irrigation in Laws and Independence-Oak well fields be reduced by 20%?

Table 1. Depth to water (DTW) from well reference point (RP) at indicator wells, April 1-2, 2013, all data in feet. Baseline is the average of 1985, 1986, and 1987 April DTW. Negative change from April 2011 to April 2012 indicates a declining water table; negative deviation from baseline indicates the water table is below baseline.

Wellfield and well number	DTW, April 2012	DTW, April 2013	Change from April 2012 to April 2013	Baseline DTW from RP	Deviation from baseline, April 2013
Laws					
T107	32.70	33.93	-1.23	24.3	-9.6
T436	11.25	12.33	-1.08	8.1	-4.2
T438	12.64	15.21	-2.57	9.6	-5.6
T490	12.49	14.74	-2.25	13.1	-1.6
T492	34.17	34.93	-0.76	32.8	-2.1
Big Pine					
T425	18.61	20.22	-1.61	14.9	-5.3
T426	13.70	15.10	-1.40	11.6	-3.5
T469	23.28	24.32	-1.04	21.7	-2.6
T572	13.60	15.35	-1.75	12.1	-3.3
Taboose-Aberdeen					
T417	31.12	32.84	-1.72	27.0	-5.8
T418	8.93	9.66	-0.73	8.2	-1.5
T419	7.47	8.57	-1.10	6.6	-2.0
T421	36.28	38.14	-1.86	34.3	-3.8
T502	10.48	11.90	-1.42	7.4	-4.4
T504	11.15	12.79	-1.64	10.8	-2.0
T505	22.82	24.54	-1.72	18.6	-5.9
Thibaut-Sawmill					
T413	11.41	13.76	-2.35	9.3	-4.5
T414	9.01	11.83	-2.82	7.1	-4.7
T415	20.95	22.80	-1.85	18.5	-4.3
T507	4.63	5.10	-0.47	4.7	-0.4
Independence-Oak					
T406	2.03	2.88	-0.85	1.6	-1.3
T407	11.93	14.57	-2.64	7.3	-7.3
T408	5.10	5.53	-0.43	3.1	-2.4
T409	8.78	12.86	-4.08	1.6	-11.3
T412	4.88	8.03	-3.15	4.0	-4.0
T453	4.65	12.97	-8.32	5.5	-7.5
T546	5.48	8.45	-2.97	3.4	-5.1
Symmes-Shepherd					
T402	10.36	11.18	-0.82	8.0	-3.2
T403	7.32	8.32	-1.00	5.3	-3.0
T404	5.75	6.44	-0.69	3.6	-2.8
T447	38.72	44.53	-5.81	21.9	-22.6
T510	7.06	7.63	-0.57	5.0	-2.6
T511	7.40	8.73	-1.33	4.6	-4.1
Bairs-Georges					
T398	5.02	7.27	-2.25	6.4	-0.9
T400	5.89	6.93	-1.04	6.3	-0.6

Table 2. Planned and actual pumping for the recently ended 2012-2013 runoff year, by wellfield, in acre-feet.

Well Field	2012 Planned	2012 Actual
Laws	7,400	6,990
Bishop	12,000	11,491
Big Pine	21,400-28,400	26,451
Taboose-Aberdeen	2,550-12,800	12,734
Thibaut-Sawmill	12,000-13,200	12,520
Independence-Oak	7,200-9,800	8,816
Symmes-Shepherd	1,750-7,000	7,270
Bairs-Georges	500-1,800	1,678
Lone Pine	800	731
Total	65,600-88,000	88,681

ALTERNATIVES:

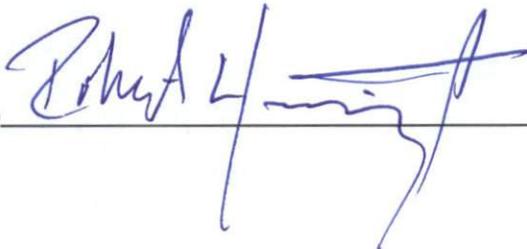
OTHER AGENCY INVOLVEMENT: LADWP

FINANCING:

APPROVALS

COUNTY COUNSEL: N/A	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i> Approved: _____ Date: _____
AUDITOR/CONTROLLER: N/A	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i> Approved: _____ Date: _____
PERSONNEL DIRECTOR: N/A	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i> Approved: _____ Date: _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)



Date: 4/23/13

2. OWENS VALLEY OPERATIONS PLAN FOR RUNOFF YEAR 2013-14

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2. OWENS VALLEY OPERATIONS PLAN FOR RUNOFF YEAR 2013-14

This year's annual operations plan and pumping program is consistent with the management strategy of the Water Agreement between the County of Inyo (County) and the City of Los Angeles (City) dated October 18, 1991. As stated in the Water Agreement:

The overall goal of managing the water resources within Inyo County is to avoid certain described decreases and changes in vegetation and to cause no significant effect on the environment which cannot be acceptably mitigated while providing a reliable supply of water for export to Los Angeles and for use in Inyo County.

The overall goal of the Water Agreement: environmental protections and a reliable water supply are the basis of the Los Angeles Department of Water and Power's (LADWP) operations plans. Groundwater pumping in the Owens Valley is managed in conformance with the provisions of the Water Agreement. The Water Agreement provides:

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

2.1. Eastern Sierra Runoff Forecast

The Eastern Sierra Runoff Forecast for the 2013-14 runoff year (Table 1) is based on snow surveys of key Eastern Sierra watersheds in Inyo and Mono counties that contribute the majority of runoff water into the Owens Valley. The Eastern Sierra Runoff Forecast is used for planning aqueduct operations. The forecast Eastern Sierra runoff for 2013-14 runoff year is 220,900 acre-feet, or about 54% of the 1961-2010 long-term average annual runoff value of 412,284 acre-feet.

For the period of April 1 through September 30, 2012, Eastern Sierra runoff was approximately 154,608 acre-feet, or 51% of long term average value of 303,903 acre-feet. The forecast runoff for the period between April 1 through September 30, 2013 is 140,500 acre-feet for the Owens River Basin or 46% of the long term average.

Figure 1 summarizes Owens Valley runoff and groundwater pumping by LADWP since the 1971 runoff year.

Figure 1 - Owens Valley Runoff and Groundwater Pumping

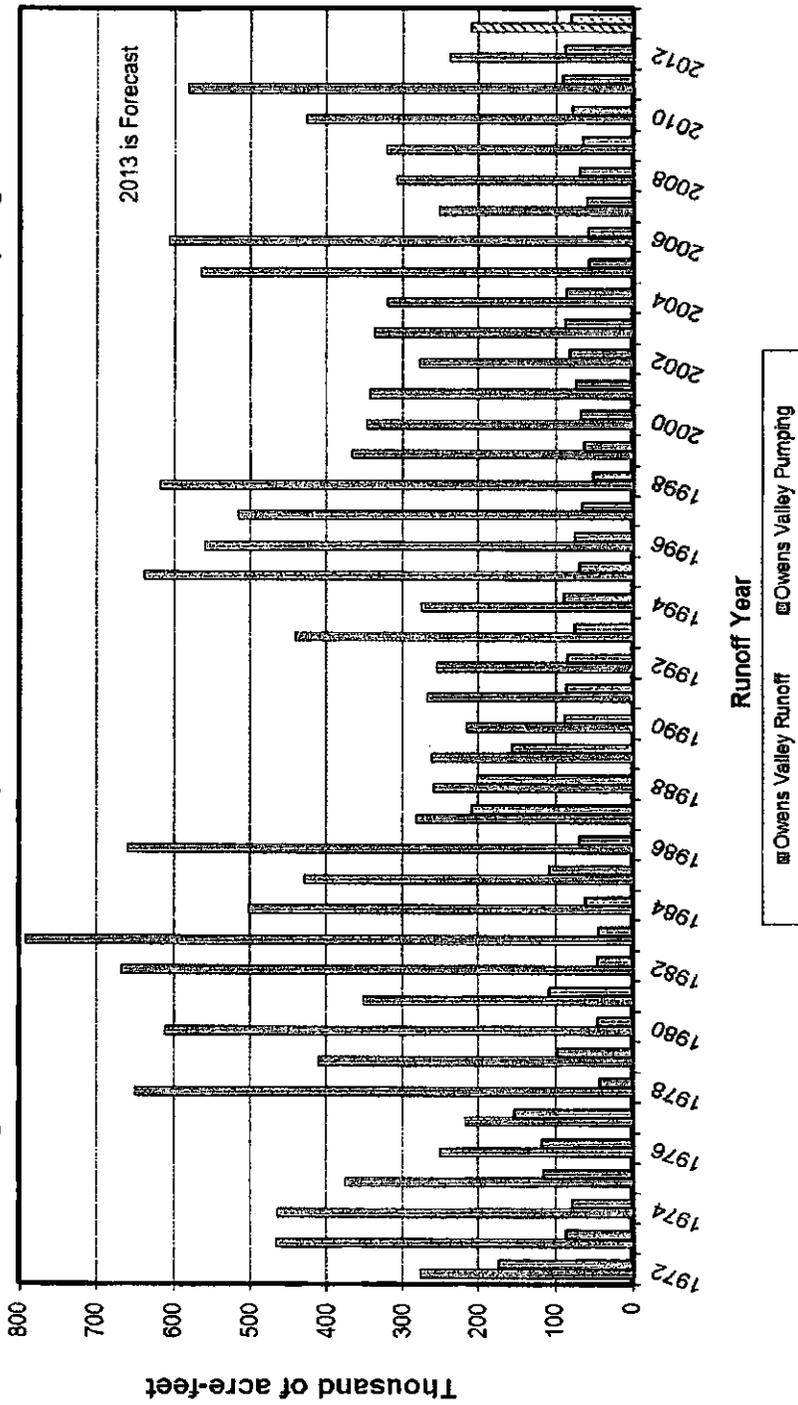


Figure 1. Owens Valley Runoff and Groundwater Pumping

2.2. Owens Valley Groundwater Production

LADWP has prepared its 2013-14 Annual Owens Valley Operations Plan based on the goals and principles of the Water Agreement. The 2013-14 Annual Owens Valley Operations Plan is designed to avoid adverse impacts to the environment while providing a reliable supply of water for in-valley uses and export to Los Angeles for municipal use.

Under the terms of the Water Agreement, the acceptable amount of groundwater pumping from each Owens Valley well field is based on the ON/OFF status of monitoring sites located within each well field and the capacity of the wells linked to those sites (see Water Agreement Sections V.B and V.C). The Water Agreement or Technical Group has designated certain town supply wells, irrigation supply wells, fish hatchery supply wells, enhancement/mitigation (E/M) project supply wells, and other wells determined not to significantly impact areas with groundwater dependent vegetation as exempt from the ON/OFF provisions of the Water Agreement. These exempt wells may be pumped for their intended purpose. Table 2 lists the ON/OFF status of the monitoring sites within the Owens Valley as of April 2013.

Table 3 provides a breakdown of available annual pumping capacity and planned groundwater pumping for the first six months of the 2013-14 runoff year by well field. Pursuant to Water Agreement Section V.D, LADWP shall submit a plan for the second six months of the runoff year on or about October 20, 2013. Table 3 also shows the monitoring sites in ON status as of April 2013, the wells associated with the ON status monitoring sites, and the exempt wells in each well field. Approximately 134,411 acre-feet of water are available for groundwater pumping from Owens Valley well fields under the terms of the Water Agreement during the 2013-14 runoff year. LADWP plans to pump between 44,610 and 54,650 acre-feet during the first six months of the 2013-14 runoff year. Groundwater pumping will provide water for Owens Valley uses and Los Angeles municipal supply. Working with the Inyo/Los Angeles Technical Group, LADWP will monitor Owens Valley environmental conditions to assess if further changes to the planned pumping are needed. LADWP's 2013-14 conservative groundwater management approach is in keeping with the environmentally conservative pumping plans advocated by the Standing Committee during the dry years of the early 1990s. While LADWP plans to pump considerably less groundwater than made available under Water Agreement Section V, the Inyo/Los Angeles Standing Committee may agree upon additional reductions in groundwater pumping pursuant to Water Agreement Section IV.A. To that end, LADWP has requested Inyo County to consider temporary nominal reductions in irrigation during the current runoff year, which will facilitate additional reductions in groundwater pumping.

Figure 2 compares the amount of Owens Valley groundwater pumping provided by the provisions of Water Agreement and the actual groundwater pumping by LADWP for each runoff year since 1992 (available pumping was not calculated prior to 1992). LADWP's anticipated pumping for the 2013-14 runoff year is consistent with its past conservative pumping plans. LADWP is committed to conducting its operations in a conservative, responsible, and environmentally sustainable manner.

In addition to complying with the ON/OFF provisions and the environmental protection goals of the Water Agreement, LADWP's 2013-14 pumping program considers the groundwater mining provisions of the Green Book. Table 4 shows the latest update of the mining calculations based on the procedures described in Section IV.C of the Green Book. As shown in this table, none of the well fields in the Owens Valley will be in deficit by the end of the first half of the 2013-14 runoff year.

Table 5 is a list of Owens Valley wells exempted under the Water Agreement or by approval of the Technical Group from linkage to vegetation monitoring sites and the ON/OFF provisions. The table includes a list of wells by well number, general location of the exempt well, and the reason the well is exempt.

Table 6 details planned groundwater pumping for the first six months of the 2013-14 runoff year on a month-to-month basis for each well field. Pumping for town water systems, fish hatcheries, and enhancement/mitigation (EM) projects is included in the pumping distribution. Owens Valley groundwater production for the 2013-14 runoff year is consistent with the provisions of the Water Agreement. No additional testing of wells subject to the Water Agreement is included in this year's planned pumping total and if performed, will be in addition to the planned pumping for 2013-14. Planned pumping may be increased to provide freeze protection for the Los Angeles Aqueduct (LAA).

The following is a discussion of the planned pumping program by well field. Figures 3, 4, and 6 through 10 locate LADWP's Owens Valley pumping wells by well field. These figures show the location of production wells, monitoring wells, and vegetation monitoring sites in each area.

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Table 2. Soil/Vegetation Water Balance Calculations for April 2013 According to Section III of the Green Book

Table 2 - Soil /Vegetation Water Balance Calculations for April 2013 According to Section III of Green Book

Site	Oct 2011 Soil AWC (cm)	50% Annual Precip. (cm)	Soil AWC (cm)	Oct 2011 Veg. Water Req./ Well Turn-On (cm)	Oct 2011 Status	April 2012 Soil AWC (cm)	April 2012 Status	Soil AWC Req. for Well Turn-On (cm)
L1	2.1	NA	2.1	12.3/15.6	OFF	3.5	OFF	15.6, OFF 7-10
L2	17.5	7.3	25.4	NA	ON	18.6	ON	NA
L3	7.4	NA	7.4	12.0/15.2	OFF	14.1	OFF	25.2, OFF 10-11
BP1	5.4	NA	5.4	15.3/19.9	OFF	5.9	OFF	22.9H, OFF 10-97
BP2	2.4	NA	2.4	13.7/17.4	OFF	2.1	OFF	28.4, OFF 7-98
BP3	5.0	NA	5	10.6/10.6	OFF	4.3	OFF	10.6, OFF 7-12
BP4	49.6	8.2	51.6	14.1/NA	ON	49.9	ON	NA
TA3	7.3	NA	7.3	25.0/26.0	OFF	7.6	OFF	26.0, OFF 10-11
TA4	14.5	NA	14.5	17.3/23.3	OFF	17.5	OFF	23.3, OFF 10-11
TA5	20.7	8.2	28.9	5.2/NA	ON	20.8	ON	NA
TA6	8.1	NA	9.1	25.5/17.8	OFF	8.5	OFF	17.6, OFF 10-11
TS1	1.5	NA	1.5	8.3/20.4	OFF	1.5	OFF	20.4H, OFF 10-66
TS2	8.0	7.3	15.3	7.4/NA	ON	11.3	ON	NA
TS3	23.8	7.3	31.2	32.9/NA	OFF	31.3	OFF	32.9, OFF 10-12
TS4	29.9	NA	29.9	51.7/55.9	OFF	42.4	OFF	55.9, OFF 10-11
IO1	26.3	NA	28.3	88.6/42.2	OFF	28.5	OFF	42.2, OFF 10-96
IO2	3.7	NA	3.7	10.7/18.9	OFF	4.2	OFF	18.9, OFF 7-11
SS1	24.3	6.5	30.8	26.6/NA	ON	3	ON	NA
SS2	3.3	NA	3.3	11.9/25.6	OFF	3	OFF	25.6, OFF 7-11
SS3	22.8	NA	22.9	24.4/33.8	OFF	23.5	OFF	33.8, OFF 10-11
SS4	6.1	NA	6.1	7.7/15.9	OFF	7.2	OFF	15.9, OFF 7-05
BG2	27.5	6.6	34.1	12.1/NA	ON	24.7	ON	NA

H1 - These values of soil water required for well turn-on were derived using calculations based on percent cover that were routinely performed in the past. The values have not been updated to conform to the Greenbook equations in section III.D.2, p. 57-59.

Table 3. Annual Pumping Capacity According to Monitoring Sites with ON Status and Planned Pumping for the First Six Months of Runoff Year 2013-14

Wellfield	Monitoring	Associated Production Wells	Available Capacity (AF)	Planned Pumping (AF)
Laws	L2	236, 239, 243, 244	10,426	
	L5*	245, 387, 388	9,122	
	Exempt	236**, 354, 365, 413	3,337	
	Wellfield Pumpage		22,885	5,760-7,200
Bishop	All wells	140, 371, 406, 407, 408, 410, 411, 412	18,000	
	Wellfield Pumpage		18,000	9,000
Big Pine	BP4	331	7,530	
	Exempt	218, 219, 330, 332, 341, 352, 415	28,750	
	Wellfield Pumpage		36,280	11,500-12,900
Taboose Aberdeen	TA5	349	12,091	
	Exempt	118	2,462	
	Wellfield Pumpage		14,553	4,200-7,380
Thibaut Sawmill	TS2	195	796	
	Exempt	351, 366	13,200	
	Wellfield Pumpage		13,996	6,600
Indep. - Oak	Exempt	59, 60, 65, 357, 383EM, 384EM, 401	13,973	
	Wellfield Pumpage		13,973	5,280-6,600
Symmes Shepherd	SS1	69, 92, 393	8,254	
	Exempt	402EM	1,000	
	Wellfield Pumpage		9,254	3,100
Bairs Georges	BG2	76, 343, 348, 403	4,770	
	Exempt	343	500	
	Wellfield Pumpage		4,770	1,320
Lone Pine	Exempt	344, 346, 390	700	
	*	416		
	Wellfield Pumpage		700	560
Owens Valley Total			134,411	47,370-54,660

* Monitoring site has yet to be located.

Figure 2 - Owens Valley Pumping - Provided by Water Agreement vs Actual

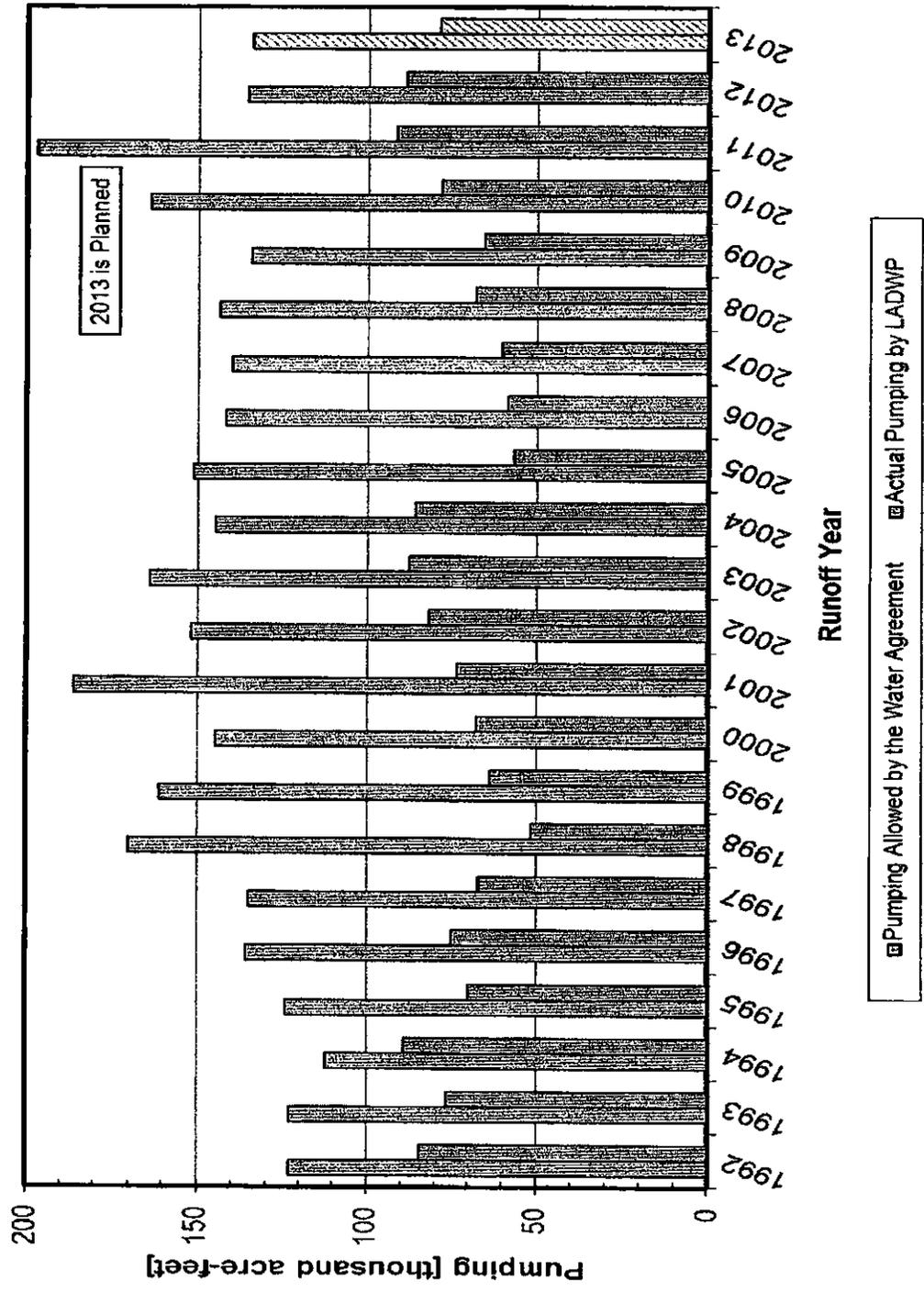


Figure 2. Owens Valley Pumping – Provided by Water Agreement vs Actual

Table 4 - Summary of Recharge and Pumping for Water Year 1994 - 2012 and Estimated Pumping Limit for Apr-Sep 2013 in Acre-Feet

Water Year	OWENS VALLEY Runoff Percent	LAW'S Recharge Pumping	BISHOP Recharge Pumping	BIGPINE Recharge Pumping	TABOSEE-THBAUT Recharge Pumping	IND-SYM-BAIRS Recharge Pumping	LONE PINE Recharge Pumping	OWENS VALLEY Recharge Pumping
1994	60%	12,026	35,793	19,430	21,977	28,106	11,554	128,885
1995	157%	28,115	55,397	38,758	46,375	55,103	22,296	246,044
1996	123%	12,588	50,754	33,228	42,097	51,113	19,757	209,537
1997	125%	15,237	49,949	31,874	42,837	52,100	19,962	213,559
1998	139%	28,195	55,309	40,005	46,845	55,605	20,341	246,361
1999	95%	18,546	38,588	21,813	32,426	41,090	15,481	177,944
2000	80%	11,102	29,539	23,213	27,567	37,015	14,344	152,780
2001	77%	12,259	38,772	26,785	27,860	33,469	13,520	148,674
2002	63%	11,184	35,514	19,715	22,495	28,820	12,103	129,831
2003	75%	11,454	38,486	21,884	26,166	32,455	13,088	143,532
2004	71%	11,138	37,149	21,177	24,641	29,771	11,357	135,586
2005	120%	18,389	47,471	32,686	40,574	46,441	17,191	202,678
2006	138%	35,336	54,337	39,650	45,707	53,838	19,956	250,911
2007	64%	10,947	34,470	19,757	22,855	27,624	10,454	129,108
2008	68%	10,855	35,850	20,432	28,619	27,759	11,563	135,078
2009	73%	11,049	37,416	21,555	29,455	29,359	12,147	140,912
2010	93%	11,154	41,987	26,566	35,541	36,863	13,802	166,362
2011	134%	17,375	52,182	35,559	47,562	50,609	19,057	222,333
2012	72%	11,058	37,315	21,297	28,369	36,565	11,538	138,482
2013 (a)	52%	10,547	30,756	15,352	19,250	21,519	9,212	106,636
(b) TOTAL		308,726	855,609	539,264	678,442	773,508	301,044	3,448,592
Estimated Apr-Sep 2013 Pumping Limit		180,387	671,783	78,063	274,087	541,152	278,119	2,023,590

(a) Estimated Recharge for the 2013 Water Year, Approximate Pumping for First Half of Water year 2013 (Oct-Mar)

(b) Estimated 20 Year Total for Recharge; actual 19.5 Year Total for Pumping

Table 5. Exempt Wells in Owens Valley

LADWP Groundwater Pumping Wells Exempt from Water Agreement ON/OFF Provisions

Revised June 22, 2010

Well Number	Well Field	Duration	Reason
354 p ⁽¹⁾	Laws	Annual	Sole Source-Town Supply
413 b ⁽¹⁾	Laws	Annual	Sole Source-Town Supply and E/M Supply
341 b ⁽¹⁾	Big Pine	Annual	Sole Source-Town Supply
352 b ⁽¹⁾	Big Pine	Annual	Same as above
415 p ⁽¹⁾⁽⁶⁾	Big Pine	Annual	Same as above
357 p ⁽¹⁾	Independence-Oak	Annual	Same as above
384 b ⁽¹⁾⁽²⁾	Independence-Oak	Annual	Same as above
344 p ⁽¹⁾	Lone Pine	Annual	Same as above
346 b ⁽¹⁾	Lone Pine	Annual	Same as above
330 ⁽³⁾	Big Pine	Annual	Sole Source-Fish Hatcheries
332 ⁽³⁾	Big Pine	Annual	Same as above
409 ⁽³⁾	Big Pine	Annual	Same as above
351	Thibaut-Sawmill	Annual	Same as above
356	Thibaut-Sawmill	Annual	Same as above
218	Big Pine	Annual	No impact on areas with groundwater dependent vegetation
219	Big Pine	Annual	Same as above
118	Taboose-Aberdeen	Annual	Same as above
401	Independence-Oak	Annual	Same as above
59	Independence-Oak	Annual	Same as above
60	Independence-Oak	Annual	Same as above
65	Independence-Oak	Annual	Same as above
383 E/M	Independence-Oak	Annual	Same as above
384 E/M ⁽²⁾	Independence-Oak	Annual	Same as above
61	Independence-Oak	Irrigation season	Sole Source-Irrigation; no impact on areas with groundwater dependent vegetation
402 E/M	Synthes-Shepherd	Irrigation season	Same as above
390 E/M	Lone Pine	Irrigation season	Same as above
343	Bairs-Georges	Irrigation season in below average runoff years	Sole Source-Irrigation in below average runoff years
365 ⁽⁴⁾	Laws	Annual	Sole Source-Irrigation; no impact on areas with groundwater dependent vegetation
236 ⁽⁴⁾	Laws	Irrigation Season	Sole Source-Irrigation
413 E/M ⁽⁵⁾	Laws	Irrigation Season	Sole Source-Irrigation

1. Primary town supply well is designated by p; Backup town supply well is designated by b.
2. Well 384 is a dual purpose well, water to Enhancement/Mitigation (E/M) supply is indicated by 384 and Independence domestic supply is indicated as 384 b.
3. Wells 330, 332, and 409 may only be pumped two at a time, unless pumped for testing or emergencies.
4. Well 365 designated as primary and Well 236 designated as backup irrigation supply.
5. Well 413 is a dual purpose well. Water is supplied to the Laws Museum Irrigation Projects east and west of the museum and Laws domestic supply is indicated as 413b.
6. Currently not pump-equipped.

Table 6. Planned Owens Valley Pumping for the First Six Months of 2013-14 Runoff Year (acre-feet)

Month	Laws	Bishop	Cap-Pine	Taboose- Abdeen	Taub- Sawmill	Indep- Oak	Symmes- Shepherd	Bairs- Georges	Lone Pine	TOTAL
April	960-1,200	1,500	2,150	1,200	1,100	880-1,100	860	300	100	9,080-9,540
May	960-1,200	1,500	2,150	1,100	1,100	880-1,100	860	300	100	9,080-9,540
June	960-1,200	1,500	2,150	1,600-1,230	1,100	880-1,100	860	180	90	8,740-9,410
July	960-1,200	1,500	1,700-2,150	240-1,230	1,100	880-1,100	180	180	90	6,830-8,730
August	960-1,200	1,500	1,700-2,150	240-1,230	1,100	880-1,100	170	180	90	6,820-8,720
September	960-1,200	1,500	1,700-2,150	240-1,230	1,100	880-1,100	170	180	90	6,820-8,720
TOTAL	5,760-7,200	9,000	11,550-12,900	4,200-7,380	6,600	560-6,600	3,100	1,700	560	47,370-54,660

Laws Well Field (Figure 3)

Monitoring site L2 is in ON status. Production wells controlled by this monitoring site have an available production capacity of 10,426 acre-feet. Wells linked to monitoring site L5 have a capacity of 9,122 acre-feet. Exempt wells within the Laws Well Field have a capacity of 3,337 acre-feet. The sum total of available pumping capacity in the Laws Well Field is 22,885 acre-feet. Well 365 has had a reduction in production capacity and is in the process of being replaced. Well 236, associated with monitoring site L2, is used as a backup along with Well 365 as an exempt well irrigation water supply.

Planned groundwater pumping for the first half of the runoff year in the Laws Well Field is between approximately 5,760 to 7,200 acre-feet, contingent on water needs and environmental conditions. Groundwater pumping is planned to supply Owens Valley demands including the town water system, E/M projects, and irrigated lands. LADWP has requested that Inyo County consider a temporary 20% reduction in groundwater pumping to supply irrigation water in the Laws Wellfield for the 2013-14 runoff year. If the Inyo/Los Angeles Standing Committee agrees to reduce pumping for irrigation in the Laws Wellfield, pumping for the first half of the runoff year will be approximately 5,800 acre-feet.

Bishop Well Field (Figure 4)

Pumping in the Bishop Well Field is governed by the provisions of the Hillside Decree and the Water Agreement, which limit LADWP annual groundwater extractions (pumping and flowing wells) from the Bishop Cone to an amount commensurate with the total amount of water used on City-owned lands on the Bishop Cone (including conveyance and other losses). Under the current audit protocols, total water used on City-owned lands within the Bishop Cone area is approximately 29,000 acre-feet per year. The current total available groundwater extraction capacity in the Bishop Well Field is approximately 18,000 acre-feet. The planned groundwater pumping from the Bishop Well Field is 9,000 acre-feet for the first half of the 2013-14 runoff year, contingent on water needs and environmental conditions.

Figure 5 shows water use on City-owned land on Bishop Cone in comparison to the groundwater extractions (flowing and pumping wells) for runoff years 1996 to present.

The current Bishop Cone Audit does not include a number of known uses and losses, including some uses that are currently being measured. These unaccounted for uses should be added to the total Bishop Cone Audit and the audit protocols should be revised to more accurately reflect actual uses and losses.

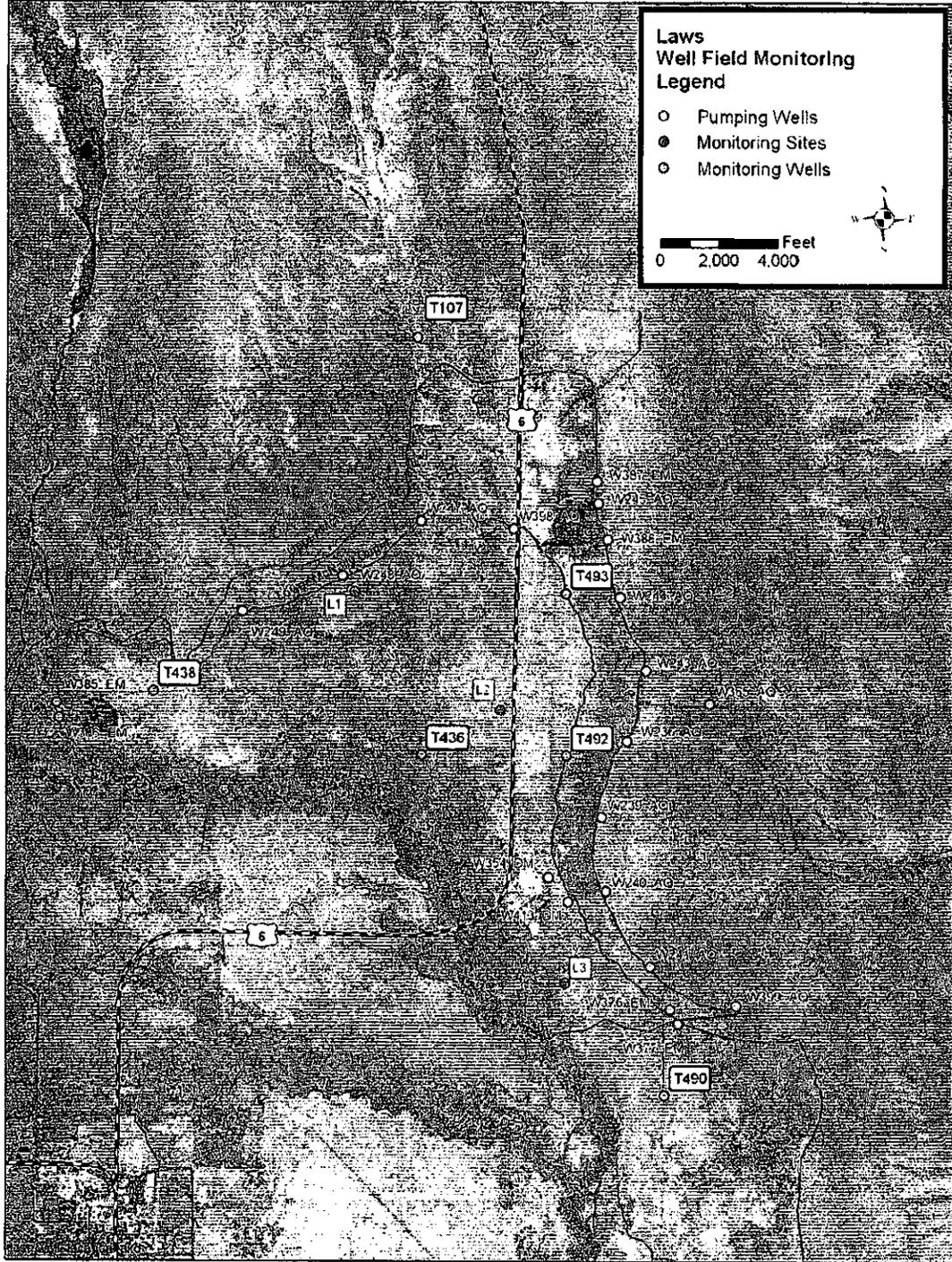


Figure 3. Laws Well Field

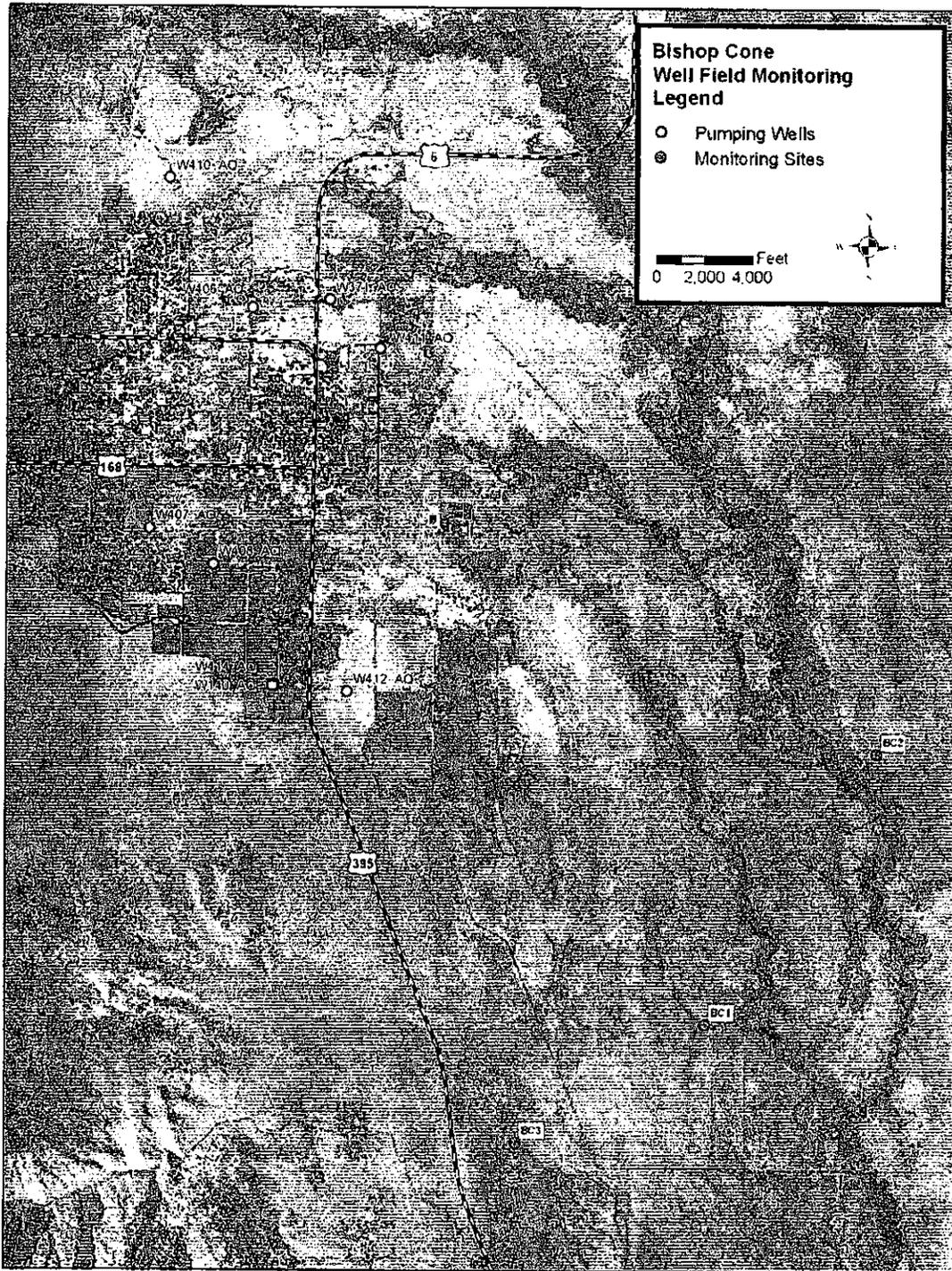


Figure 4. Bishop Cone Well Field

Figure 5. Groundwater Extraction (flowing & pumping) and Water Use on Los Angeles-Owned Land on Bishop Cone

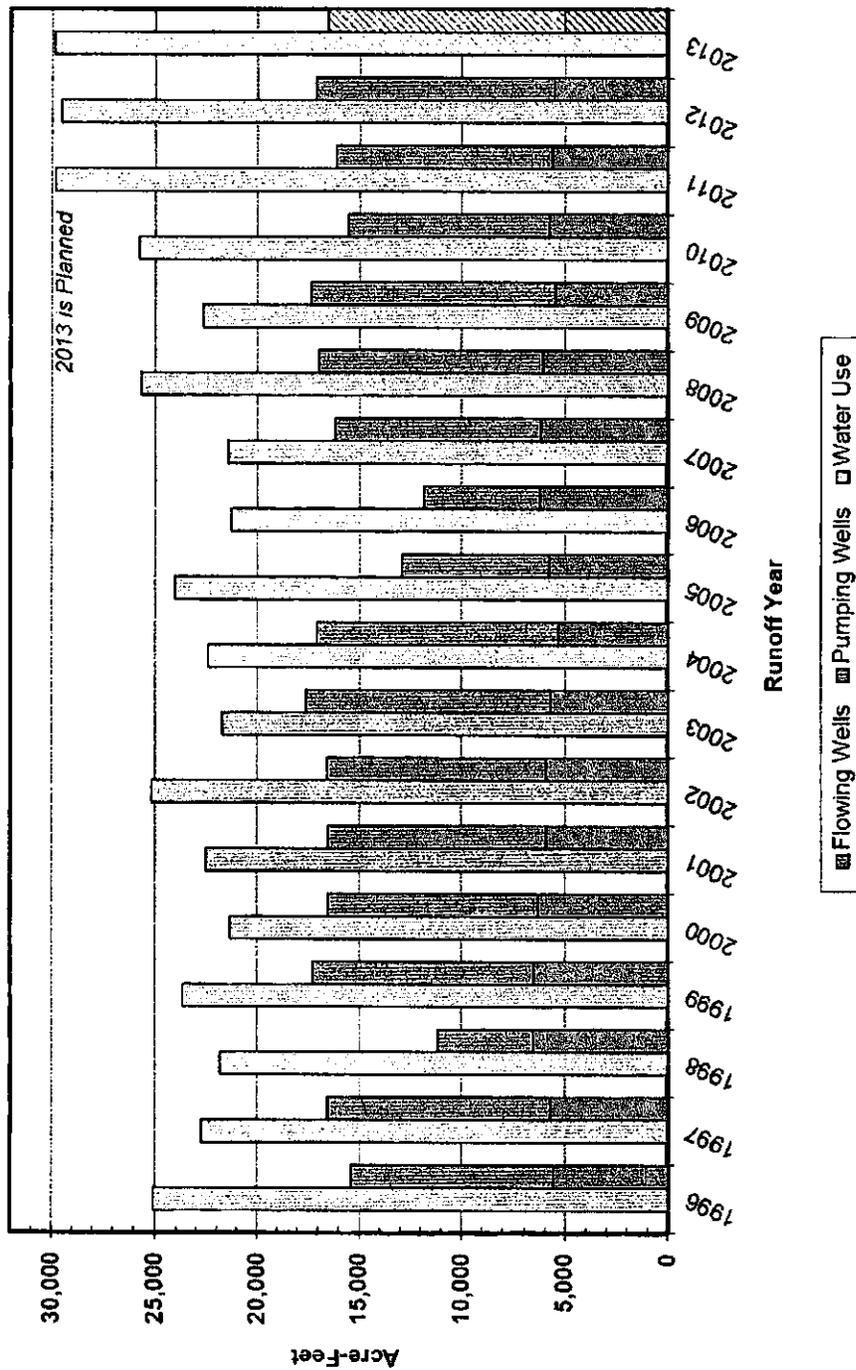


Figure 5. Groundwater Extraction (flowing & pumping) and Water Use on Los Angeles-Owned Land on Bishop Cone

Big Pine Well Field (Figure 6)

Monitoring sites BP4 is in ON status. Production Well 331, managed in conjunction with monitoring site BP4, has a production capacity of 7,530 acre-feet. Exempt wells including Well 218, Well 219, town supply wells, and Fish Springs Fish Hatchery wells in the Big Pine Well Field have a combined capacity of 28,750 acre-feet. The total available capacity in the Big Pine Well Field is 36,280 acre-feet. The total planned pumping in the Big Pine Well Field is for the first six months of the 2013-14 runoff year is between approximately 11,500 acre-feet and 12,900 acre-feet, contingent on water needs and environmental conditions.

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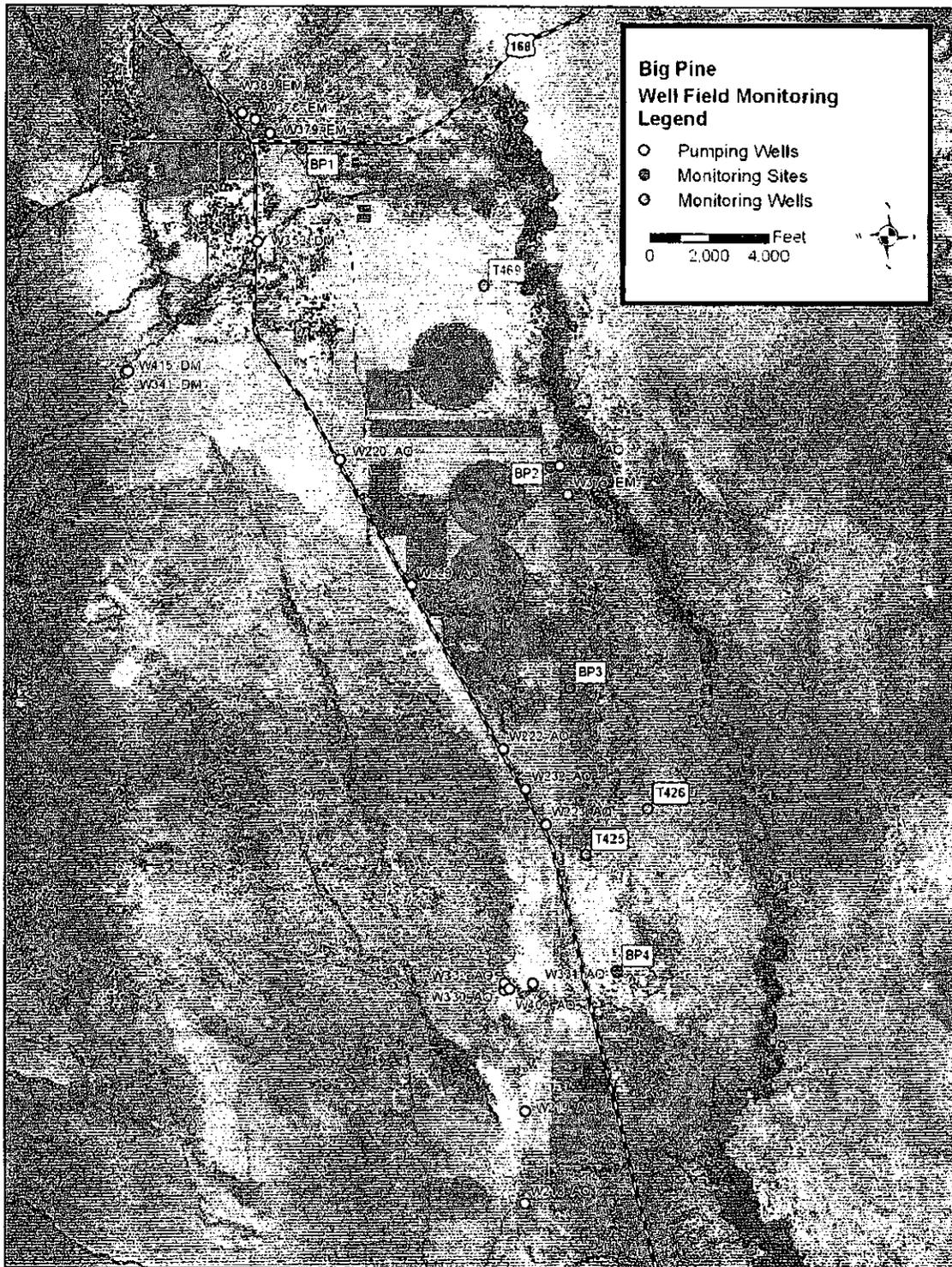


Figure 6. Big Pine Well Field

Taboose-Aberdeen Well Field (Figure 7)

Monitoring site TA5 is in ON status. Production Well 349 is controlled by monitoring site TA5 and has an available pumping capacity of approximately 12,091 acre-feet. Exempt Well 118 in the Taboose-Aberdeen Well Field has a capacity of 2,462 acre-feet. The total available groundwater pumping capacity in the Taboose-Aberdeen Well Field is 14,553 acre-feet. The planned groundwater pumping in the Taboose-Aberdeen Well Field for the first half of the 2013-14 runoff year is contingent on water needs and prevailing environmental conditions and will range between 4,200 acre-feet and approximately 7,380 acre-feet.

Thibaut-Sawmill Well Field (Figure 8)

Monitoring sites TS2 is in ON status. Production well W155 controlled by monitoring site TS2 has a production capacity of 796 acre-feet. Exempt Blackrock Fish Hatchery supply wells W351 and W356 have capacities of 13,200 acre-feet and 8,110 acre-feet respectively. Blackrock Fish Hatchery demand for the 2013-14 runoff year is expected to be between approximately 12,000 acre-feet and 13,200 acre-feet. The total available pumping capacity in the Thibaut-Sawmill Well Field for the 2012-13 runoff year is about 13,996 acre-feet. Total planned pumping in the Thibaut-Sawmill Well Field for the first half of the 2013-14 runoff year is planned to be 6,000 acre-feet, subject to hatchery demands, water needs, and environmental conditions.

Independence-Oak Well Field (Figure 9)

No monitoring sites in the Independence-Oak Well Field are in ON status. Independence-Oak exempt wells have a combined capacity of 13,973 acre-feet. The total available pumping capacity in the Independence-Oak Well Field is 13,973 acre-feet. The anticipated range of groundwater pumping in the Independence-Oak Well Field for the first six months of the 2012-13 runoff year is between 5,280 and 6,600 acre-feet, which includes water for municipal, irrigation, town, and E/M project supply. LABWP has requested Inyo County to consider a temporary 20% reduction in groundwater pumping for irrigation in the Independence-Oak Well Field during the 2013-14 runoff year. If the Inyo/Los Angeles Standing Committee agrees to reduce pumping in the Independence Well Field, groundwater pumping during the first six months of the 2013-14 runoff year will be approximately 5,300 acre-feet.

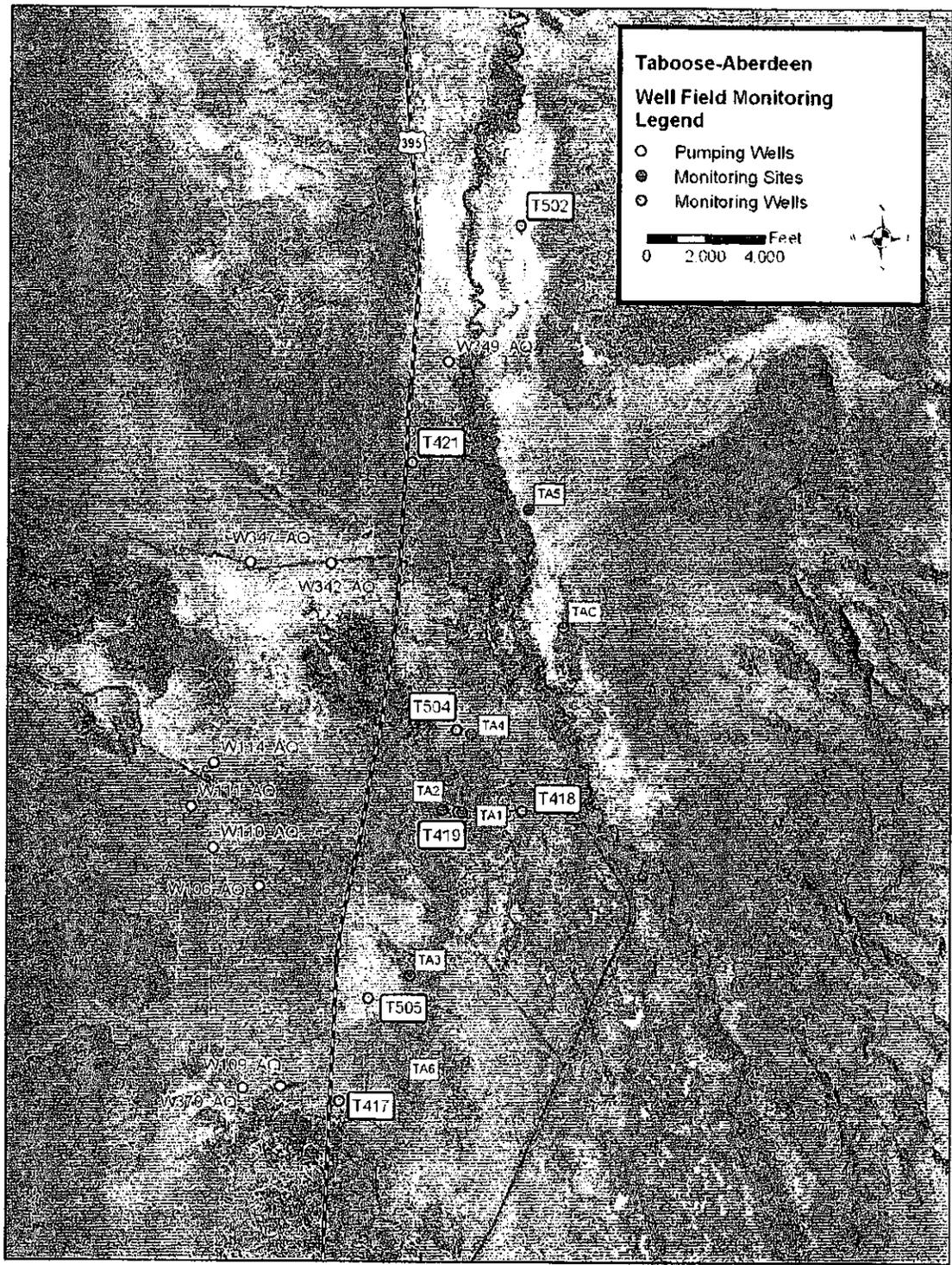


Figure 7. Taboose-Aberdeen Well Field

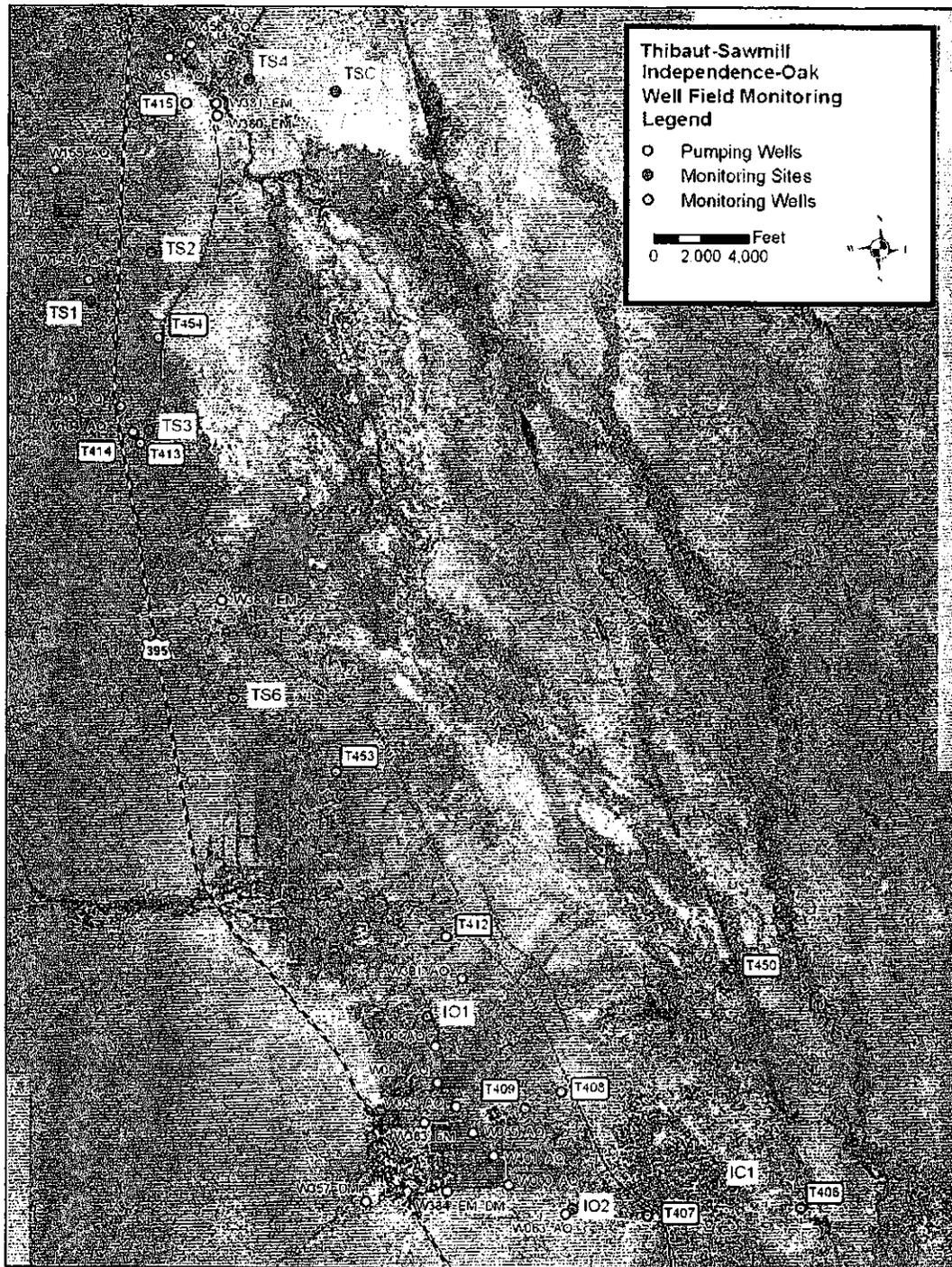


Figure 8. Thibaut-Sawmill and Independence-Oak Well Fields

Symmes-Shepherd Well Field (Figure 9)

Monitoring sites SS1 is in ON status. Monitoring site SS1 has an annual capacity of 8,254 acre-feet. Exempt Well 402 has a capacity of about 1,000 acre-feet. Total available capacity in the Symmes-Shepherd Well Field for the 2013-14 runoff year is approximately 9,254 acre-feet. The total pumping in the Symmes-Shepherd Well Field for the first six months of the 2013-14 runoff year is planned to be 3,100 acre-feet, contingent on water needs and environmental conditions.

Bairs-Georges Well Field (Figure 9)

Vegetation monitoring site BG2 is in ON status. The wells managed under this site have a combined annual capacity of 4,770 acre-feet. Exempt Well 343 has an available capacity of 500 acre-feet (based upon a six month exemption period). The total available capacity in the Bairs-Georges Well Field for the 2013-14 runoff year is 4,770 acre-feet. Groundwater pumping in the Bairs-Georges Well Field for the first six months of the runoff year is planned to be approximately 1,200 acre-feet, contingent on water needs and environmental conditions.

Lone Pine Well Field (Figure 10)

Lone Pine exempt wells are Well 344 and Well 345 and E/M project supply Well 390. These three wells have an annual capacity of approximately 700 acre-feet. Well 390 has degraded in recent years and is being replaced.

Well 416 is a production well in the Lone Pine Well Field drilled in 2002. Hydrologic testing was conducted on Well 416 during the 2009-10 runoff year. The Technical Group has been requested to designate a monitoring site for this well.

The planned groundwater pumping from the Lone Pine Well Field during the first six months of the 2013-14 runoff year is 560 acre-feet, contingent on water needs and environmental conditions.

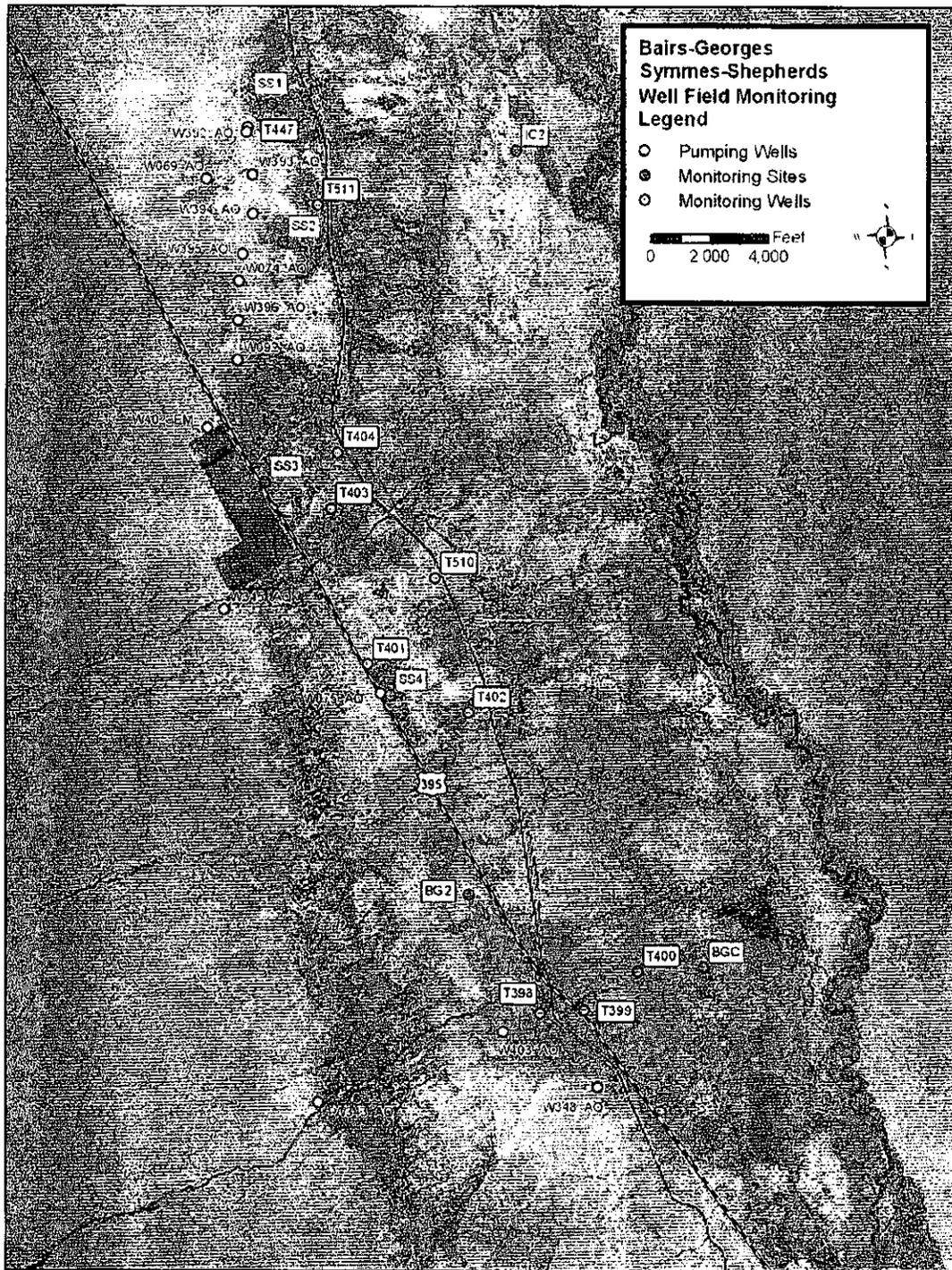


Figure 9. Bairs-Georges and Symmes-Sheperds Well Fields

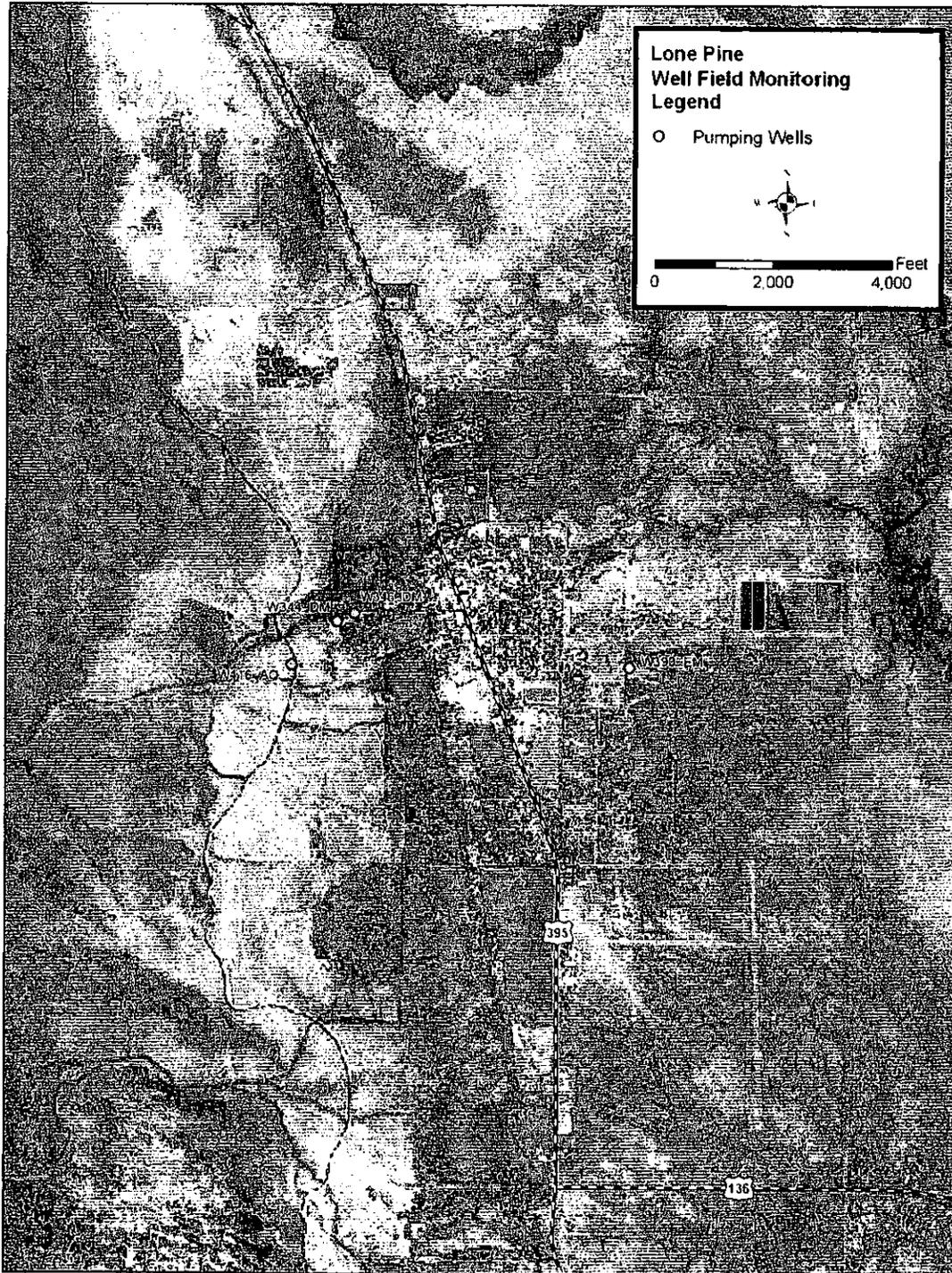


Figure 10. Lone Pine Well Field

2.3. Owens Valley Uses (Including Enhancement/Mitigation Projects)

Table 7 shows the historic (1981-82) uses and the planned monthly uses within the Owens Valley for 2013-14. The in-valley uses shown on Table 7 consist of irrigation, stockwater, recreation, and wildlife projects, E/M supply, LORP project usage, and usage pursuant to California Health and Safety Code Section 42316 for dust abatement projects on Owens Lake. As shown in Table 7 and Figure 11, LADWP plans to provide approximately 198,800 acre-feet for in-valley uses this runoff year, not including water supplied to the Owens Valley reservations.

The primary consumptive use of water in the Owens Valley is the Owens Lake Dust Mitigation Program (OLDMP). Water use in the 2012-13 runoff year by the OLDMP was 75,300 acre-feet. Depending on prevailing conditions, water use by the OLDMP in 2013-14 may be as much as 95,000 acre-feet.

Releases to the LORP from the LAA Intake facility began on December 6, 2006. An average flow of over 40 cfs is now maintained throughout the entire 62 mile stretch of the Lower Owens River, south of the Intake structure. When needed, the releases at the Intake are augmented through additional releases at the Independence, Blackrock, Georges, Locust, and Alabama Spill Gates to maintain a continuous flow of at least 40 cfs in the river channel. Table 7 shows estimated water use by the Lower Owens River on a monthly basis. Water use by the project during 2012-13 was approximately 20,900 acre-feet. Total LORP uses include the Lower Owens River, Owens Delta, Blackrock Waterfowl Management Area, and project associated losses.

The Water Agreement provides that "... *enhancement/mitigation projects shall continue to be supplied by enhancement/mitigation wells as necessary.*" Due to the monitoring sites controlling some of the production wells supplying E/M projects being in OFF status, the amount of water supplied to E/M projects has often exceeded the amount of water provided by E/M project supply wells. LADWP has chosen to supply certain E/M projects from surface water sources in the past. Future E/M allotments may be influenced by the availability of E/M wells and operational demands. Table 8 shows the planned water supply to E/M projects and the forecast imbalance between the E/M project water use and the E/M project groundwater supply through the end of the 2013-14 runoff year. E/M project water demands during the 2013-14 runoff year are expected to be approximately 3,000 acre-feet greater than E/M groundwater pumping. The cumulative E/M water supply shortfall is estimated to be approximately 187,866 acre-feet by the end of the runoff year.

The Technical Group is currently evaluating the water supply issues associated with the E/M projects and will provide its findings to the Inyo/Los Angeles Standing Committee. It is expected that the Standing Committee will be requested to take appropriate action necessary to ensure water supplied to E/M projects is in conformance with the provisions of the Water Agreement.

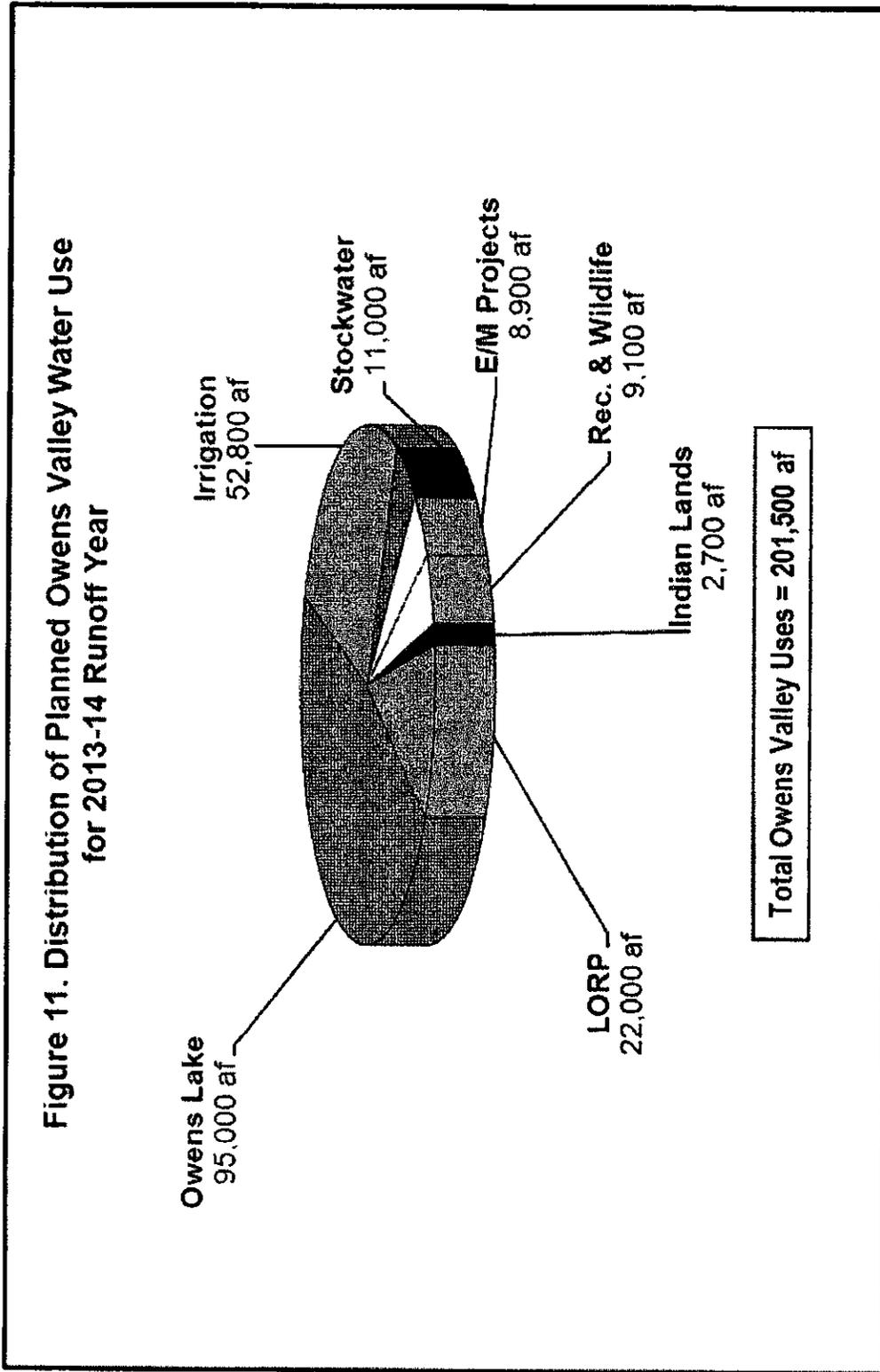


Figure 11. Distribution of Owens Valley Water Use for 2013-14 Runoff Year

Table 8. Owens Valley Groundwater Pumping for Production and E/M Water Use (1984-85 through 2013-14 Runoff Year (acre-feet))

Runoff Year	Owens Valley Runoff (1)	Total Pumping	Non-E/M Pumping	E/M Pumping	E/M Water Uses	E/M Pumping & Use Imbalance	Cumulative E/M Pumping & Use Imbalance
1984-85	121	61,981	61,981	0	0		0
1985-86	103	107,718	107,718	0	109		0
1986-87	158	69,887	69,887	0	12,696	(3)	0
1987-88	68	209,394	179,884	29,510	29,360		0
1988-89	62	200,443	171,012	29,431	30,872		0
1989-90	63	155,972	133,409	22,563	23,330		0
1990-91	52	88,904	70,817	18,087	17,949		0
1991-92	64	87,310	71,520	15,790	20,517	-4,727	-4,727
1992-93	61	84,453	70,688	13,765	18,437	-4,592	-9,319
1993-94	106	76,329	67,338	8,991	19,310	-10,319	-19,638
1994-95	66	89,219	78,209	11,010	20,812	-9,802	-29,440
1995-96	153	69,752	57,180	12,572	22,914	-10,342	-39,782
1996-97	135	74,904	57,981	16,923	23,949	-7,026	-46,808
1997-98	124	66,914	52,760	14,154	21,500	-7,346	-54,154
1998-99	149	51,574	47,353	4,221	19,872	(3)	-54,154
1999-00	89	63,675	59,342	4,333	24,450	-20,117	-74,271
2000-01	84	67,795	61,456	6,339	23,611	-14,272	-88,543
2001-02	83	73,349	70,055	3,294	24,015	-18,521	-107,064
2002-03	66	81,979	76,059	5,920	21,334	-15,474	-122,538
2003-04	81	87,732	80,734	6,998	23,116	-14,118	-136,656
2004-05	77	85,820	78,110	7,710	18,327	-10,617	-147,273
2005-06	136	58,765	50,695	8,071	19,356	-14,285	-161,558
2006-07	146	58,625	50,925	7,700	17,357	(3)	-161,558
2007-08	61	60,338	50,442	9,896	11,312	-4,387	-165,945
2008-09	74	68,971	61,053	7,918	10,646	-2,728	-168,673
2009-10	77	64,145	56,946	7,199	10,695	-4,503	-173,176
2010-11	100	78,248	71,248	7,000	10,807	-3,792	-176,968
2011-12	142	91,699	84,365	7,334	11,993	-4,659	-181,627
2012-13	57	88,000	82,345	5,655	8,914	-3,259	-184,886
2013-14 (2)	54	54,660	49,560	5,100	8,100	-3,000	-187,886

(1) Based on 1961-2010 average: 415,300 acre-feet. Includes some runoff contribution to the Laws Wellfield from the White Mountains.
(2) this is only Apr-Sep pumping/uses. Forecast for planned pumping of 54,660 acre-feet (planned pumping ranges 44,610-54,660 acre-feet)
(3) surface water was available

2.4. Aqueduct Operations

Table 9 shows planned LAA reservoir storage levels and monthly deliveries to Los Angeles. Based on this plan, a total of 69,000 acre-feet will be exported from Inyo and Mono Counties to the City during the 2013-14 runoff year.

2.5. Water Exports to Los Angeles

Figure 12 provides a record of water exports from the Eastern Sierra to Los Angeles, averaging approximately 350,000 acre-feet per year since 1970. Figure 13 shows the LAA contribution to the City water supply relative to other sources and the total annual water supplied to Los Angeles since 1970. LADWP estimates that Los Angeles will require about 557,452 acre-feet of water during the 2013-14 runoff year. It is anticipated that water from the Eastern Sierra will make up about 12% of the 2013-14 supply. Water purchases from the Metropolitan Water District of Southern California will provide about 78% of the City's supply, groundwater from Los Angeles area aquifers will provide about 8%, and recycled water will supply about 1% of the City's water needs.

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Table 9. Planned Los Angeles Aqueduct Operations for 2013-14 Runoff Year

Month	Owens Valley-Bouquet Reservoir Storage 1 st of month Storage	Aqueduct Delivery to Los Angeles
	(acre-feet)	(acre-feet)
April	161,282	1,190
May	165,224	1,537
June	162,683	3,868
July	155,496	3,608
August	145,218	10,146
September	125,225	6,843
October	112,968	2,017
November	110,954	4,463
December	120,313	4,612
January	135,667	3,074
February	153,430	8,331
March	162,314	12,298
TOTAL		66,986

Figure 12. Water Export from Eastern Sierra to Los Angeles

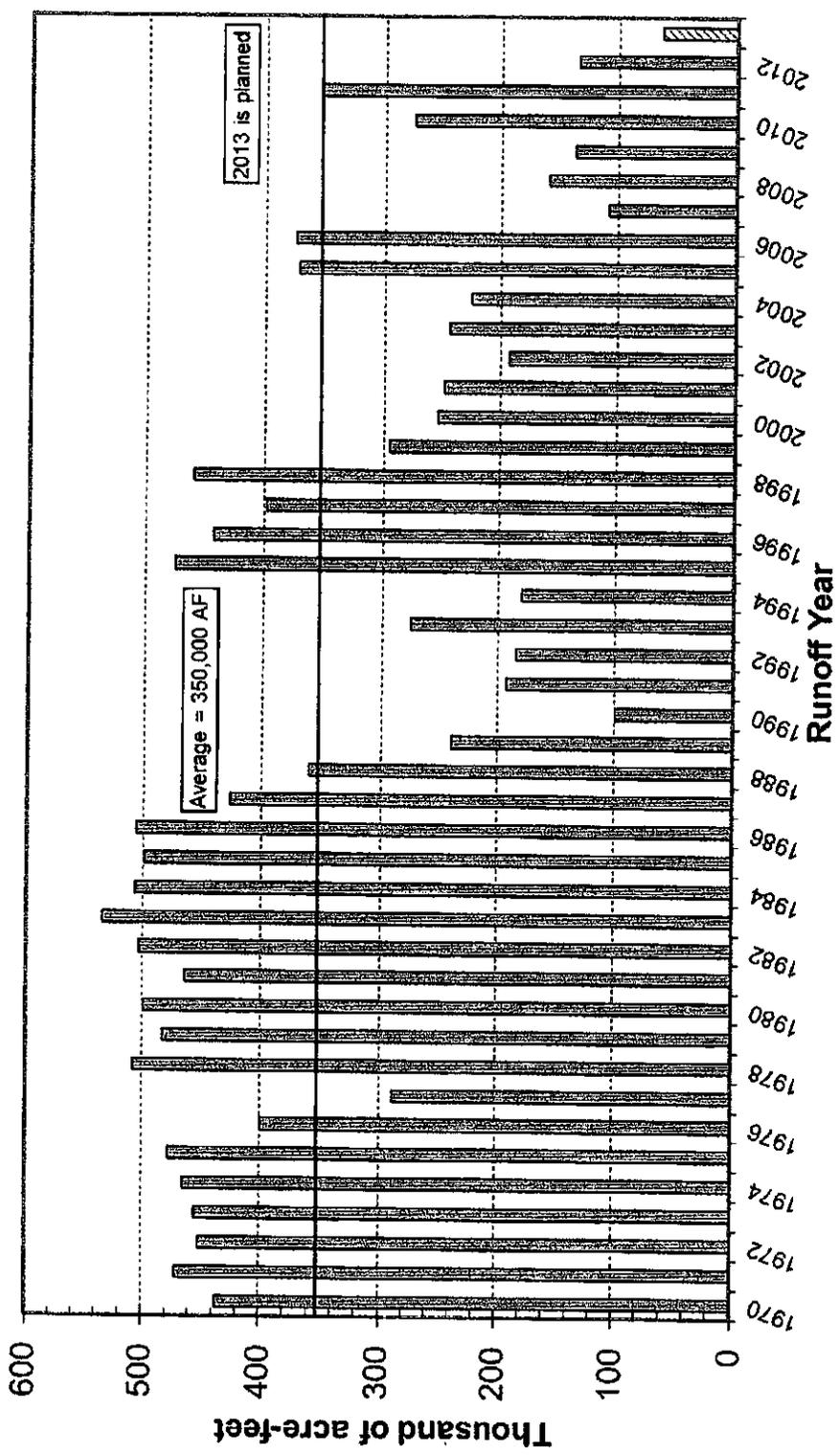


Figure 12. Water Export from the Eastern Sierra to Los Angeles

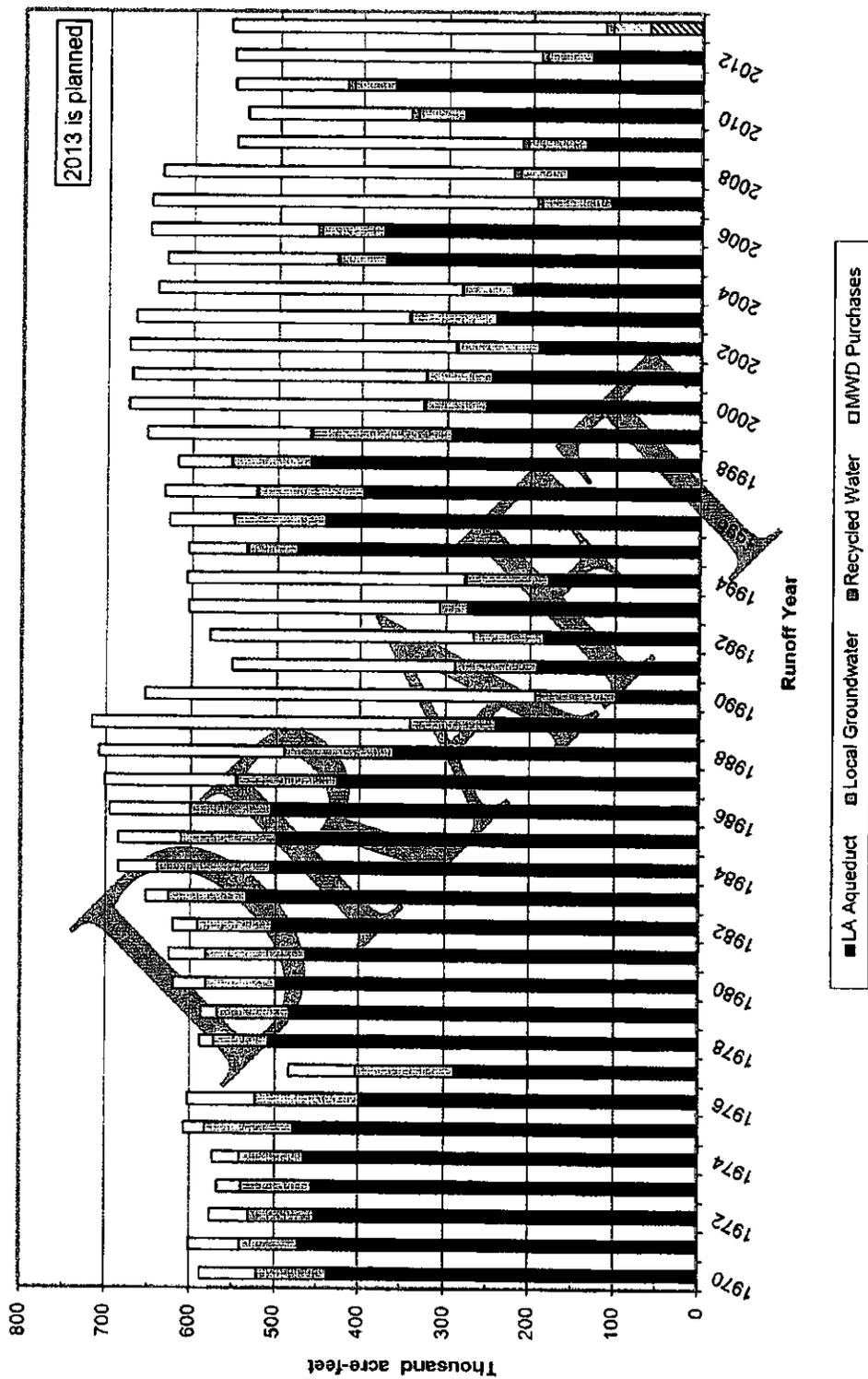


Figure 13. Sources of Water for the City of Los Angeles



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
6

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Inyo County Planning Department

FOR THE BOARD MEETING OF: April 29, 2013

SUBJECT: National Forest System Land Management Planning Directives

RECOMMENDATION: Review draft correspondence regarding the National Forest System Land Management Planning Directives, provide input, and authorize the Chair to sign.

SUMMARY DISCUSSION: The U.S. Forest Service approved a new Land Management Planning Rule in 2012 (Attachment 3). Inyo County participated extensively in development of the Rule, and was successful in influencing its final form, especially in regards to coordination. The Forest Service has released draft Directives to update its Land Management Planning Manual and Land Management Planning Handbook for review and comment (refer to Attachment 2 for the Federal Register Notice; the draft Directives are available under separate cover and at the Forest Service Planning Rule website). Staff has reviewed the draft Directives and prepared draft correspondence for the Board's consideration (Attachment 1), primarily recommending enhancements to the approach to coordination and local land use planning. Comments are due April 29, 2013.

OTHER AGENCY INVOLVEMENT:

Department of Agriculture, U.S. Forest Service

FINANCING:

Resources from the general fund are utilized to monitor federal activities.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i>

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)

A handwritten signature in blue ink, appearing to read "Joseph A. ...", written over a horizontal line.

Date: 4/23/13

Attachments:

1. Draft Correspondence
2. Federal Register Notice
3. 2012 Planning Rule

April 16, 2013

USDA Forest Service Planning Directives Comments
PO Box 40088
Portland, OR 97240

Re: Planning Directives

To Whom it May Concern:

On behalf of the Inyo County Board of Supervisors, thank you for the opportunity to participate in development of the Planning Directives to implement the Land Management Planning Rule. Inyo County participated extensively in development of the Rule, and we are pleased that it is being implemented in a timely manner. The Inyo National Forest Land Management Plan is one of the first Plans being revised under the new Rule, and the directives provide clarity for proceeding.

We are pleased that much of our previous input that was incorporated into the Rule has been carried forward into the proposed Directives. We offer the following comments to improve the Directives from our perspective:

1. The definitions should include a definition for coordination with local government. We suggest utilizing the coordination process identified in CFR 219.2(b) for this definition.
2. The Assessment phase should include means to gather new information if it is particularly important for the planning effort. We suggest that gathering new information be encouraged throughout update/revision efforts.
3. The assessment phase for Social, Cultural, and Economic conditions should include analysis of past actions within the Forest that have contributed to external change, especially ongoing change at the local level.
4. For all phases, local land use planning should be addressed more broadly, particularly for analyses related to Land Status, Ownership, Use, and Access Patterns. We recommend specific references to investigating local governments' General Plans, Zoning, and other Plans (e.g., Specific Plans, Master Plans, Transportation Plans, Infrastructure Plans, Emergency Response Plans, Capital Improvement Plans, etc.).
5. References to Multiple Use should be consistent with the Multiple Use Sustained Yield Act.
6. More guidance for coordination with local government should be included in Section 43.16. We suggest providing specific recommendations to contact local governments to understand their planning processes and relevant plans, policies, and regulations; working collaboratively with local governments to analyze consistency and/or inconsistency; and making efforts to achieve consistency.
7. We believe that the use of best available scientific information (BASI) is important to the planning effort, but we also believe that firsthand accounts, local knowledge, and other data sources that may not qualify for BASI should be considered; therefore, we request that the qualifiers in Section 42.1 be expanded to better convey these thoughts.
8. We believe that the wilderness criteria need to be strengthened to better direct wilderness to areas that meet wilderness criteria from the Wilderness Act.

We look forward to continuing to work with the Forest Service in implementing the Directives through the Inyo National Forest Update/Revision process. If you have any questions, please contact the

County's Administrative Officer, Kevin Carunchio, at (760) 878-0292 or kcarunchio@inyocounty.us.
Thank you for your attention.

Sincerely,

Linda Arcularius, Chair
Inyo County Board of Supervisors

cc: Board of Supervisors
Kevin Carunchio, CAO
Randy Keller, County Counsel
Joshua Hart, Planning Director
Doug Wilson, Willdan
Regional Council of Rural Counties
California State Association of Counties
National Association of Counties
Ed Armenta, Inyo National Forest
Randy Moore, Pacific Southwest Regional Forester, Forest Service
Chief Tidwell, USFS
Sustainable Forest Action Coalition

Proposed Action

Alternative 3 proposes to treat 35 units totalling 14,281 acres through thinning (1,757 acres) and prescribed burning (12,524 acres). Thinning would favor large tree retention using the general priority order of whitebark and limber pine, aspen, Douglas-fir, lodgepole pine, Engelmann spruce, and subalpine fir. Thinning would leave 70 to 200 trees per acre in the non-commercial units, and 60 to 140 trees per acre in the commercial units. Conifers in and around aspen clones would be thinned to release suppressed aspen. Residual branches, logs, and other resulting debris would be hand- or machine-piled and burned in the units or on the landings, or scattered to further reduce fuel concentrations in the project area. Ladder fuels would be pruned in some units. Snags would be removed as needed for firefighter safety in portions of 27 units located in close proximity to residential areas. Road reconstruction would occur on 1.3 miles of National Forest roads and a total of 1 mile of temporary road would be constructed and then obliterated after use. Routine maintenance would occur on 11.7 miles of roads. Approximately 27 landings would be used.

Prescribed fire would reduce fire potential while creating a mosaic of burned and unburned areas. Ground and aerial ignition techniques would adhere to site-specific burn plans that identify parameters for weather, air quality, contingency resources, other resource concerns, equipment needs, and responses for potential escapes. Fire managers would use, and subsequently rehabilitate, up to seven miles of low-impact fire control lines if needed to contain prescribed fire. Natural barriers to fire spread would be used where possible.

Alternative 3 includes extensive project design features and best practices to avoid or reduce impacts to cultural resources, water resources, range, recreation, scenery, sensitive plants, air quality, soils, special areas, and wildlife.

Possible Alternatives

At this time it is planned that the EIS will examine Alternative 1 (No Action), Alternative 2 (Proposed Action originally scoped in December 2010 and modified after further analysis), and Alternative 3—Reduce Potential Impacts to Special Areas and Wildlife Habitat (developed to address public concerns after original scoping period).

Preliminary Issues

Key issues identified during the original public scoping include effects

to the WSA, IRAs, and wildlife habitat. Additional public concerns addressed in the analysis include potential effects related to unauthorized motorized use, standing trees, spread of noxious weeds, road use, smoke, heavy equipment, and biodiversity.

In March 2012, the Palisades WSA map used by the Forest Service for analysis of the Teton to Snake Fuels Management Project was questioned. In July 2012, Jackson District Ranger Dale Deiter put the project on hold until more clarity was obtained regarding the WSA boundary. Since then extensive record searches have occurred uncovering many valuable maps and memos. In addition, two public meetings were held with people interested in the boundary issue. Based on the best information available at this time, the Forest Service is proceeding with the RARE II map from 1977 (Roadless Area and Review Evaluation process). The map package is expected to be assembled in March 2013 and will be submitted to the Regional and Washington Offices of the Forest Service for review and approval. Upon approval, a certified boundary and legal description will be prepared by the Forest Service lands office with final approval from the Regional Forester. A decision on the Teton to Snake Fuels Management Project would only be made after the Palisades WSA boundary is approved.

Responsible Official

Dale Deiter, District Ranger, Jackson Ranger District, Bridger-Teton National Forest

Nature of Decision To Be Made

The District Ranger will decide whether to implement one of the alternatives designed to meet the purpose and need for the project, or take no action.

Permits or Licenses Required

A permit would be required from the State of Wyoming prior to any prescribed burning. The appropriate regulatory agencies will be consulted regarding national or state required permits associated with roads used in project implementation, and required permits obtained prior to implementation.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. As noted above, comments submitted during the scoping period beginning in 2010 will be brought forward in the EIS so there is no

need to re-submit them. New information and concerns describing site-specific unwanted effects related to Alternative 3 would be useful.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Include the following information with your comments: Your name, address, email (optional), and telephone number; the project name: Teton to Snake Fuels Management Project; and site-specific comments, along with supporting information you believe will help identify issues, develop alternatives, or predict environmental effects of this proposal. The most useful comments provide new information or describe unwanted environmental effects potentially caused by the proposed action. If you reference scientific literature in your comments, you must provide a copy of the entire reference you have cited and include the predicted site-specific effects supported by the literature.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however anonymous comments will not provide the agency with the ability to provide you with project updates.

Dated: February 21, 2013.

Dale Deiter

Jackson District Ranger.

[FR Doc. 2013-04498 Filed 2-26-13; 8:45 am]

BILLING CODE 3410-11-P

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596-AD06

National Forest System Land Management Planning Directives

AGENCY: Forest Service, USDA.

ACTION: Notice of issuance of agency proposed directives; request for comment.

SUMMARY: The Forest Service has issued proposed directives to Forest Service Handbook (FSH 1909.12) and Manual (FSM 1920) establishing procedures and responsibilities for implementing the

National Forest System (NFS) land management planning regulation. Issuance of these proposed directives will provide consistent overall guidance to Forest Service Line Officers and Agency employees in developing, amending, or revising land management plans for units of the NFS. Public comment is invited and will be considered in developing the final directives.

DATES: Comments must be received in writing by April 29, 2013.

ADDRESSES: Submit comments concerning the proposed directives through one of the following methods:

1. *Public participation portal:* <https://cara.ecosystem-management.org/Public/CommentInput?Project=30641>.

Comments may also be provided through the Federal rulemaking portal: <http://www.regulations.gov>.

2. *Facsimile:* Fax to: 503.224.1851. Please identify your comments by

including "RIN 0596-AD06" or "planning directives" on the cover sheet or the first page.

3. *U.S. Postal Service:* The mailing address is: USDA Forest Service Planning Directives Comments, P.O. Box 40088, Portland, OR 97240.

FOR FURTHER INFORMATION CONTACT: Annie Eberhart Goode, Planning Specialist, Ecosystem Management Coordination Staff, 202-205-1056 or 703-605-4478.

SUPPLEMENTARY INFORMATION: The Forest Service has issued proposed directives to Forest Service Handbook (FSH 1909.12) and Manual (FSM 1920) establishing procedures and responsibilities for implementing the National Forest System (NFS) land management planning regulation set out at 36 CFR part 219. This promulgated rule was published in the **Federal Register** on April 9, 2012 (77 FR 21161).

Public Participation

Please note that the Forest Service will not be able to receive hand-delivered comments. In addition, please note that all comments, including names and addresses when provided, will be placed in the record and available for public inspection and copying. The Agency cannot confirm receipt of comments. Individuals wishing to inspect comments should call Jody Sutton at 801-517-1020 to schedule an appointment.

These proposed directives are a revision of Forest Service Handbook (FSH) 1919.12 and Forest Service Manual (FSM) 1920. Copies of the proposed directives are available on the World Wide Web/Internet at <http://www.fs.usda.gov/goto/planningrule/directives>. Copies may be obtained by contacting one of the following Regional Offices:

Region	Phone No.	Address
Northern Region—R1	406-329-3511	<i>Street Address:</i> 200 E. Broadway, Missoula, MT 59802. <i>Mailing address:</i> P.O. Box 7669, Missoula, MT 59807-7669.
Rocky Mountain Region—R2	303-275-5350	<i>Street Address:</i> 740 Simms St., Golden, CO 80401. <i>Mailing address:</i> P.O. Box 25127, Lakewood, CO 80225-0127.
Southwestern Region—R3	505-842-3292	333 Broadway SE., Albuquerque, NM 87102.
Intermountain Region—R4	801-625-5605	324 25th Street, Ogden, UT 84401.
Pacific Southwest Region—R5	707-562-8737	1323 Club Drive, Vallejo, CA 94592.
Pacific Northwest Region—R6	503-808-2468	<i>Street Address:</i> 333 SW. First Avenue, Portland, Oregon 97204. <i>Mailing address:</i> P.O. Box 3623, Portland, OR 97208-3623.
Southern Region—R8	404-347-4095	1720 Peachtree Rd. NW., Atlanta, GA 30309.
Eastern Region—R9	414-297-3600	626 East Wisconsin Ave. Milwaukee, WI 53202.
Alaska Region—R10	907-586-8806	P.O. Box 21628, Juneau, AK 99802-1628.

Readers are encouraged to obtain a copy of the proposed directives to formulate their comments and provide input for the development of the final planning directives.

Background

On April 9, 2012, the U. S. Department of Agriculture (Department or USDA) adopted final planning regulations for the NFS at 36 CFR part 219 (77 FR 21161). These regulations, known collectively as the 2012 Planning Rule, provide broad programmatic direction in developing and carrying out land management planning. The rule explicitly directs the Chief of the Forest Service to establish planning procedures in the Forest Service Directives System (36 CFR 219.1(c)).

The Forest Service is implementing the 2012 Planning Rule. Those responsible officials that are implementing the 2012 Planning Rule must follow the regulations at 36 CFR 219 and applicable existing Forest Service Directives until they are superseded.

The Forest Service Directives System consist of the Forest Service Manual (FSM) and the Forest Service Handbook (FSH), which contain the Agency's policies, practices, and procedures, and serves as the primary basis for the internal management and control of programs and administrative direction to Forest Service employees. The directives for all Agency programs are set out on the World Wide Web/Internet at <http://www.fs.fed.us/im/directives>.

Specifically, the FSM contains legal authorities, objectives, policies, responsibilities, instructions, and guidance needed on a continuing basis by Forest Service Line Officers and primary staff to plan and execute programs and activities. The FSH is the principal source of specialized guidance and instruction for carrying out the policies, objectives, and responsibilities contained in the FSM.

For these proposed directives, both the FSM and the FSH provide policy direction, objectives, instructions, and guidance for Forest Service Line Officers and primary staff to plan and

execute the process of developing, revising, amending, and making administrative changes to plans.

Content of Proposed Directives

The following is an overview of the contents of the proposed directives.

FSM 1920—Land Management Planning Manual

This Forest Service Manual describes a process for developing, revising, amending, and making administrative changes to land management plans for the National Forest System (NFS). It includes authorities and responsibilities. It should be used in conjunction with the FSH.

FSH 1909.12—Land Management Planning Handbook

This FSH provides policy direction, objectives, instructions and guidance for the process of developing, revising, amending, and making administrative changes to plans for the NFS. It includes authorities and responsibilities.

Zero Code

The section known as the zero code contains authorities, responsibilities, and select definitions applicable to subsequent chapters.

Chapter 10—The Assessment

This chapter describes the procedures for writing an assessment for development, amendment, or revision of land management plans.

Chapter 20—Land Management Plan

This chapter describes the land management plan under the 2012 Planning Rule and explains the procedures for developing, amending, and revising land management plans.

Chapter 30—Monitoring

This chapter describes the plan monitoring program, broader-scale monitoring strategy, and biennial evaluation of the monitoring information for land management planning.

Chapter 40—Key Processes Supporting Land Management Planning

This chapter describes the adaptive management framework, use of best available scientific information, public participation and the role of collaboration, and tribal consultation as it relates to land management plans.

Chapter 50—Objection Process

This chapter describes the process for the public to seek administrative review of plans, plan revisions, and plan amendments before their approval. This process is referred to as the objection process.

Chapter 60—Forest Vegetation Resource Planning

This chapter provides procedures for developing plan components and other plan content to meet National Forest Management Act (NFMA) and planning rule requirements for identifying lands that are not suitable for timber production, plan components for timber harvest for timber production or other purposes, limitations on timber harvest, and display of the planned timber sale program.

Chapter 70—Wilderness Evaluation

This chapter describes the process for identifying and evaluating lands that may be suitable for inclusion in the National Wilderness Preservation System and determining whether to recommend any such lands for wilderness designation.

Chapter 80—Wild and Scenic River Evaluation

This chapter describes the process for identifying and evaluating potential additions to the National Wild and Scenic Rivers System. This chapter also addresses interim management of river segments determined to be eligible and suitable, documentation of study results, as well as the process for notifying Congress of agency wild and scenic river recommendations.

Chapter 90—References

This chapter contains exhibits or references not easily found electronically.

Regulatory Certifications**Regulatory Impact**

This notice has been reviewed under USDA procedures and Executive Order (E.O.) 12866, Regulatory Planning and Review. The Office of Management and Budget (OMB) has reviewed this notice and has determined that it is a significant action. The proposed directives would not have an annual effect of \$100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. The proposed directives would not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, the proposed directives would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs.

Moreover, the proposed directives have been considered in light of E.O. 13272 regarding proper consideration of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). No direct or indirect financial impact on small businesses or other entities has been identified. Therefore, it is hereby certified that these proposed directives will not have a significant economic impact on a substantial number of small entities as defined by the act.

Environmental Impact

These proposed directives provide the detailed direction to agency employees necessary to carry out the provisions of the final 2012 Planning Rule adopted at 36 CFR part 219 governing land management planning. Forest Service Handbook 1909.15, section 31.12 (57 FR 43208; September 18, 1992) excludes from documentation in an

environmental assessment or impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." The Agency's conclusion is that these proposed directives fall within this category of actions and that no extraordinary circumstances exist as currently defined that require preparation of an environmental assessment or an environmental impact statement.

No Takings Implications

These proposed directives have been analyzed in accordance with the principles and criteria contained in E.O. 12360, Governmental Actions and Interference with Constitutionally Protected Property Rights, and it has been determined that they would not pose the risk of a taking of private property as they are limited to the establishment of administrative procedures.

Energy Effects

These proposed directives have been analyzed under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that they do not constitute a significant energy action as defined in the Executive Order.

Civil Justice Reform

These proposed directives have been reviewed under E.O. 12988, Civil Justice Reform. These proposed directives will direct the work of Forest Service employees and are not intended to preempt any State and local laws and regulations that might be in conflict or that would impede full implementation of these directives. The directives would not retroactively affect existing permits, contracts, or other instruments authorizing the occupancy and use of NFS lands and would not require the institution of administrative proceedings before parties may file suit in court challenging their provisions

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the effects of these proposed directives on State, local, and Tribal governments, and on the private sector have been assessed and do not compel the expenditure of \$100 million or more by any State, local, or Tribal government, or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Federalism

The Agency has considered these proposed directives under the requirements of E.O. 13132, Federalism. The Agency has made a preliminary assessment that they conform with the federalism principles set out in this Executive Order; would not impose any significant compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Moreover, these proposed directives address the land management planning process on National Forests, Grasslands or other units of the NFS, which do not directly affect the States. Based on comments received on these proposed directives, the Agency will consider if any additional consultation will be needed with State and local governments prior to adopting final directives.

Consultation and Coordination With Indian Tribal Governments

The Forest Service will conduct government-to-government consultation on the planning directives. The Forest Service considers tribal consultation as an ongoing, iterative process that encompasses development of the proposed directives through the issuance of final directives. During development of the 2012 Planning Rule, between September 23, 2010, and publication of the final rule on April 9, 2012, the Agency held 16 consultation meetings across the Country. In addition, Forest Service leaders held one-on-one meetings, as requested, with tribal leaders throughout the time period of development of the rule.

The Agency will contact all federally recognized Tribes and Alaska Native Corporations by mail to formally initiate consultation on the proposed directives and seek comments within 120 days.

Controlling Paperwork Burdens on the Public

These proposed directives do not contain any record keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 and, therefore, impose no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and implementing regulations at 5 CFR part 1320 do not apply.

Chapter 50 of these proposed directives contains information collection requirements as defined in 5

CFR part 1320. The information collection requirements have been approved by the Office of Management and Budget and assigned control number 0596-0158.

Conclusion

The Forest Service has developed these planning directives to set forth the legal authorities, objectives, policy, responsibilities, direction, and overall guidance for Forest Service Line Officers, agency employees, and others to use the 2012 Planning Rule. The proposed directives provide consistent interpretation of the 2012 Planning Rule for Line and Staff Officers, and interdisciplinary teams.

The 2012 Planning Rule and the proposed FSM and FSH sections together provide requirements and guidance for the Agency to adaptively manage the NFS to maintain and restore NFS land and water ecosystems and protect species while providing for ecosystem services and multiple uses. The proposed directives are intended to guide the development, revision, and amendment of land management plans to provide for the sustainability of ecosystems and resources; meet the need for forest restoration and conservation, watershed protection, and species diversity and conservation; and assist the Agency in providing a sustainable flow of benefits, services, and uses of NFS lands that provide jobs and contribute to the economic and social sustainability of communities.

By seeking public notice and comment on these proposed directives, the Agency is continuing its commitment to improve public involvement and transparency in decisionmaking associated with developing, amending, or revising a land management plan.

When the Agency offers the opportunity for public notice and comment on a proposed revision of a Forest Service Manual or Handbook revision, the Agency publishes a notice of a proposed revision with a minimum 60-day comment period. The Agency then considers the comments, makes any changes, drafts, and publishes a final **Federal Register** notice explaining the final directive and the rationale for any changes made from the propose. At a minimum, this process takes 6 months but normally takes 9-12 months.

The Forest Service is committed to providing adequate opportunities for the public to comment on administrative directives that are of substantial public interest or controversy, as provided in the regulations at 36 CFR part 216. All comments on these proposed directives will be considered in the development

of the final directives. The full text of these proposed directives are available on the World Wide Web/Internet at <http://www.fs.usda.gov/goto/planningrule/directives>. Single paper copies are available upon request from the address and phone numbers listed earlier in this notice as well as from the nearest Regional Office, the locations of which are also available on the Washington Office headquarters homepage on the World Wide Web/Internet: www.fs.fed.us/.

Dated: February 21, 2013.

Thomas L. Tidwell,
Chief.

[FR Doc. 2013-04470 Filed 2-26-13; 8:45 am]

BILLING CODE 3410-11-P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Notice of Intent To Request an Extension of a Currently Approved Information Collection

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the intention of the National Institute of Food and Agriculture (NIFA) to request an extension for a currently approved information collection (OMB No. 0524-0026) for Form NIFA-666, "Organizational Information."

DATES: Submit comments on or before April 29, 2013.

ADDRESSES: You may submit comments, identified by NIFA-2013-0008, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Email: rmartin@NIFA.usda.gov. Include NIFA-2013-0008 in the subject line of the message.

Fax: 202-720-0857.

Mail: Written comments concerning this notice and requests for copies of the information collection may be submitted to Robert Martin, Records Officer, Information Policy, Planning and Training; Mail: NIFA/USDA; Mail Stop 2216; 1400 Independence Avenue SW.; Washington, DC 20250-2299; Hand Delivery/Courier: 800 9th Street

be-identified adverse impacts may be possible on a regional or local scale at the unit planning level. Differences in national level effects and regional/local level effects are the result of uneven distribution of minorities, low-income populations, and variations in regional, cultural, or traditional use, and differences in local access to resources. Impacts on the national forest level will be further examined at the unit level, including NEPA analysis for plan development, plan revision, or plan amendment and site-specific projects.

The participation efforts required by the final rule have significant potential to reach and involve diverse segments of the population that historically have not played a large role in NFS planning and management. Section 219.4(a) requires that when developing opportunities for public participation, the responsible official shall take into account the discrete and diverse roles, jurisdictions, responsibilities, and skills of interested and affected parties as well as the accessibility of the process, opportunities, and information. The responsible official is required to be proactive and use contemporary tools, such as the Internet, to engage the public, and share information in an open way with interested parties. Requirements of § 219.4 to consider accessibility and requirements to encourage participation by youth, low-income populations, and minority populations may improve environmental justice outcomes.

The final rule includes provisions for filing an objection before the final decision if the objector has filed a substantive formal comment related to a new plan, plan revision, or plan amendment. In the past, substantive formal comments were required to be in writing and submitted during the formal comment period when developing land management plans. The final rule expands the definition of a substantive formal comment to include written or oral comments submitted or recorded during an opportunity for public participation provided during the local unit's planning process (§§ 219.4 and 219.16).

If implemented, there are no anticipated adverse or disproportionate impacts to underserved, protected groups, low income, or socially disadvantaged communities. The final rule requirements, including outreach and collaboration, and the requirement for NEPA analysis are designed to avoid adverse or disproportionate effects; therefore, mitigating measures are not necessary or appropriate for adopting or implementing the planning rule. Local site-specific mitigation may occur as

NFS projects and activities are planned and executed consistent with Department policy.

List of Subjects in 36 CFR Part 219

Administrative practice and procedure, Environmental impact statements, Indians, Intergovernmental relations, National forests, Reporting and recordkeeping requirements, Science and technology.

Therefore, for the reasons set forth in the preamble, the Forest Service revises part 219 of Title 36 of the Code of Federal Regulations to read as follows:

PART 219—PLANNING

Subpart A—National Forest System Land Management Planning

Sec.

- 219.1 Purpose and applicability.
- 219.2 Levels of planning and responsible officials.
- 219.3 Role of science in planning.
- 219.4 Requirements for public participation.
- 219.5 Planning framework.
- 219.6 Assessment.
- 219.7 New plan development or plan revision.
- 219.8 Sustainability.
- 219.9 Diversity of plant and animal communities.
- 219.10 Multiple use.
- 219.11 Timber requirements based on the NFMA.
- 219.12 Monitoring.
- 219.13 Plan amendment and administrative changes.
- 219.14 Decision document and planning records.
- 219.15 Project and activity consistency with the plan.
- 219.16 Public notifications.
- 219.17 Effective dates and transition.
- 219.18 Severability.
- 219.19 Definitions.

Subpart B—Pre-Decisional Administrative Review Process

- 219.50 Purpose and scope.
- 219.51 Plans, plan amendments, or plan revisions not subject to objection.
- 219.52 Giving notice of a plan, plan amendment, or plan revision subject to objection before approval.
- 219.53 Who may file an objection.
- 219.54 Filing an objection.
- 219.55 Objections set aside from review.
- 219.56 Objection time periods and process.
- 219.57 Resolution of objections.
- 219.58 Timing of a plan, plan amendment, or plan revision decision.
- 219.59 Use of other administrative review processes.
- 219.60 Secretary's authority.
- 219.61 Information collection requirements.
- 219.62 Definitions.

Authority: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

Subpart A—National Forest System Land Management Planning

§ 219.1 Purpose and applicability.

(a) This subpart sets out the planning requirements for developing, amending, and revising land management plans (also referred to as plans) for units of the National Forest System (NFS), as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*) (NFMA). This subpart also sets out the requirements for plan components and other content in land management plans. This part is applicable to all units of the NFS as defined by 16 U.S.C. 1609 or subsequent statute.

(b) Consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528–531) (MUSYA), the Forest Service manages the NFS to sustain the multiple use of its renewable resources in perpetuity while maintaining the long-term health and productivity of the land. Resources are managed through a combination of approaches and concepts for the benefit of human communities and natural resources. Land management plans guide sustainable, integrated resource management of the resources within the plan area in the context of the broader landscape, giving due consideration to the relative values of the various resources in particular areas.

(c) The purpose of this part is to guide the collaborative and science-based development, amendment, and revision of land management plans that promote the ecological integrity of national forests and grasslands and other administrative units of the NFS. Plans will guide management of NFS lands so that they are ecologically sustainable and contribute to social and economic sustainability; consist of ecosystems and watersheds with ecological integrity and diverse plant and animal communities; and have the capacity to provide people and communities with ecosystem services and multiple uses that provide a range of social, economic, and ecological benefits for the present and into the future. These benefits include clean air and water; habitat for fish, wildlife, and plant communities; and opportunities for recreational, spiritual, educational, and cultural benefits.

(d) This part does not affect treaty rights or valid existing rights established by statute or legal instruments.

(e) During the planning process, the responsible official shall comply with Section 8106 of the Food, Conservation, and Energy Act of 2008 (25 U.S.C. 3056), Executive Order 13007 of May

24, 1996, Executive Order 13175 of November 6, 2000, laws, and other requirements with respect to disclosing or withholding under the Freedom of Information Act (5 U.S.C. 552) certain information regarding reburial sites or other information that is culturally sensitive to an Indian Tribe or Tribes.

(f) Plans must comply with all applicable laws and regulations, including NFMA, MUSYA, the Clean Air Act, the Clean Water Act, the Wilderness Act, and the Endangered Species Act.

(g) The responsible official shall ensure that the planning process, plan components, and other plan content are within Forest Service authority, the inherent capability of the plan area, and the fiscal capability of the unit.

§ 219.2 Levels of planning and responsible officials.

Forest Service planning occurs at different organizational levels and geographic scales. Planning occurs at three levels—national strategic planning, NFS unit planning, and project or activity planning.

(a) *National strategic planning.* The Chief of the Forest Service is responsible for national planning, such as preparation of the Forest Service strategic plan required under the Government Performance and Results Modernization Act of 2010 (5 U.S.C. 306; 31 U.S.C. 1115–1125; 31 U.S.C. 9703–9704), which is integrated with the requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the NFMA. The strategic plan establishes goals, objectives, performance measures, and strategies for management of the NFS, as well as the other Forest Service mission areas: Research and Development, State and Private Forestry, and International Programs.

(b) *National Forest System unit planning.* (1) NFS unit planning results in the development, amendment, or revision of a land management plan. A land management plan provides a framework for integrated resource management and for guiding project and activity decisionmaking on a national forest, grassland, prairie, or other administrative unit. A plan reflects the unit's expected distinctive roles and contributions to the local area, region, and Nation, and the roles for which the plan area is best suited, considering the Agency's mission, the unit's unique capabilities, and the resources and management of other lands in the vicinity. Through the adaptive planning cycle set forth in this subpart, a plan can

be changed to reflect new information and changing conditions.

(2) A plan does not authorize projects or activities or commit the Forest Service to take action. A plan may constrain the Agency from authorizing or carrying out projects and activities, or the manner in which they may occur. Projects and activities must be consistent with the plan (§ 219.15). A plan does not regulate uses by the public, but a project or activity decision that regulates a use by the public under 36 CFR Part 261, Subpart B, may be made contemporaneously with the approval of a plan, plan amendment, or plan revision. Plans should not repeat laws, regulations, or program management policies, practices, and procedures that are in the Forest Service Directive System.

(3) The supervisor of the national forest, grassland, prairie, or other comparable administrative unit is the responsible official for development and approval of a plan, plan amendment, or plan revision for lands under the responsibility of the supervisor, unless a regional forester; the Chief; the Under Secretary, Natural Resources and Environment; or the Secretary acts as the responsible official. Two or more responsible officials may undertake joint planning over lands under their respective jurisdictions.

(4) A plan for a unit that contains an experimental area may not be approved without the concurrence of the appropriate research station director with respect to the direction applicable to that area, and a plan amendment applicable to an experimental area may not be approved without the concurrence of the appropriate research station director.

(5) The Chief is responsible for leadership and direction for carrying out the NFS land management planning program under this part. The Chief shall:

(i) Establish planning procedures for this part in the Forest Service Directive System in Forest Service Manual 1920—Land Management Planning and in Forest Service Handbook 1909.12—Land Management Planning Handbook.

(ii) Establish and administer a national oversight process for accountability and consistency of NFS land management planning under this part.

(iii) Establish procedures in the Forest Service Directive System for obtaining inventory data on the various renewable resources, and soil and water.

(c) *Project and activity planning.* The supervisor or district ranger is the responsible official for project and activity decisions, unless a higher-level

official acts as the responsible official. Requirements for project or activity planning are established in the Forest Service Directive System. Except as provided in the plan consistency requirements in § 219.15, none of the requirements of this part apply to projects or activities.

§ 219.3 Role of science in planning.

The responsible official shall use the best available scientific information to inform the planning process required by this subpart. In doing so, the responsible official shall determine what information is the most accurate, reliable, and relevant to the issues being considered. The responsible official shall document how the best available scientific information was used to inform the assessment, the plan decision, and the monitoring program as required in §§ 219.6(a)(3) and 219.14(a)(4). Such documentation must: Identify what information was determined to be the best available scientific information, explain the basis for that determination, and explain how the information was applied to the issues considered.

§ 219.4 Requirements for public participation.

(a) *Providing opportunities for participation.* The responsible official shall provide opportunities to the public for participating in the assessment process; developing a plan proposal, including the monitoring program; commenting on the proposal and the disclosure of its environmental impacts in accompanying NEPA documents; and reviewing the results of monitoring information. When developing opportunities for public participation, the responsible official shall take into account the discrete and diverse roles, jurisdictions, responsibilities, and skills of interested and affected parties; the accessibility of the process, opportunities, and information; and the cost, time, and available staffing. The responsible official should be proactive and use contemporary tools, such as the Internet, to engage the public, and should share information in an open way with interested parties. Subject to the notification requirements in § 219.16, the responsible official has the discretion to determine the scope, methods, forum, and timing of those opportunities. The Forest Service retains decisionmaking authority and responsibility for all decisions throughout the process.

(1) *Outreach.* The responsible official shall engage the public—including Tribes and Alaska Native Corporations, other Federal agencies, State and local

governments, individuals, and public and private organizations or entities—early and throughout the planning process as required by this part, using collaborative processes where feasible and appropriate. In providing opportunities for engagement, the responsible official shall encourage participation by:

(i) Interested individuals and entities, including those interested at the local, regional, and national levels.

(ii) Youth, low-income populations, and minority populations.

(iii) Private landowners whose lands are in, adjacent to, or otherwise affected by, or whose actions may impact, future management actions in the plan area.

(iv) Federal agencies, States, counties, and local governments, including State fish and wildlife agencies, State foresters and other relevant State agencies. Where appropriate, the responsible official shall encourage States, counties, and other local governments to seek cooperating agency status in the NEPA process for development, amendment, or revision of a plan. The responsible official may participate in planning efforts of States, counties, local governments, and other Federal agencies, where practicable and appropriate.

(v) Interested or affected federally recognized Indian Tribes or Alaska Native Corporations. Where appropriate, the responsible official shall encourage federally recognized Tribes to seek cooperating agency status in the NEPA process for development, amendment, or revision of a plan. The responsible official may participate in planning efforts of federally recognized Indian Tribes and Alaska Native Corporations, where practicable and appropriate.

(2) *Consultation with federally recognized Indian Tribes and Alaska Native Corporations.* The Department recognizes the Federal Government has certain trust responsibilities and a unique legal relationship with federally recognized Indian Tribes. The responsible official shall honor the government-to-government relationship between federally recognized Indian Tribes and the Federal government. The responsible official shall provide to federally recognized Indian Tribes and Alaska Native Corporations the opportunity to undertake consultation consistent with Executive Order 13175 of November 6, 2000, and 25 U.S.C. 450 note.

(3) *Native knowledge, indigenous ecological knowledge, and land ethics.* As part of tribal participation and consultation as set forth in paragraphs (a)(1)(v) and (a)(2) of this section, the responsible official shall request

information about native knowledge, land ethics, cultural issues, and sacred and culturally significant sites.

(b) *Coordination with other public planning efforts.* (1) The responsible official shall coordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments.

(2) For plan development or revision, the responsible official shall review the planning and land use policies of federally recognized Indian Tribes (43 U.S.C. 1712(b)), Alaska Native Corporations, other Federal agencies, and State and local governments, where relevant to the plan area. The results of this review shall be displayed in the environmental impact statement (EIS) for the plan (40 CFR 1502.16(c), 1506.2). The review shall include consideration of:

(i) The objectives of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, as expressed in their plans and policies;

(ii) The compatibility and interrelated impacts of these plans and policies;

(iii) Opportunities for the plan to address the impacts identified or contribute to joint objectives; and

(iv) Opportunities to resolve or reduce conflicts, within the context of developing the plan's desired conditions or objectives.

(3) Nothing in this section should be read to indicate that the responsible official will seek to direct or control management of lands outside of the plan area, nor will the responsible official conform management to meet non-Forest Service objectives or policies.

§ 219.5 Planning framework.

(a) Planning for a national forest, grassland, prairie, or other comparable administrative unit of the NFS is an iterative process that includes assessment (§ 219.6); developing, amending, or revising a plan (§§ 219.7 and 219.13); and monitoring (§ 219.12). These three phases of the framework are complementary and may overlap. The intent of this framework is to create a responsive planning process that informs integrated resource management and allows the Forest Service to adapt to changing conditions, including climate change, and improve management based on new information and monitoring.

(1) *Assessment.* Assessments rapidly evaluate existing information about relevant ecological, economic, and social conditions, trends, and

sustainability and their relationship to the land management plan within the context of the broader landscape. The responsible official shall consider and evaluate existing and possible future conditions and trends of the plan area, and assess the sustainability of social, economic, and ecological systems within the plan area, in the context of the broader landscape (§ 219.6).

(2) *Plan development, plan amendment, or plan revision.*

(i) The process for developing or revising a plan includes: Assessment, preliminary identification of the need to change the plan based on the assessment, development of a proposed plan, consideration of the environmental effects of the proposal, providing an opportunity to comment on the proposed plan, providing an opportunity to object before the proposal is approved, and, finally, approval of the plan or plan revision. A new plan or plan revision requires preparation of an environmental impact statement.

(ii) The process for amending a plan includes: Preliminary identification of the need to change the plan, development of a proposed amendment, consideration of the environmental effects of the proposal, providing an opportunity to comment on the proposed amendment, providing an opportunity to object before the proposal is approved, and, finally, approval of the plan amendment. The appropriate NEPA documentation for an amendment may be an environmental impact statement, an environmental assessment, or a categorical exclusion, depending upon the scope and scale of the amendment and its likely effects.

(3) *Monitoring.* Monitoring is continuous and provides feedback for the planning cycle by testing relevant assumptions, tracking relevant conditions over time, and measuring management effectiveness (§ 219.12). The monitoring program includes plan-level and broader-scale monitoring. The plan-level monitoring program is informed by the assessment phase; developed during plan development, plan amendment, or plan revision; and implemented after plan decision. The regional forester develops broader-scale monitoring strategies. Biennial monitoring evaluation reports document whether a change to the plan or change to the monitoring program is warranted based on new information, whether a new assessment may be needed, or whether there is no need for change at that time.

(b) *Interdisciplinary team(s).* The responsible official shall establish an interdisciplinary team or teams to

prepare assessments; new plans, plan amendments, and plan revisions; and plan monitoring programs.

§ 219.6 Assessment.

The responsible official has the discretion to determine the scope, scale, and timing of an assessment described in § 219.5(a)(1), subject to the requirements of this section.

(a) *Process for plan development or revision assessments.* An assessment must be completed for the development of a new plan or for a plan revision. The responsible official shall:

(1) Identify and consider relevant existing information contained in governmental or non-governmental assessments, plans, monitoring reports, studies, and other sources of relevant information. Such sources of information may include State forest assessments and strategies, the Resources Planning Act assessment, ecoregional assessments, non-governmental reports, State comprehensive outdoor recreation plans, community wildfire protection plans, public transportation plans, State wildlife data and action plans, and relevant Agency or interagency reports, resource plans or assessments. Relevant private information, including relevant land management plans and local knowledge, will be considered if publicly available or voluntarily provided.

(2) Coordinate with or provide opportunities for the regional forester, agency staff from State and Private Forestry and Research and Development, federally recognized Indian Tribes and Alaska Native Corporations, other governmental and non-governmental parties, and the public to provide existing information for the assessment.

(3) Document the assessment in a report available to the public. The report should document information needs relevant to the topics of paragraph (b) of this section. Document in the report how the best available scientific information was used to inform the assessment (§ 219.3). Include the report in the planning record (§ 219.14).

(b) *Content of the assessment for plan development or revision.* In the assessment for plan development or revision, the responsible official shall identify and evaluate existing information relevant to the plan area for the following:

- (1) Terrestrial ecosystems, aquatic ecosystems, and watersheds;
- (2) Air, soil, and water resources and quality;
- (3) System drivers, including dominant ecological processes,

disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, and climate change; and the ability of terrestrial and aquatic ecosystems on the plan area to adapt to change;

- (4) Baseline assessment of carbon stocks;
- (5) Threatened, endangered, proposed and candidate species, and potential species of conservation concern present in the plan area;
- (6) Social, cultural, and economic conditions;
- (7) Benefits people obtain from the NFS planning area (ecosystem services);
- (8) Multiple uses and their contributions to local, regional, and national economies;
- (9) Recreation settings, opportunities and access, and scenic character;
- (10) Renewable and nonrenewable energy and mineral resources;
- (11) Infrastructure, such as recreational facilities and transportation and utility corridors;
- (12) Areas of tribal importance;
- (13) Cultural and historic resources and uses;
- (14) Land status and ownership, use, and access patterns; and
- (15) Existing designated areas located in the plan area including wilderness and wild and scenic rivers and potential need and opportunity for additional designated areas.

(c) *Plan amendment assessments.* Where the responsible official determines that a new assessment is needed to inform an amendment, the responsible official has the discretion to determine the scope, scale, process, and content for the assessment depending on the topic or topics to be addressed.

§ 219.7 New plan development or plan revision.

(a) *Plan revisions.* A plan revision creates a new plan for the entire plan area, whether the plan revision differs from the prior plan to a small or large extent. A plan must be revised at least every 15 years. But, the responsible official has the discretion to determine at any time that conditions on a plan area have changed significantly such that a plan must be revised (16 U.S.C. 1604(f)(5)).

(b) *New plan development.* New plan development is required for new NFS units. The process for developing a new plan is the same as the process for plan revision.

(c) *Process for plan development or revision.* (1) The process for developing or revising a plan includes: Public notification and participation (§§ 219.4 and 219.16), assessment (§§ 219.5 and 219.6), developing a proposed plan,

considering the environmental effects of the proposal, providing an opportunity to comment on the proposed plan, providing an opportunity to object before the proposal is approved (subpart B), and, finally, approving the plan or plan revision. A new plan or plan revision requires preparation of an environmental impact statement.

(2) In developing a proposed new plan or proposed plan revision, the responsible official shall:

(i) Review relevant information from the assessment and monitoring to identify a preliminary need to change the existing plan and to inform the development of plan components and other plan content.

(ii) Consider the goals and objectives of the Forest Service strategic plan (§ 219.2(a)).

(iii) Identify the presence and consider the importance of various physical, biological, social, cultural, and historic resources on the plan area (§ 219.6), with respect to the requirements for plan components of §§ 219.8 through 219.11.

(iv) Consider conditions, trends, and stressors (§ 219.6), with respect to the requirements for plan components of §§ 219.8 through 219.11.

(v) Identify and evaluate lands that may be suitable for inclusion in the National Wilderness Preservation System and determine whether to recommend any such lands for wilderness designation.

(vi) Identify the eligibility of rivers for inclusion in the National Wild and Scenic Rivers System, unless a systematic inventory has been previously completed and documented and there are no changed circumstances that warrant additional review.

(vii) Identify existing designated areas other than the areas identified in paragraphs (c)(2)(v) and (c)(2)(vi) of this section, and determine whether to recommend any additional areas for designation. If the responsible official has the delegated authority to designate a new area or modify an existing area, then the responsible official may designate such area when approving the plan, plan amendment, or plan revision.

(viii) Identify the suitability of areas for the appropriate integration of resource management and uses, with respect to the requirements for plan components of §§ 219.8 through 219.11, including identifying lands which are not suitable for timber production (§ 219.11).

(ix) Identify the maximum quantity of timber that may be removed from the plan area (§ 219.11(d)(6)).

(x) Identify questions and indicators for the plan monitoring program (§ 219.12).

(xi) Identify potential other content in the plan (paragraph (f) of this section).

(3) The regional forester shall identify the species of conservation concern for the plan area in coordination with the responsible official.

(d) *Management areas or geographic areas.* Every plan must have management areas or geographic areas or both. The plan may identify designated or recommended designated areas as management areas or geographic areas.

(e) *Plan components.* Plan components guide future project and activity decisionmaking. The plan must indicate whether specific plan components apply to the entire plan area, to specific management areas or geographic areas, or to other areas as identified in the plan.

(1) *Required plan components.* Every plan must include the following plan components:

(i) *Desired conditions.* A desired condition is a description of specific social, economic, and/or ecological characteristics of the plan area, or a portion of the plan area, toward which management of the land and resources should be directed. Desired conditions must be described in terms that are specific enough to allow progress toward their achievement to be determined, but do not include completion dates.

(ii) *Objectives.* An objective is a concise, measurable, and time-specific statement of a desired rate of progress toward a desired condition or conditions. Objectives should be based on reasonably foreseeable budgets.

(iii) *Standards.* A standard is a mandatory constraint on project and activity decisionmaking, established to help achieve or maintain the desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements.

(iv) *Guidelines.* A guideline is a constraint on project and activity decisionmaking that allows for departure from its terms, so long as the purpose of the guideline is met. (§ 219.15(d)(3)). Guidelines are established to help achieve or maintain a desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements.

(v) *Suitability of lands.* Specific lands within a plan area will be identified as suitable for various multiple uses or activities based on the desired conditions applicable to those lands. The plan will also identify lands within the plan area as not suitable for uses

that are not compatible with desired conditions for those lands. The suitability of lands need not be identified for every use or activity. Suitability identifications may be made after consideration of historic uses and of issues that have arisen in the planning process. Every plan must identify those lands that are not suitable for timber production (§ 219.11).

(2) *Optional plan component: goals.* A plan may include goals as plan components. Goals are broad statements of intent, other than desired conditions, usually related to process or interaction with the public. Goals are expressed in broad, general terms, but do not include completion dates.

(3) *Requirements for the set of plan components.* The set of plan components must meet the requirements set forth in this part for sustainability (§ 219.8), plant and animal diversity (§ 219.9), multiple use (§ 219.10), and timber (§ 219.11).

(f) *Other content in the plan.* (1) *Other required content in the plan.* Every plan must:

(i) Identify watershed(s) that are a priority for maintenance or restoration;

(ii) Describe the plan area's distinctive roles and contributions within the broader landscape;

(iii) Include the monitoring program required by § 219.12; and

(iv) Contain information reflecting proposed and possible actions that may occur on the plan area during the life of the plan, including: the planned timber sale program; timber harvesting levels; and the proportion of probable methods of forest vegetation management practices expected to be used (16 U.S.C. 1604(e)(2) and (f)(2)). Such information is not a commitment to take any action and is not a "proposal" as defined by the Council on Environmental Quality regulations for implementing NEPA (40 CFR 1508.23, 42 U.S.C. 4322(2)(C)).

(2) *Optional content in the plan.* A plan may include additional content, such as potential management approaches or strategies and partnership opportunities or coordination activities.

§ 219.8 Sustainability.

The plan must provide for social, economic, and ecological sustainability within Forest Service authority and consistent with the inherent capability of the plan area, as follows:

(a) *Ecological sustainability.* (1) *Ecosystem Integrity.* The plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, including plan components to maintain or restore

structure, function, composition, and connectivity, taking into account:

(i) Interdependence of terrestrial and aquatic ecosystems in the plan area.

(ii) Contributions of the plan area to ecological conditions within the broader landscape influenced by the plan area.

(iii) Conditions in the broader landscape that may influence the sustainability of resources and ecosystems within the plan area.

(iv) System drivers, including dominant ecological processes, disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, and climate change; and the ability of terrestrial and aquatic ecosystems on the plan area to adapt to change.

(v) Wildland fire and opportunities to restore fire adapted ecosystems.

(vi) Opportunities for landscape scale restoration.

(2) *Air, soil, and water.* The plan must include plan components, including standards or guidelines, to maintain or restore:

(i) Air quality.

(ii) Soils and soil productivity, including guidance to reduce soil erosion and sedimentation.

(iii) Water quality.

(iv) Water resources in the plan area, including lakes, streams, and wetlands; ground water; public water supplies; sole source aquifers; source water protection areas; and other sources of drinking water (including guidance to prevent or mitigate detrimental changes in quantity, quality, and availability).

(3) *Riparian areas.* (i) The plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of riparian areas in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity, taking into account:

(A) Water temperature and chemical composition;

(B) Blockages (uncharacteristic and characteristic) of water courses;

(C) Deposits of sediment;

(D) Aquatic and terrestrial habitats;

(E) Ecological connectivity;

(F) Restoration needs; and

(G) Floodplain values and risk of flood loss.

(ii) Plans must establish width(s) for riparian management zones around all lakes, perennial and intermittent streams, and open water wetlands, within which the plan components required by paragraph (a)(3)(i) of this section will apply, giving special attention to land and vegetation for approximately 100 feet from the edges of all perennial streams and lakes.

(A) Riparian management zone width(s) may vary based on ecological or geomorphic factors or type of water body; and will apply unless replaced by a site-specific delineation of the riparian area.

(B) Plan components must ensure that no management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or deposits of sediment that seriously and adversely affect water conditions or fish habitat shall be permitted within the riparian management zones or the site-specific delineated riparian areas.

(4) *Best management practices for water quality.* The Chief shall establish requirements for national best management practices for water quality in the Forest Service Directive System. Plan components must ensure implementation of these practices.

(b) *Social and economic sustainability.* The plan must include plan components, including standards or guidelines, to guide the plan area's contribution to social and economic sustainability, taking into account:

(1) Social, cultural, and economic conditions relevant to the area influenced by the plan;

(2) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character;

(3) Multiple uses that contribute to local, regional, and national economies in a sustainable manner;

(4) Ecosystem services;

(5) Cultural and historic resources and uses; and

(6) Opportunities to connect people with nature.

§ 219.9 Diversity of plant and animal communities.

This section adopts a complementary ecosystem and species-specific approach to maintaining the diversity of plant and animal communities and the persistence of native species in the plan area. Compliance with the ecosystem requirements of paragraph (a) is intended to provide the ecological conditions to both maintain the diversity of plant and animal communities and support the persistence of most native species in the plan area. Compliance with the requirements of paragraph (b) is intended to provide for additional ecological conditions not otherwise provided by compliance with paragraph (a) for individual species as set forth in paragraph (b). The plan must provide for the diversity of plant and animal communities, within Forest Service authority and consistent with the

inherent capability of the plan area, as follows:

(a) *Ecosystem plan components.* (1) *Ecosystem integrity.* As required by § 219.8(a), the plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, including plan components to maintain or restore their structure, function, composition, and connectivity.

(2) *Ecosystem diversity.* The plan must include plan components, including standards or guidelines, to maintain or restore the diversity of ecosystems and habitat types throughout the plan area. In doing so, the plan must include plan components to maintain or restore:

(i) Key characteristics associated with terrestrial and aquatic ecosystem types;

(ii) Rare aquatic and terrestrial plant and animal communities; and

(iii) The diversity of native tree species similar to that existing in the plan area.

(b) *Additional, species-specific plan components.* (1) The responsible official shall determine whether or not the plan components required by paragraph (a) of this section provide the ecological conditions necessary to: contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of conservation concern within the plan area. If the responsible official determines that the plan components required in paragraph (a) are insufficient to provide such ecological conditions, then additional, species-specific plan components, including standards or guidelines, must be included in the plan to provide such ecological conditions in the plan area.

(2) If the responsible official determines that it is beyond the authority of the Forest Service or not within the inherent capability of the plan area to maintain or restore the ecological conditions to maintain a viable population of a species of conservation concern in the plan area, then the responsible official shall:

(i) Document the basis for that determination (§ 219.14(a)); and

(ii) Include plan components, including standards or guidelines, to maintain or restore ecological conditions within the plan area to contribute to maintaining a viable population of the species within its range. In providing such plan components, the responsible official shall coordinate to the extent

practicable with other Federal, State, Tribal, and private land managers having management authority over lands relevant to that population.

(c) *Species of conservation concern.* For purposes of this subpart, a species of conservation concern is a species, other than federally recognized threatened, endangered, proposed, or candidate species, that is known to occur in the plan area and for which the regional forester has determined that the best available scientific information indicates substantial concern about the species' capability to persist over the long-term in the plan area.

§ 219.10 Multiple use.

While meeting the requirements of §§ 219.8 and 219.9, the plan must provide for ecosystem services and multiple uses, including outdoor recreation, range, timber, watershed, wildlife, and fish, within Forest Service authority and the inherent capability of the plan area as follows:

(a) *Integrated resource management for multiple use.* The plan must include plan components, including standards or guidelines, for integrated resource management to provide for ecosystem services and multiple uses in the plan area. When developing plan components for integrated resource management, to the extent relevant to the plan area and the public participation process and the requirements of §§ 219.7, 219.8, 219.9, and 219.11, the responsible official shall consider:

(1) Aesthetic values, air quality, cultural and heritage resources, ecosystem services, fish and wildlife species, forage, geologic features, grazing and rangelands, habitat and habitat connectivity, recreation settings and opportunities, riparian subsurface, scenery, soil, surface and subsurface water quality, timber, trails, vegetation, viewsheds, wilderness, and other relevant resources and uses.

(2) Renewable and nonrenewable energy and mineral resources.

(3) Appropriate placement and sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors.

(4) Opportunities to coordinate with neighboring landowners to link open spaces and take into account joint management objectives where feasible and appropriate.

(5) Habitat conditions, subject to the requirements of § 219.9, for wildlife, fish, and plants commonly enjoyed and used by the public; for hunting, fishing, trapping, gathering, observing, subsistence, and other activities (in

collaboration with federally recognized Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments).

(6) Land status and ownership, use, and access patterns relevant to the plan area.

(7) Reasonably foreseeable risks to ecological, social, and economic sustainability.

(8) System drivers, including dominant ecological processes, disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, and climate change; and the ability of the terrestrial and aquatic ecosystems on the plan area to adapt to change (§ 219.8);

(9) Public water supplies and associated water quality.

(10) Opportunities to connect people with nature.

(b) *Requirements for plan components for a new plan or plan revision.* (1) The plan must include plan components, including standards or guidelines, to provide for:

(i) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character. Recreation opportunities may include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.

(ii) Protection of cultural and historic resources.

(iii) Management of areas of tribal importance.

(iv) Protection of congressionally designated wilderness areas as well as management of areas recommended for wilderness designation to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation.

(v) Protection of designated wild and scenic rivers as well as management of rivers found eligible or determined suitable for the National Wild and Scenic River system to protect the values that provide the basis for their suitability for inclusion in the system.

(vi) Appropriate management of other designated areas or recommended designated areas in the plan area, including research natural areas.

(2) Other plan components for integrated resource management to provide for multiple use as necessary.

§ 219.11 Timber requirements based on the NFMA.

While meeting the requirements of §§ 219.8 through 219.10, the plan must include plan components, including standards or guidelines, and other plan content regarding timber management within Forest Service authority and the

inherent capability of the plan area, as follows:

(a) *Lands not suited for timber production.* (1) The responsible official shall identify lands within the plan area as not suited for timber production if any one of the following factors applies:

(i) Statute, Executive order, or regulation prohibits timber production on the land;

(ii) The Secretary of Agriculture or the Chief has withdrawn the land from timber production;

(iii) Timber production would not be compatible with the achievement of desired conditions and objectives established by the plan for those lands;

(iv) The technology is not currently available for conducting timber harvest without causing irreversible damage to soil, slope, or other watershed conditions;

(v) There is no reasonable assurance that such lands can be adequately restocked within 5 years after final regeneration harvest; or

(vi) The land is not forest land.

(2) The responsible official shall review lands identified in the plan as not suited for timber production at least once every 10 years, or as otherwise prescribed by law, to determine whether conditions have changed so that they have become suitable for timber production. As a result of this 10-year review, the plan may be amended to identify any such lands as suitable for timber production, if warranted by changed conditions.

(b) *Timber harvest for purposes of timber production.* A plan that identifies lands as suitable for timber production must include plan components, including standards or guidelines, to guide timber harvest for timber production or for other multiple use purposes on such lands.

(c) *Timber harvest for purposes other than timber production.* Except as provided in paragraph (d) of this section, the plan may include plan components to allow for timber harvest for purposes other than timber production throughout the plan area, or portions of the plan area, as a tool to assist in achieving or maintaining one or more applicable desired conditions or objectives of the plan in order to protect other multiple-use values, and for salvage, sanitation, or public health or safety. Examples of using timber harvest to protect other multiple use values may include improving wildlife or fish habitat, thinning to reduce fire risk, or restoring meadow or savanna ecosystems where trees have invaded.

(d) *Limitations on timber harvest.* Whether timber harvest would be for the purposes of timber production or other

purposes, plan components, including standards or guidelines, must ensure the following:

(1) No timber harvest for the purposes of timber production may occur on lands not suited for timber production.

(2) Timber harvest would occur only where soil, slope, or other watershed conditions would not be irreversibly damaged;

(3) Timber harvest would be carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and aesthetic resources.

(4) Where plan components will allow clearcutting, seed tree cutting, shelterwood cutting, or other cuts designed to regenerate an even-aged stand of timber, the plan must include standards limiting the maximize size for openings that may be cut in one harvest operation, according to geographic areas, forest types, or other suitable classifications. Except as provided in paragraphs (d)(4)(i) through (iii) of this section, this limit may not exceed 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-Sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types.

(i) Plan standards may allow for openings larger than those specified in paragraph (d)(4) of this section to be cut in one harvest operation where the responsible official determines that larger harvest openings are necessary to help achieve desired ecological conditions in the plan area. If so, standards for exceptions shall include the particular conditions under which the larger size is permitted and must set a maximum size permitted under those conditions.

(ii) Plan components may allow for size limits exceeding those established in paragraphs (d)(4) and (d)(4)(i) of this section on an individual timber sale basis after 60 days public notice and review by the regional forester.

(iii) The plan maximum size for openings to be cut in one harvest operation shall not apply to the size of openings harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm (16 U.S.C. 1604(g)(3)(F)(iv)).

(5) Timber will be harvested from NFS lands only where such harvest would comply with the resource protections set out in sections 6(g)(3)(E) and (F) of the NFMA (16 U.S.C. 1604(g)(3)(E) and (F)). Some of these

requirements are listed in paragraphs (d)(2) to (d)(4) of this section.

(6) The quantity of timber that may be sold from the national forest is limited to an amount equal to or less than that which can be removed from such forest annually in perpetuity on a sustained-yield basis. This limit may be measured on a decadal basis. The plan may provide for departures from this limit as provided by the NFMA when departure would be consistent with the plan's desired conditions and objectives. Exceptions for departure from this limit on the quantity sold may be made only after a public review and comment period of at least 90 days. The Chief must include in the Forest Service Directives System procedures for estimating the quantity of timber that can be removed annually in perpetuity on a sustained-yield basis, and exceptions, consistent with 16 U.S.C. 1611.

(7) The regeneration harvest of even-aged stands of trees is limited to stands that generally have reached the culmination of mean annual increment of growth. This requirement would apply only to regeneration harvest of even-aged stands on lands identified as suitable for timber production and where timber production is the primary purpose for the harvest. Plan components may allow for exceptions, set out in 16 U.S.C. 1604(m), only if such harvest is consistent with the other plan components of the land management plan.

§ 219.12 Monitoring.

(a) *Plan monitoring program.* (1) The responsible official shall develop a monitoring program for the plan area and include it in the plan. Monitoring information should enable the responsible official to determine if a change in plan components or other plan content that guide management of resources on the plan area may be needed. The development of the plan monitoring program must be coordinated with the regional forester and Forest Service State and Private Forestry and Research and Development. Responsible officials for two or more administrative units may jointly develop their plan monitoring programs.

(2) The plan monitoring program sets out the plan monitoring questions and associated indicators. Monitoring questions and associated indicators must be designed to inform the management of resources on the plan area, including by testing relevant assumptions, tracking relevant changes, and measuring management effectiveness and progress toward

achieving or maintaining the plan's desired conditions or objectives.

Questions and indicators should be based on one or more desired conditions, objectives, or other plan components in the plan, but not every plan component needs to have a corresponding monitoring question.

(3) The plan monitoring program should be coordinated and integrated with relevant broader-scale monitoring strategies (paragraph (b) of this section) to ensure that monitoring is complementary and efficient, and that information is gathered at scales appropriate to the monitoring questions.

(4) Subject to the requirements of paragraph (a)(5) of this section, the responsible official has the discretion to set the scope and scale of the plan monitoring program, after considering:

(i) Information needs identified through the planning process as most critical for informed management of resources on the plan area; and

(ii) The financial and technical capabilities of the Agency.

(5) Each plan monitoring program must contain one or more monitoring questions and associated indicators addressing each of the following:

(i) The status of select watershed conditions.

(ii) The status of select ecological conditions including key characteristics of terrestrial and aquatic ecosystems.

(iii) The status of focal species to assess the ecological conditions required under § 219.9.

(iv) The status of a select set of the ecological conditions required under § 219.9 to contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of conservation concern.

(v) The status of visitor use, visitor satisfaction, and progress toward meeting recreation objectives.

(vi) Measurable changes on the plan area related to climate change and other stressors that may be affecting the plan area.

(vii) Progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities.

(viii) The effects of each management system to determine that they do not substantially and permanently impair the productivity of the land (16 U.S.C. 1604(g)(3)(C)).

(6) A range of monitoring techniques may be used to carry out the monitoring requirements in paragraph (a)(5) of this section.

(7) This section does not apply to projects or activities. Project and

activity monitoring may be used to gather information for the plan monitoring program, and information gathered through plan monitoring may be used to inform development of projects or activities. But, the monitoring requirements of this section are not a prerequisite for making a decision to carry out a project or activity.

(b) *Broader-scale monitoring strategies.* (1) The regional forester shall develop a broader-scale monitoring strategy for plan monitoring questions that can best be answered at a geographic scale broader than one plan area.

(2) When developing a monitoring strategy, the regional forester shall coordinate with the relevant responsible officials, Forest Service State and Private Forestry and Research and Development, partners, and the public. Two or more regional foresters may jointly develop broader-scale monitoring strategies.

(3) Each regional forester shall ensure that the broader-scale monitoring strategy is within the financial and technical capabilities of the region and complements other ongoing monitoring efforts.

(4) Projects and activities may be carried out under plans developed, amended, or revised under this part before the regional forester has developed a broader-scale monitoring strategy.

(c) *Timing and process for developing the plan monitoring program and broader-scale strategies.* (1) The responsible official shall develop the plan monitoring program as part of the planning process for a new plan development or plan revision. Where a plan's monitoring program has been developed under the provisions of a prior planning regulation and the unit has not initiated plan revision under this part, the responsible official shall modify the plan monitoring program within 4 years of the effective date of this part, or as soon as practicable, to meet the requirements of this section.

(2) The regional forester shall develop a broader-scale monitoring strategy as soon as practicable.

(3) To the extent practicable, appropriate, and relevant to the monitoring questions in the plan monitoring program, plan monitoring programs and broader-scale strategies must be designed to take into account:

(i) Existing national and regional inventory, monitoring, and research programs of the Agency, including from the NFS, State and Private Forestry, and Research and Development, and of other

governmental and non-governmental entities;

(ii) Opportunities to design and carry out multi-party monitoring with other Forest Service units, Federal, State or local government agencies, scientists, partners, and members of the public; and

(iii) Opportunities to design and carry out monitoring with federally recognized Indian Tribes and Alaska Native Corporations.

(d) *Biennial evaluation of the monitoring information.* (1) The responsible official shall conduct a biennial evaluation of new information gathered through the plan monitoring program and relevant information from the broader-scale strategy, and shall issue a written report of the evaluation and make it available to the public.

(i) The first monitoring evaluation for a plan or plan revision developed in accordance with this subpart must be completed no later than 2 years from the effective date of plan decision.

(ii) Where the monitoring program developed under the provisions of a prior planning regulation has been modified to meet the requirements of paragraph (c)(1) of this section, the first monitoring evaluation must be completed no later than 2 years from the date the change takes effect.

(iii) The monitoring evaluation report may be postponed for 1 year in case of exigencies, but notice of the postponement must be provided to the public prior to the date the report is due for that year (§ 219.16(c)(6)).

(2) The monitoring evaluation report must indicate whether or not a change to the plan, management activities, or the monitoring program, or a new assessment, may be warranted based on the new information. The monitoring evaluation report must be used to inform adaptive management of the plan area.

(3) The monitoring evaluation report may be incorporated into other planning documents if the responsible official has initiated a plan revision or relevant amendment.

(4) The monitoring evaluation report is not a decision document representing final Agency action, and is not subject to the objection provisions of subpart B.

§ 219.13 Plan amendment and administrative changes.

(a) *Plan amendment.* A plan may be amended at any time. Plan amendments may be broad or narrow, depending on the need for change, and should be used to keep plans current and help units adapt to new information or changing conditions. The responsible official has the discretion to determine whether and

how to amend the plan. Except as provided by paragraph (c) of this section, a plan amendment is required to add, modify, or remove one or more plan components, or to change how or where one or more plan components apply to all or part of the plan area (including management areas or geographic areas).

(b) *Amendment process.* The responsible official shall:

(1) Base an amendment on a preliminary identification of the need to change the plan. The preliminary identification of the need to change the plan may be based on a new assessment; a monitoring report; or other documentation of new information, changed conditions, or changed circumstances. When a plan amendment is made together with, and only applies to, a project or activity decision, the analysis prepared for the project or activity may serve as the documentation for the preliminary identification of the need to change the plan;

(2) Provide opportunities for public participation as required in § 219.4 and public notification as required in § 219.16. The responsible official may combine processes and associated public notifications where appropriate, considering the scope and scale of the need to change the plan; and

(3) Amend the plan consistent with Forest Service NEPA procedures. The appropriate NEPA documentation for an amendment may be an environmental impact statement, an environmental assessment, or a categorical exclusion, depending upon the scope and scale of the amendment and its likely effects. A proposed amendment that may create a significant environmental effect and thus require preparation of an environmental impact statement is considered a significant change in the plan for the purposes of the NFMA.

(c) *Administrative changes.* An administrative change is any change to a plan that is not a plan amendment or plan revision. Administrative changes include corrections of clerical errors to any part of the plan, conformance of the plan to new statutory or regulatory requirements, or changes to other content in the plan (§ 219.7(f)).

(1) A substantive change to the monitoring program made outside of the process for plan revision or amendment may be made only after notice to the public of the intended change and consideration of public comment (§ 219.16(c)(6)).

(2) All other administrative changes may be made following public notice (§ 219.16(c)(6)).

§ 219.14 Decision document and planning records.

(a) *Decision document.* The responsible official shall record approval of a new plan, plan amendment, or revision in a decision document prepared according to Forest Service NEPA procedures (36 CFR 220). The decision document must include:

(1) The rationale for approval;

(2) An explanation of how the plan components meet the sustainability requirements of § 219.8, the diversity requirements of § 219.9, the multiple use requirements of § 219.10, and the timber requirements of § 219.11;

(3) A statement of how the plan, plan amendment, or plan revision applies to approved projects and activities (§ 219.15);

(4) The documentation of how the best available scientific information was used to inform planning, the plan components, and other plan content, including the plan monitoring program (§ 219.3);

(5) The concurrence by the appropriate research station director with any part of the plan applicable to any experimental forests or experimental ranges (§ 219.2(b)(4)); and

(6) The effective date of the plan, amendment, or revision.

(b) *Planning records.* (1) The responsible official shall keep the following documents readily accessible to the public by posting them online and through other means: assessment reports (§ 219.6); the plan, including the monitoring program; the proposed plan, plan amendment, or plan revision; public notices and environmental documents associated with a plan; plan decision documents; and monitoring evaluation reports (§ 219.12).

(2) The planning record includes documents that support analytical conclusions made and alternatives considered throughout the planning process. The responsible official shall make the planning record available at the office where the plan, plan amendment, or plan revision was developed.

§ 219.15 Project and activity consistency with the plan.

(a) *Application to existing authorizations and approved projects or activities.* Every decision document approving a plan, plan amendment, or plan revision must state whether authorizations of occupancy and use made before the decision document may proceed unchanged. If a plan decision document does not expressly allow such occupancy and use, the permit, contract, and other authorizing instrument for the use and occupancy must be made

consistent with the plan, plan amendment, or plan revision as soon as practicable, as provided in paragraph (d) of this section, subject to valid existing rights.

(b) *Application to projects or activities authorized after plan decision.* Projects and activities authorized after approval of a plan, plan amendment, or plan revision must be consistent with the plan as provided in paragraph (d) of this section.

(c) *Resolving inconsistency.* When a proposed project or activity would not be consistent with the applicable plan components, the responsible official shall take one of the following steps, subject to valid existing rights:

- (1) Modify the proposed project or activity to make it consistent with the applicable plan components;
- (2) Reject the proposal or terminate the project or activity;
- (3) Amend the plan so that the project or activity will be consistent with the plan as amended; or
- (4) Amend the plan contemporaneously with the approval of the project or activity so that the project or activity will be consistent with the plan as amended. This amendment may be limited to apply only to the project or activity.

(d) *Determining consistency.* Every project and activity must be consistent with the applicable plan components. A project or activity approval document must describe how the project or activity is consistent with applicable plan components developed or revised in conformance with this part by meeting the following criteria:

- (1) *Goals, desired conditions, and objectives.* The project or activity contributes to the maintenance or attainment of one or more goals, desired conditions, or objectives, or does not foreclose the opportunity to maintain or achieve any goals, desired conditions, or objectives, over the long term.
- (2) *Standards.* The project or activity complies with applicable standards.
- (3) *Guidelines.* The project or activity:
 - (i) Complies with applicable guidelines as set out in the plan; or
 - (ii) Is designed in a way that is as effective in achieving the purpose of the applicable guidelines (§ 219.7(e)(1)(iv)).
- (4) *Suitability.* A project or activity would occur in an area:
 - (i) That the plan identifies as suitable for that type of project or activity; or
 - (ii) For which the plan is silent with respect to its suitability for that type of project or activity.

(e) *Consistency of resource plans within the planning area with the land management plan.* Any resource plans (for example, travel management plans)

developed by the Forest Service that apply to the resources or land areas within the planning area must be consistent with the plan components. Resource plans developed prior to plan decision must be evaluated for consistency with the plan and amended if necessary.

§ 219.16 Public notifications.

The following public notification requirements apply to plan development, amendment, or revision. Notifications may be combined where appropriate.

(a) *When formal public notification is required.* Public notification must be provided as follows:

- (1) To initiate the development of a proposed plan, plan amendment, or plan revision;
- (2) To invite comments on a proposed plan, plan amendment, or plan revision, and associated environmental analysis. For a new plan, plan amendment, or a plan revision for which a draft environmental impact statement (EIS) is prepared, the comment period is at least 90 days. For an amendment for which a draft EIS is not prepared, the comment period is at least 30 days;
- (3) To begin the objection period for a plan, plan amendment, or plan revision before approval (§ 219.52);
- (4) To approve a final plan, plan amendment, or plan revision; or
- (5) To announce whenever a plan, plan amendment, or plan revision process initiated under the provisions of a previous planning regulation will be conformed to meet the provisions of this part (§ 219.17(b)(3)).

(b) *Project or activity plan amendments.* When a plan amendment is approved in a decision document approving a project or activity and the amendment applies only to the project or activity, the notification requirements of 36 CFR part 215 or part 218, subpart A, applies instead of this section.

(c) *How public notice is provided.* The responsible official should use contemporary tools to provide notice to the public. At a minimum, all public notifications required by this part must be posted online, and:

- (1) When the Chief, the Under Secretary, or the Secretary is the responsible official, notice must be published in the **Federal Register**.
- (2) For a new plan or plan revision, when an official other than the Chief, the Under Secretary, or the Secretary is the responsible official, notice must be published in the **Federal Register** and the applicable newspaper(s) of record.
- (3) When the notice is for the purpose of inviting comments on a proposed plan, plan amendment, or plan revision

for which a draft EIS is prepared, the Environmental Protection Agency (EPA) **Federal Register** notice of availability of a draft EIS shall serve as the required **Federal Register** notice.

(4) For a plan amendment when an official other than the Chief, the Under Secretary, or the Secretary is the responsible official, and for which a draft EIS is not prepared, notices must be published in the newspaper(s) of record.

(5) If a plan, plan amendment, or plan revision applies to two or more units, notices must be published in the **Federal Register** and the newspaper(s) of record for the applicable units.

(6) Additional public notice of administrative changes, changes to the monitoring program, opportunities to provide information for assessments, assessment reports, monitoring evaluation reports, or other notices not listed in paragraph (a) of this section may be made in any way the responsible official deems appropriate.

(d) *Content of public notices.* Public notices required by this section except for notices applicable to paragraph (c)(3) of this section, must clearly describe the action subject to notice and the nature and scope of the decisions to be made; identify the responsible official; describe when, where, and how the responsible official will provide opportunities for the public to participate in the planning process; and explain how to obtain additional information.

§ 219.17 Effective dates and transition.

(a) *Effective dates.* (1) A plan or plan revision is effective 30 days after publication of notice of its approval.

(2) Except as provided in paragraph (a)(3) of this section, a plan amendment for which an environmental impact statement (EIS) has been prepared is effective 30 days after publication of notice of its approval; a plan amendment for which an EIS has not been prepared is effective immediately.

(3) A plan amendment that applies to only one specific project or activity is effective on the date the project may be implemented in accordance with administrative review regulations at 36 CFR parts 215 and 218.

(b) *Plan amendment and plan revision transition.* For the purposes of this section, initiation means that the Agency has issued a notice of intent or other notice announcing the beginning of the process to develop a proposed plan, plan amendment, or plan revision.

(1) *Initiating plan development and plan revisions.* Plan development and plan revisions initiated after May 9,

2012 must conform to the requirements of this part.

(2) *Initiating plan amendments.* All plan amendments initiated after May 9, 2012 are subject to the objection process in subpart B of this part. With respect to plans approved or revised under a prior planning regulation, including the transition provisions of the reinstated 2000 rule (36 CFR part 209, published at 36 CFR parts 200 to 209, revised as of July 1, 2010), plan amendments may be initiated under the provisions of the prior planning regulation for 3 years after May 9, 2012, and may be completed and approved under those provisions (except for the optional appeal procedures of the prior planning regulation); or may be initiated, completed, and approved under the requirements of this part. After the 3-year transition period, all plan amendments must be initiated, completed, and approved under the requirements of this part.

(3) *Plan development, plan amendments, or plan revisions initiated before this part.* For plan development, plan amendments, or plan revisions that were initiated before May 9, 2012, the responsible official may complete and approve the plan, plan amendment, or plan revision in conformance with the provisions of the prior planning regulation, including its transition provisions (36 CFR part 209, published at 36 CFR parts 200 to 209, revised as of July 1, 2010), or may conform to the plan, plan amendment, or plan revision to the requirements of this part. If the responsible official chooses to complete an ongoing planning process under the provisions of the prior planning regulation, but chooses to allow for an objection rather than an administrative appeal, the objection process in subpart B of this part shall apply. When the responsible official chooses to conform an ongoing planning process to this part, public notice must be made (§ 219.16(a)(5)). An objection process may be chosen only if the public is provided the opportunity to comment on a proposed plan, plan amendment, or plan revision, and associated environmental analysis.

(c) *Plans developed, amended, or revised under a prior planning regulation.* This part supersedes any prior planning regulation. No obligations remain from any prior planning regulation, except those that are specifically included in a unit's existing plan. Existing plans will remain in effect until revised. This part does not compel a change to any existing plan, except as required in § 219.12(c)(1). None of the requirements of this part apply to projects or activities

on units with plans developed or revised under a prior planning rule until the plan is revised under this part, except that projects or activities on such units must comply with the consistency requirement of § 219.15 with respect to any amendments that are developed and approved pursuant to this part.

§ 219.18 Severability.

In the event that any specific provision of this part is deemed by a court to be invalid, the remaining provisions shall remain in effect.

§ 219.19 Definitions.

Definitions of the special terms used in this subpart are set out as follows.

Alaska Native Corporation. One of the regional, urban, and village corporations formed under the Alaska Native Claims Settlement Act of 1971.

Assessment. For the purposes of this subpart, an assessment is the identification and evaluation of existing information to support land management planning. Assessments are not decisionmaking documents, but provide current information on select topics relevant to the plan area, in the context of the broader landscape.

Best management practices for water quality (BMPs). Methods, measures, or practices selected by an agency to meet its nonpoint source control needs. BMPs include but are not limited to structural and nonstructural controls and operation and maintenance procedures. BMPs can be applied before, during, and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.

Candidate species. (1) For U.S. Fish and Wildlife Service candidate species, a species for which the U.S. Fish and Wildlife Service possesses sufficient information on vulnerability and threats to support a proposal to list as endangered or threatened, but for which no proposed rule has yet been published by the U.S. Fish and Wildlife Service.

(2) For National Marine Fisheries Service candidate species, a species that is:

(i) The subject of a petition to list and for which the National Marine Fisheries Service has determined that listing may be warranted, pursuant to section 4(b)(3)(A) of the Endangered Species Act (16 U.S.C. 1533(b)(3)(A)), or

(ii) Not the subject of a petition but for which the National Marine Fisheries Service has announced in the **Federal Register** the initiation of a status review.

Collaboration or collaborative process. A structured manner in which a collection of people with diverse interests share knowledge, ideas, and resources while working together in an

inclusive and cooperative manner toward a common purpose.

Collaboration, in the context of this part, falls within the full spectrum of public engagement described in the Council on Environmental Quality's publication of October, 2007: *Collaboration in NEPA—A Handbook for NEPA Practitioners.*

Connectivity. Ecological conditions that exist at several spatial and temporal scales that provide landscape linkages that permit the exchange of flow, sediments, and nutrients; the daily and seasonal movements of animals within home ranges; the dispersal and genetic interchange between populations; and the long distance range shifts of species, such as in response to climate change.

Conservation. The protection, preservation, management, or restoration of natural environments, ecological communities, and species.

Conserve. For purposes of § 219.9, to protect, preserve, manage, or restore natural environments and ecological communities to potentially avoid federally listing of proposed and candidate species.

Culmination of mean annual increment of growth. See mean annual increment of growth.

Designated area. An area or feature identified and managed to maintain its unique special character or purpose. Some categories of designated areas may be designated only by statute and some categories may be established administratively in the land management planning process or by other administrative processes of the Federal executive branch. Examples of statutorily designated areas are national heritage areas, national recreational areas, national scenic trails, wild and scenic rivers, wilderness areas, and wilderness study areas. Examples of administratively designated areas are experimental forests, research natural areas, scenic byways, botanical areas, and significant caves.

Disturbance. Any relatively discrete event in time that disrupts ecosystem, watershed, community, or species population structure and/or function and changes resources, substrate availability, or the physical environment.

Disturbance regime. A description of the characteristic types of disturbance on a given landscape; the frequency, severity, and size distribution of these characteristic disturbance types; and their interactions.

Ecological conditions. The biological and physical environment that can affect the diversity of plant and animal communities, the persistence of native species, and the productive capacity of ecological systems. Ecological

conditions include habitat and other influences on species and the environment. Examples of ecological conditions include the abundance and distribution of aquatic and terrestrial habitats, connectivity, roads and other structural developments, human uses, and invasive species.

Ecological integrity. The quality or condition of an ecosystem when its dominant ecological characteristics (for example, composition, structure, function, connectivity, and species composition and diversity) occur within the natural range of variation and can withstand and recover from most perturbations imposed by natural environmental dynamics or human influence.

Ecological sustainability. See sustainability.

Ecological system. See ecosystem.

Economic sustainability. See sustainability.

Ecosystem. A spatially explicit, relatively homogeneous unit of the Earth that includes all interacting organisms and elements of the abiotic environment within its boundaries. An ecosystem is commonly described in terms of its:

(1) Composition. The biological elements within the different levels of biological organization, from genes and species to communities and ecosystems.

(2) Structure. The organization and physical arrangement of biological elements such as, snags and down woody debris, vertical and horizontal distribution of vegetation, stream habitat complexity, landscape pattern, and connectivity.

(3) Function. Ecological processes that sustain composition and structure, such as energy flow, nutrient cycling and retention, soil development and retention, predation and herbivory, and natural disturbances such as wind, fire, and floods.

(4) Connectivity. (see connectivity above).

Ecosystem diversity. The variety and relative extent of ecosystems.

Ecosystem services. Benefits people obtain from ecosystems, including:

(1) *Provisioning services*, such as clean air and fresh water, energy, fuel, forage, fiber, and minerals;

(2) *Regulating services*, such as long term storage of carbon; climate regulation; water filtration, purification, and storage; soil stabilization; flood control; and disease regulation;

(3) *Supporting services*, such as pollination, seed dispersal, soil formation, and nutrient cycling; and

(4) *Cultural services*, such as educational, aesthetic, spiritual and

cultural heritage values, recreational experiences and tourism opportunities.

Environmental assessment (EA). See definition in § 219.62.

Environmental document. For the purposes of this part: an environmental assessment, environmental impact statement, finding of no significant impact, categorical exclusion, and notice of intent to prepare an environmental impact statement.

Environmental impact statement (EIS). See definition in § 219.62.

Even-aged stand. A stand of trees composed of a single age class.

Federally recognized Indian Tribe. An Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

Focal species. A small subset of species whose status permits inference to the integrity of the larger ecological system to which it belongs and provides meaningful information regarding the effectiveness of the plan in maintaining or restoring the ecological conditions to maintain the diversity of plant and animal communities in the plan area. Focal species would be commonly selected on the basis of their functional role in ecosystems.

Forest land. Land at least 10 percent occupied by forest trees of any size or formerly having had such tree cover and not currently developed for non-forest uses. Lands developed for non-forest use include areas for crops, improved pasture, residential or administrative areas, improved roads of any width and adjoining road clearing, and power line clearings of any width.

Geographic area. A spatially contiguous land area identified within the planning area. A geographic area may overlap with a management area.

Inherent capability of the plan area. The ecological capacity or ecological potential of an area characterized by the interrelationship of its physical elements, its climatic regime, and natural disturbances.

Integrated resource management. Multiple use management that recognizes the interdependence of ecological resources and is based on the need for integrated consideration of ecological, social, and economic factors.

Landscape. A defined area irrespective of ownership or other artificial boundaries, such as a spatial mosaic of terrestrial and aquatic ecosystems, landforms, and plant communities, repeated in similar form throughout such a defined area.

Maintain. In reference to an ecological condition: To keep in existence or

continuance of the desired ecological condition in terms of its desired composition, structure, and processes. Depending upon the circumstance, ecological conditions may be maintained by active or passive management or both.

Management area. A land area identified within the planning area that has the same set of applicable plan components. A management area does not have to be spatially contiguous.

Management system. For purposes of this subpart, a timber management system including even-aged management and uneven-aged management.

Mean annual increment of growth and culmination of mean annual increment of growth. Mean annual increment of growth is the total increment of increase of volume of a stand (standing crop plus thinnings) up to a given age divided by that age. Culmination of mean annual increment of growth is the age in the growth cycle of an even-aged stand at which the average annual rate of increase of volume is at a maximum. In land management plans, mean annual increment is expressed in cubic measure and is based on the expected growth of stands, according to intensities and utilization guidelines in the plan.

Monitoring. A systematic process of collecting information to evaluate effects of actions or changes in conditions or relationships.

Multiple use. The management of all the various renewable surface resources of the NFS so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output, consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528-531).

National Forest System. See definition in § 219.62.

Native knowledge. A way of knowing or understanding the world, including traditional ecological and social knowledge of the environment derived from multiple generations of indigenous peoples' interactions, observations, and

experiences with their ecological systems. Native knowledge is place-based and culture-based knowledge in which people learn to live in and adapt to their own environment through interactions, observations, and experiences with their ecological system. This knowledge is generally not solely gained, developed by, or retained by individuals, but is rather accumulated over successive generations and is expressed through oral traditions, ceremonies, stories, dances, songs, art, and other means within a cultural context.

Native species. An organism that was historically or is present in a particular ecosystem as a result of natural migratory or evolutionary processes; and not as a result of an accidental or deliberate introduction into that ecosystem. An organism's presence and evolution (adaptation) in an area are determined by climate, soil, and other biotic and abiotic factors.

Newspaper(s) of record. See definition in § 219.62.

Objection. See definition in § 219.62.

Online. See definition in § 219.62.

Participation. Activities that include a wide range of public involvement tools and processes, such as collaboration, public meetings, open houses, workshops, and comment periods.

Persistence. Continued existence.

Plan area. The NFS lands covered by a plan.

Plan or land management plan. A document or set of documents that provide management direction for an administrative unit of the NFS developed under the requirements of this part or a prior planning rule.

Plant and animal community. A naturally occurring assemblage of plant and animal species living within a defined area or habitat.

Productivity. The capacity of NFS lands and their ecological systems to provide the various renewable resources in certain amounts in perpetuity. For the purposes of this subpart, productivity is an ecological term, not an economic term.

Project. An organized effort to achieve an outcome on NFS lands identified by location, tasks, outputs, effects, times, and responsibilities for execution.

Proposed Species. Any species of fish, wildlife, or plant that is proposed by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service in the Federal Register to be listed under Section 4 of the Endangered Species Act.

Recovery. For the purposes of this subpart, and with respect to threatened or endangered species: The improvement in the status of a listed

species to the point at which listing as federally endangered or threatened is no longer appropriate.

Recreation. See Sustainable recreation.

Recreation opportunity. An opportunity to participate in a specific recreation activity in a particular recreation setting to enjoy desired recreation experiences and other benefits that accrue. Recreation opportunities include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.

Recreation setting. The social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities. The Forest Service uses the recreation opportunity spectrum to define recreation settings and categorize them into six distinct classes: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural, and urban.

Responsible official. See definition in § 219.62.

Restoration. The process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed. Ecological restoration focuses on reestablishing the composition, structure, pattern, and ecological processes necessary to facilitate terrestrial and aquatic ecosystems sustainability, resilience, and health under current and future conditions.

Restore. To renew by the process of restoration (see restoration).

Riparian Areas. Three-dimensional ecotones of interaction that include terrestrial and aquatic ecosystems that extend down into the groundwater, up above the canopy, outward across the floodplain, up the near-slopes that drain to the water, laterally into the terrestrial ecosystem, and along the water course at variable widths.

Riparian management zone. Portions of a watershed where riparian-dependent resources receive primary emphasis, and for which plans include plan components to maintain or restore riparian functions and ecological functions.

Risk. A combination of the likelihood that a negative outcome will occur and the severity of the subsequent negative consequences.

Scenic character. A combination of the physical, biological, and cultural images that gives an area its scenic identity and contributes to its sense of place. Scenic character provides a frame of reference from which to determine scenic attractiveness and to measure scenic integrity.

Social sustainability. See sustainability.

Sole source aquifer. Underground water supply designated by the Environmental Protection Agency (EPA) as the "sole or principle" source of drinking water for an area as established under section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h-3(e)).

Source water protection areas. The area delineated by a State or Tribe for a public water system (PWS) or including numerous PWSs, whether the source is ground water or surface water or both, as part of a State or tribal source water assessment and protection program (SWAP) approved by Environmental Protection Agency under section 1453 of the Safe Drinking Water Act (42 U.S.C. 300h-3(e)).

Stressors. For the purposes of this subpart: Factors that may directly or indirectly degrade or impair ecosystem composition, structure or ecological process in a manner that may impair its ecological integrity, such as an invasive species, loss of connectivity, or the disruption of a natural disturbance regime.

Sustainability. The capability to meet the needs of the present generation without compromising the ability of future generations to meet their needs. For purposes of this part, "ecological sustainability" refers to the capability of ecosystems to maintain ecological integrity; "economic sustainability" refers to the capability of society to produce and consume or otherwise benefit from goods and services including contributions to jobs and market and nonmarket benefits; and "social sustainability" refers to the capability of society to support the network of relationships, traditions, culture, and activities that connect people to the land and to one another, and support vibrant communities.

Sustainable recreation. The set of recreation settings and opportunities on the National Forest System that is ecologically, economically, and socially sustainable for present and future generations.

Timber harvest. The removal of trees for wood fiber use and other multiple-use purposes.

Timber production. The purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use.

Viable population. A population of a species that continues to persist over the long term with sufficient distribution to be resilient and adaptable to stressors and likely future environments.

Watershed. A region or land area drained by a single stream, river, or drainage network; a drainage basin.

Watershed condition. The state of a watershed based on physical and biogeochemical characteristics and processes.

Wild and scenic river. A river designated by Congress as part of the National Wild and Scenic Rivers System that was established in the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 (note), 1271–1287).

Wilderness. Any area of land designated by Congress as part of the National Wilderness Preservation System that was established in the Wilderness Act of 1964 (16 U.S.C. 1131–1136).

Subpart B—Pre-Decisional Administrative Review Process

§ 219.50 Purpose and scope.

This subpart establishes a pre-decisional administrative review (hereinafter referred to as objection) process for plans, plan amendments, or plan revisions. This process gives an individual or entity an opportunity for an independent Forest Service review and resolution of issues before the approval of a plan, plan amendment, or plan revision. This subpart identifies who may file objections to a plan, plan amendment, or plan revision; the responsibilities of the participants in an objection; and the procedures that apply to the review of the objection.

§ 219.51 Plans, plan amendments, or plan revisions not subject to objection.

(a) A plan, plan amendment, or plan revision is not subject to objection when the responsible official receives no substantive formal comments (§ 219.62) on that proposal during the opportunities for public comment (§ 219.53(a)).

(b) Plans, plan amendments, or plan revisions proposed by the Secretary of Agriculture or the Under Secretary for Natural Resources and Environment are not subject to the procedures set forth in this section. A decision by the Secretary or Under Secretary constitutes the final administrative determination of the U.S. Department of Agriculture.

(c) A plan, plan amendment, or plan revision is not subject to objection under this subpart if another administrative review process is used consistent with § 219.59.

(d) When a plan, plan amendment, or plan revision is not subject to objection under this subpart, the responsible official shall include an explanation with the signed decision document.

§ 219.52 Giving notice of a plan, plan amendment, or plan revision subject to objection before approval.

(a) The responsible official shall disclose during the NEPA scoping process and in the appropriate NEPA documents that the proposed plan, plan amendment, or plan revision is subject to the objection procedures in this subpart. This disclosure is in addition to the public notice that begins the objection filing period, as required at § 219.16. When a responsible official chooses to use the objection process of this subpart for a plan, plan amendment, or plan revision process initiated before the effective date of this rule, notice that the objection process will be used must be given prior to an opportunity to provide substantive formal comment on a proposed plan, plan amendment, or revision and associated environmental analysis.

(b) The responsible official shall make available the public notice for the beginning of the objection period for a plan, plan amendment, or plan revision (§ 219.16(a)(3)) to those who have requested the environmental documents or are eligible to file an objection consistent with § 219.53.

(c) The content of the public notice for the beginning of the objection period for a plan, plan amendment, or plan revision before approval (§ 219.16(a)(3)) must:

(1) Inform the public of the availability of the plan, plan amendment, or plan revision, the appropriate final environmental documents, the draft plan decision document, and any relevant assessment or monitoring evaluation report; the commencement of the objection filing period under 36 CFR part 219 Subpart B; and the process for objecting. The documents in this paragraph will be made available online at the time of public notice.

(2) Include the name of the plan, plan amendment, or plan revision, the name and title of the responsible official, and instructions on how to obtain a copy of the appropriate final environmental documents; the draft plan decision document; and the plan, plan amendment, or plan revision.

(3) Include the name and address of the reviewing officer with whom an objection is to be filed. The notice must specify a street, postal, fax, and email address; the acceptable format(s) for objections filed electronically; and the reviewing officer's office business hours for those filing hand-delivered objections.

(4) Include a statement that objections will be accepted only from those who have previously submitted substantive

formal comments specific to the proposed plan, plan amendment, or plan revision during any opportunity for public comment as provided in subpart A.

(5) Include a statement that the publication date of the public notice in the applicable newspaper of record (or the **Federal Register**, if the responsible official is the Chief) is the exclusive means for calculating the time to file an objection (§ 219.56).

(6) Include a statement that an objection, including attachments, must be filed with the appropriate reviewing officer (§ 219.62) within 60 days, if an environmental impact statement has been prepared, otherwise within 45 days of the date of publication of the public notice for the objection process.

(7) Include a statement describing the minimum content requirements of an objection (§ 219.54(c)).

§ 219.53 Who may file an objection.

(a) Individuals and entities who have submitted substantive formal comments related to a plan, plan amendment, or plan revision during the opportunities for public comment as provided in subpart A during the planning process for that decision may file an objection. Objections must be based on previously submitted substantive formal comments attributed to the objector unless the objection concerns an issue that arose after the opportunities for formal comment. The burden is on the objector to demonstrate compliance with requirements for objection. Objections that do not meet the requirements of this paragraph may not be accepted; however, objections not accepted must be documented in the planning record.

(b) Formal comments received from an authorized representative(s) of an entity are considered those of the entity only. Individual members of that entity do not meet objection eligibility requirements solely based on membership in an entity. A member or an individual must submit substantive formal comments independently to be eligible to file an objection in an individual capacity.

(c) When an objection lists multiple individuals or entities, each individual or entity must meet the requirements of paragraph (a) of this section. Individuals or entities listed on an objection that do not meet eligibility requirements may not be considered objectors, although an objection must be accepted (if not otherwise set aside for review under § 219.55) if at least one listed individual or entity meets the eligibility requirements.

(d) Federal agencies may not file objections.

(e) Federal employees who otherwise meet the requirements of this subpart for filing objections in a non-official capacity must comply with Federal conflict of interest statutes at 18 U.S.C. 202–209 and with employee ethics requirements at 5 CFR part 2635. Specifically, employees may not be on official duty nor use government property or equipment in the preparation or filing of an objection. Further, employees may not include information unavailable to the public, such as Federal agency documents that are exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)).

§ 219.54 Filing an objection.

(a) All objections must be filed, in writing, with the reviewing officer for the plan. All objections must be open to public inspection during the objection process.

(b) Including documents by reference is not allowed, except for the following list of items that may be referenced by including the name, date, page number (where applicable), and relevant section of the cited document. All other documents or Web links to those documents, or both must be included with the objection, if referenced in the objection.

(1) All or any part of a Federal law or regulation.

(2) Forest Service Directive System documents and land management plans or other published Forest Service documents.

(3) Documents referenced by the Forest Service in the planning documentation related to the proposal subject to objection.

(4) Formal comments previously provided to the Forest Service by the objector during the proposed plan, plan amendment, or plan revision comment period.

(c) At a minimum, an objection must include the following:

(1) The objector's name and address (§ 219.62), along with a telephone number or email address if available;

(2) Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the objection);

(3) Identification of the lead objector, when multiple names are listed on an objection (§ 219.62). Verification of the identity of the lead objector if requested;

(4) The name of the plan, plan amendment, or plan revision being objected to, and the name and title of the responsible official;

(5) A statement of the issues and/or the parts of the plan, plan amendment,

or plan revision to which the objection applies;

(6) A concise statement explaining the objection and suggesting how the proposed plan decision may be improved. If applicable, the objector should identify how the objector believes that the plan, plan amendment, or plan revision is inconsistent with law, regulation, or policy; and

(7) A statement that demonstrates the link between prior substantive formal comments attributed to the objector and the content of the objection, unless the objection concerns an issue that arose after the opportunities for formal comment (§ 219.53(a)).

§ 219.55 Objections set aside from review.

(a) The reviewing officer shall set aside and not review an objection when one or more of the following applies:

(1) Objections are not filed in a timely manner (§ 219.56);

(2) The proposed plan, plan amendment, or plan revision is not subject to the objection procedures of this subpart pursuant to §§ 219.51 and 219.59;

(3) The individual or entity did not submit substantive formal comments (§ 219.53) during opportunities for public comment on the proposed decision (§ 219.16(a)(1) and (a)(2));

(4) None of the issues included in the objection is based on previously submitted substantive formal comments unless one or more of those issues arose after the opportunities for formal comment;

(5) The objection does not provide sufficient information as required by § 219.54(c);

(6) The objector withdraws the objection in writing;

(7) The objector's identity is not provided or cannot be determined from the signature (written or electronically scanned), and a reasonable means of contact is not provided (§ 219.54(c)); or

(8) The objection is illegible for any reason and a legible copy cannot easily be obtained.

(b) When an objection includes an issue that is not based on previously submitted substantive formal comments and did not arise after the opportunities for formal comment, that issue will be set aside and not reviewed. Other issues raised in the objection that meet the requirements of this subpart will be reviewed.

(c) The reviewing officer shall give written notice to the objector and the responsible official when an objection or part of an objection is set aside from review and shall state the reasons for not reviewing the objection in whole or part. If the objection is set aside from

review for reasons of illegibility or lack of a means of contact, the reasons must be documented in the planning record.

§ 219.56 Objection time periods and process.

(a) *Time to file an objection.* For a new plan, plan amendment, or plan revision for which an environmental impact statement (EIS) is prepared, written objections, including any attachments, must be filed within 60 days following the publication date of the public notice for a plan, plan amendment, or plan revision before approval (§§ 219.16 and 219.52). For an amendment for which an EIS is not prepared, the time to file an objection is within 45 days. It is the responsibility of the objector to ensure that the reviewing officer receives the objection in a timely manner.

(b) *Computation of time periods.* (1) All time periods are computed using calendar days, including Saturdays, Sundays, and Federal holidays in the time zone of the reviewing officer. However, when the time period expires on a Saturday, Sunday, or Federal holiday, the time is extended to the end of the next Federal working day (11:59 p.m. for objections filed by electronic means such as email or facsimile machine).

(2) The day after publication of the public notice for a plan, plan amendment, or plan revision before approval (§§ 219.16 and 219.52), is the first day of the objection filing period.

(3) The publication date of the public notice for a plan, plan amendment, or plan revision before approval (§§ 219.16 and 219.52), is the exclusive means for calculating the time to file an objection. Objectors may not rely on dates or timeframe information provided by any other source.

(c) *Evidence of timely filing.* The objector is responsible for filing the objection in a timely manner.

Timeliness must be determined by one of the following indicators:

(1) The date of the U.S. Postal Service postmark for an objection received before the close of the fifth business day after the objection filing date;

(2) The electronically generated posted date and time for email and facsimiles;

(3) The shipping date for delivery by private carrier for an objection received before the close of the fifth business day after the objection filing date; or

(4) The official agency date stamp showing receipt of hand delivery.

(d) *Extensions.* Time extensions for filing are not permitted except as provided at paragraph (b)(1) of this section.

(e) *Reviewing officer role and responsibilities.* The reviewing officer is the U.S. Department of Agriculture (USDA) or Forest Service official having the delegated authority and responsibility to review an objection filed under this subpart. The reviewing officer is a line officer at the next higher administrative level above the responsible official; except that:

(1) For a plan amendment, that next higher-level line officer may delegate the reviewing officer authority and responsibility to a line officer at the same administrative level as the responsible official. Any plan amendment delegation of reviewing officer responsibilities must be made prior to the public notification of an objection filing period (§ 219.52).

(2) For an objection or part of an objection specific to the identification of species of conservation concern, the regional forester who identified the species of conservation concern for the plan area may not be the reviewing officer. The Chief may choose to act as the reviewing officer or may delegate the reviewing officer authority to a line officer at the same administrative level as the regional forester. The reviewing officer for the plan will convey any such objections or parts thereof to the appropriate line officer.

(f) *Notice of objections filed.* Within 10 days after the close of the objection period, the responsible official shall publish a notice of all objections in the applicable newspaper of record and post the notice online.

(g) *Response to objections.* The reviewing officer must issue a written response to the objector(s) concerning their objection(s) within 90 days of the end of the objection-filing period. The reviewing officer has the discretion to extend the time when it is determined to be necessary to provide adequate response to objections or to participate in discussions with the parties. The reviewing officer must notify all parties (lead objectors and interested persons) in writing of any extensions.

§ 219.57 Resolution of objections.

(a) *Meetings.* Prior to the issuance of the reviewing officer's written response, either the reviewing officer or the objector may request to meet to discuss issues raised in the objection and potential resolution. The reviewing officer must allow other interested persons to participate in such meetings. An interested person must file a request to participate in an objection within 10 days after publication of the notice of objection by the responsible official (§ 219.56(f)). The responsible official shall be a participant in all meetings

involving the reviewing officer, objectors, and interested persons. During meetings with objectors and interested persons, the reviewing officer may choose to use alternative dispute resolution methods to resolve objections. All meetings are open to observation by the public.

(b) *Response to objections.* (1) The reviewing officer must render a written response to the objection(s) within 90 days of the close of the objection-filing period, unless the allowable time is extended as provided at § 219.56(g). A written response must set forth the reasons for the response but need not be a point-by-point response, and may contain instructions to the responsible official. In cases involving more than one objection to a plan, plan amendment, or plan revision, the reviewing officer may consolidate objections and issue one or more responses. The response must be sent to the objecting party(ies) by certified mail, return receipt requested, and posted online.

(2) The reviewing officer's review of and response to the objection(s) is limited to only those issues and concerns submitted in the objection(s).

(3) The response of the reviewing officer will be the final decision of the U.S. Department of Agriculture on the objection.

§ 219.58 Timing of a plan, plan amendment, or plan revision decision.

(a) The responsible official may not issue a decision document concerning a plan, plan amendment, or plan revision subject to the provisions of this subpart until the reviewing officer has responded in writing to all objections.

(b) A decision by the responsible official approving a plan, plan amendment, or plan revision must be consistent with the reviewing officer's response to objections.

(c) When no objection is filed within the allotted filing period, the reviewing officer must notify the responsible official. The responsible official's approval of the plan, plan amendment, or plan revision in a plan decision document consistent with § 219.14, may occur on, but not before, the fifth business day following the end of the objection-filing period.

§ 219.59 Use of other administrative review processes.

(a) Where the Forest Service is a participant in a multi-federal agency effort that would otherwise be subject to objection under this subpart, the responsible official may waive the objection procedures of this subpart and instead adopt the administrative review

procedure of another participating Federal agency. As a condition of such a waiver, the responsible official for the Forest Service must have agreement with the responsible official of the other agency or agencies that a joint agency response will be provided to those who file for administrative review of the multi-agency effort. When such an agreement is reached, the responsible official for the Forest Service shall ensure public notice required in § 219.52 sets forth which administrative review procedure is to be used.

(b) When a plan amendment is approved in a decision document approving a project or activity and the amendment applies only to the project or activity, the administrative review process of 36 CFR part 215 or part 218, subpart A, applies instead of the objection process established in this subpart. When a plan amendment applies to all future projects or activities, the objection process established in this subpart applies only to the plan amendment decision; the review process of 36 CFR part 215 or part 218 would apply to the project or activity part of the decision.

§ 219.60 Secretary's authority.

Nothing in this subpart restricts the Secretary of Agriculture from exercising any statutory authority regarding the protection, management, or administration of NFS lands.

§ 219.61 Information collection requirements.

This subpart specifies the information that objectors must give in an objection to a plan, plan amendment, or plan revision (§ 219.54(c)). As such, this subpart contains information collection requirements as defined in 5 CFR part 1320 and have been approved by the Office of Management and Budget and assigned control number 0596-0158.

§ 219.62 Definitions.

Definitions of the special terms used in this subpart are set out as follows.

Address. An individual's or entity's current mailing address used for postal service or other delivery services. An email address is not sufficient.

Decision memo. A concise written record of the responsible official's decision to implement an action that is categorically excluded from further analysis and documentation in an environmental impact statement (EIS) or environmental assessment (EA), where the action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment, and does not give rise to extraordinary circumstances

in which a normally excluded action may have a significant environmental effect.

Environmental assessment (EA). A public document that provides sufficient evidence and analysis for determining whether to prepare an EIS or a finding of no significant impact, aids an agency's compliance with the National Environmental Policy Act (NEPA) when no EIS is necessary, and facilitates preparation of a statement when one is necessary (40 CFR 1508.9; FSH 1909.15, Chapter 40).

Environmental impact statement (EIS). A detailed written statement as required by section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (40 CFR 1508.11; 36 CFR 220).

Formal comments. See substantive formal comments.

Lead objector. For an objection submitted with multiple individuals, multiple entities, or combination of individuals and entities listed, the individual or entity identified to represent all other objectors for the purposes of communication, written or otherwise, regarding the objection.

Line officer. A Forest Service official who serves in a direct line of command from the Chief.

Name. The first and last name of an individual or the name of an entity. An electronic username is insufficient for identification of an individual or entity.

National Forest System. The National Forest System includes national forests, national grasslands, and the National Tallgrass Prairie.

Newspaper(s) of record. The newspaper(s) of record is (are) the principal newspaper(s) of general circulation annually identified and published in the **Federal Register** by each regional forester to be used for publishing notices as required by 36 CFR 215.5. The newspaper(s) of record for projects in a plan area is (are) the newspaper(s) of record for notices related to planning.

Objection. The written document filed with a reviewing officer by an individual or entity seeking pre-decisional administrative review of a plan, plan amendment, or plan revision.

Objection period. The allotted filing period following publication of a public notice in the applicable newspaper of record (or the **Federal Register**, if the responsible official is the Chief) of the availability of the appropriate environmental documents and draft decision document, including a plan, plan amendment, or plan revision during which an objection may be filed with the reviewing officer.

Objection process. Those procedures established for pre-decisional administrative review of a plan, plan amendment, or plan revision.

Objector. An individual or entity who meets the requirements of § 219.53, and

files an objection that meets the requirements of §§ 219.54 and 219.56.

Online. Refers to the appropriate Forest Service Web site or future electronic equivalent.

Responsible official. The official with the authority and responsibility to oversee the planning process and to approve a plan, plan amendment, and plan revision.

Reviewing officer. The USDA or Forest Service official having the delegated authority and responsibility to review an objection filed under this subpart.

Substantive formal comments. Written comments submitted to, or oral comments recorded by, the responsible official or his designee during an opportunity for public participation provided during the planning process (§§ 219.4 and 219.16), and attributed to the individual or entity providing them. Comments are considered substantive when they are within the scope of the proposal, are specific to the proposal, have a direct relationship to the proposal, and include supporting reasons for the responsible official to consider.

Dated: March 23, 2012.

Harris D. Sherman,

Under Secretary, Natural Resources and Environment.

[FR Doc. 2012-7502 Filed 4-6-12; 8:45 am]

BILLING CODE P



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

7

- XXConsent
 Departmental
 Correspondence Action
 Public Hearing
 Scheduled Time for
 Closed Session
 Informational

FROM: County Administrator - Personnel

FOR THE BOARD MEETING OF: April 29, 2013

SUBJECT: Adoption of the 2013-2016 Inyo County Deputy Sheriff's Association Memorandum of Understanding

DEPARTMENTAL RECOMMENDATION:

Request Board approve the May 1, 2013 through April 30, 2016, Comprehensive Memorandum of Understanding between the County of Inyo and the Deputy Sheriff's Association (DSA).

SUMMARY DISCUSSION:

Your Board has given direction regarding negotiations on the current contract with Inyo County Deputy Sheriff's Association (DSA). At this time, negotiations have concluded successfully with all parties agreeing on the Memorandum of Understanding. This Memorandum of Understanding is presented for your approval.

ALTERNATIVES:

Your Board could choose not to approve the Memorandum of Understanding and direct staff to re-negotiate the terms.

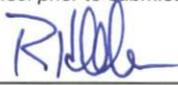
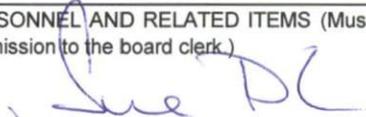
OTHER AGENCY INVOLVEMENT:

Personnel Department
County Counsel

FINANCING:

The costs associated with this MOU will be budgeted in Sheriff's Department Budgets

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  Approved: _____ Date <u>4-24-13</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.) Approved: _____ Date _____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: <input checked="" type="checkbox"/> Date <u>4/24/13</u>

DEPARTMENT HEAD SIGNATURE: Kevin Carunchio  Date: 4/24/13
(Not to be signed until all approvals are received)

MEMORANDUM OF UNDERSTANDING

between

**INYO COUNTY DEPUTY SHERIFF'S
ASSOCIATION**

and

COUNTY OF INYO

May 1, 2013, April 30, 2016

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**COMPREHENSIVE
MEMORANDUM OF UNDERSTANDING
BETWEEN**

**THE COUNTY OF INYO
AND
THE INYO COUNTY DEPUTY SHERIFF'S ASSOCIATION**

May 1, 2011 - March 31, 2012

Section 1 – Introduction

Article 1 – Recognition

The County of Inyo (hereinafter called the "County") has recognized the Deputy Sheriff's Association (hereinafter called the "Association") as the formally recognized employee organization bargaining unit for the purpose of meeting its obligations under the Myers-Milias-Brown Act, Government Code §3500, et seq., when rules, regulations, or laws affecting wages, hours and other terms and conditions of employment are amended or changed. This Agreement applies to all employees in the Association bargaining unit.

Article 2 – Purpose

It is the purpose of this Memorandum of Understanding (hereinafter referred to as "MOU") to promote and provide for the continuity of operation and employment through harmonious relations, cooperation and understanding between management and the employees covered by the provisions of this MOU; to provide an established, orderly and fair means of resolving misunderstandings or differences which may arise from the provisions of this MOU; and to set forth the understanding reached between the parties as a result of good faith negotiations on the matters set forth herein.

Article 3 – Non-Discrimination

Section 1: The parties mutually recognize and agree to protect the rights of all employees hereby to join and/or participate in protected Association activities, or to refrain from joining or participating in protected activities, in accordance with Government Code §3500 to §3511.

Section 2: The County and the Association agree that they shall not discriminate against any employee because of race, color, sex, age, national origin, ancestry, political or religious creed, marital status, physical or mental disability, medical condition or sexual orientation. The County and Association shall reopen any provision of this MOU for the purpose of complying with any

final order of a federal or state agency or court of competent jurisdiction requiring a modification or change in any provision or provisions of this MOU in compliance with state and federal anti-discrimination laws.

Section 3: Whenever the masculine gender is used in this Agreement, it shall be understood to include the feminine gender.

Article 4 – Personnel Rules and Regulations

A. County Personnel Rules and Regulations as adopted by the Board of Supervisors in Resolution No. 94-83 and all amendments thereto are incorporated herein.

B. Effective with the adoption of this MOU, the Department and Association agree to implement the Department Rules and Regulations as revised July 1, 1999.

Article 5 – Membership

Safety members who are not a Lieutenant, Chief Investigator or the Sheriff are members of DSA.

Article 6 – Merit System Membership

Those positions represented by the Association shall remain part of the County Merit System, with the terms and conditions of their employment covered by the Merit System rules, the County of Inyo Personnel Rules and Regulations and this Memorandum of Understanding.

Section 2 – Salaries / Additional Compensation

The members of the Association shall be paid every two weeks.). The County will make every effort to see that employees in outlying stations receive their checks on the last County business day of each pay period.

Article 1 – Salaries

The salaries of Association members shall be as set forth in Attachment A. Salaries will be increased from current levels by:

- 2% - First payroll following ratification of MOU
- 2% - January 2014
- 1% - January 2015

Article 2 – Step Raises

Merit step raises will become effective on the first day of the pay period following eligibility.

Article 3 – Overtime and Compensatory Time

- A. Overtime will be paid at a rate of one and one-half (1.5) times the regular wage rate. The rate of overtime shall be paid at the hourly wage computed on the basis of the monthly salary times twelve (12) months divided by the number of working hours in a year, 2080 (52 weeks x 40 hours per week = 2080 hours.)
- B. Overtime shall be paid as defined in A above after the employee has completed forty (40) hours of work in a workweek. Hours of work shall not include time scheduled as compensatory time or holiday leave. Hours of work shall include time off scheduled as sick leave or vacation leave. Remove this since our holidays are paid. Exception: If an employee is assigned a "holiday off" by the department, and it is not a regular day off for that employee, the holiday will count as "hours worked" for the work week.

A member may choose to place overtime into the compensatory time off leave accrual. Compensatory time off accruals shall not exceed 120 hours (15 days.) Compensatory time off shall be taken with the approval of the Department.

Article 4 – Standby and Callout and On-Call

A. Minimum Call-Out for Sergeant, Investigator, Corporal, Deputy

1. In the event a member is called out to work other than his regular shift, he will be paid a minimum of three (3) hours at time and one-half for any call-outs regardless of time required to complete the calls.
2. A Call-Out is constituted by the member being notified of the detail, making preparation to respond to the detail, notifying dispatch, forming their unit, they are in service and en route to the detail.

B. Standby: In the event that a member is required to remain in his beat area, on his regularly scheduled day off, or before or after his regular shift, he shall be paid three (3) hours straight time pay per eight-hour standby period with a minimum of one (1) hour at straight time pay. Standby time shall not count as hours worked for purposes of calculating overtime.

Standby time will only be used in emergency situations. An emergency is defined as a National, State or Local disaster, or an impending immediate danger to the public peace or safety, or other such specific event as declared by the Sheriff or his designated representative.

C. On-Call: In the event that a member is required to remain within the County, on his regularly scheduled day off, or before or after his regular shift, he shall be paid three (3) hours straight time pay per eight-hour On-Call period with a minimum of one (1) hour of straight time pay. On-Call time shall not count as hours worked for purposes of calculating overtime.

1. Investigators shall receive eight (8) hours of straight time for on-call status per two (2) day weekend. In the event of a three (3) day weekend, Investigators shall receive twelve (12) hours straight time for On-Call status.
2. Corporal/Investigators placed into On-Call status shall not have such compensation count as hours worked for purposes of calculating overtime.

Article 5 – Scheduling

- A. Regular twenty-eight (28) day work period schedules will be posted seven (7) days prior to the first day of the work period. Exceptions may have to be made when emergencies are determined by the Sheriff or his designated representative.
- B. Members subject to shift rotation shall be rotated on a one (1), two (2) or three (3) twenty-eight (28) day work period basis. Rotation is to be through all shifts. Frequency of rotation will be at the discretion of the Division Commander.

Nothing in this section shall preclude a member from working an unpopular shift for a period of time greater than the designated rotation period if:

- 1. Such schedule and assignment has been mutually agreed upon by the member and the Division Commander and;
 - 2. Until the time such shift is requested by another affected member assigned to the same duty station.
- C. Supervisory Members will work shifts as assigned by the Division Commander. Corporal Members shall be entitled to shift rotation within a period not to exceed six (6) months.

Article 6 – Workday and Workweek

The work week begins at 0001 hours each Thursday and ends at 2400 hours the following Wednesday (one minute after 12 midnight Sunday through 12 midnight on Saturday.)

- A. Employees on an eight-hour daily work schedule will work five consecutive days, with two consecutive days off.
- B. Employees on a four-day, ten-hour per day work schedule will work four consecutive days with three consecutive days off.
- C. Employees on a three-day, twelve-hour per day work schedule will work six twelve-hour shifts and one eight-hour shift per fourteen day work period for a total of 80 work hours.
- D. The County Administrator may in his discretion based upon recommendation from a department head change work hours and/or

work shifts on a temporary basis in such department or work unit thereof.

Article 7 – Shift Differential

- A. Members assigned to work swing shift shall receive an additional 2% compensation. Shifts designated as swing, P.M. and evening are the swing shift.
- B. Members assigned to work graveyard shift shall receive an additional 4% compensation. Shifts designated as Graveyard and Night are the graveyard shift.
- C. In the event of an extended shift, the differential on the overtime shall be the same as the assigned shift. In the event overtime is not connected to an assigned shift, the differential compensation shall be determined by the shift during which the majority of the hours are worked.

Article 8 – Retention Incentive Pay

County agrees to provide the following retention incentive increases:
At the completion of six years of service on the anniversary date the employee will receive a 1 percent increase to the base salary and will receive a ½ percent increase every year thereafter until the employee reaches a total of 8 percent and 20 years of service.

Article 9 – Class “B” License

County will provide a 2.5% of base pay incentive for members, who hold and maintain a Class B driver’s license. Number of positions eligible will be determined by the Sheriff.

Article 10 – Bilingual

County agrees to compensate members who meet bilingual proficiency qualifications an additional five percent (5%) of base pay. The Sheriff shall designate the languages and testing requirements, including periodic re-examination of proficiency as deemed appropriate, which will determine the qualifications for and maintenance of this incentive.

Article 11 – Uniforms

- A. County agrees to pay a uniform allowance of \$1,000 per year for the cleaning, replacement and maintenance of member's clothing.
- B. This allowance shall be paid quarterly in the amount of \$250. This payment shall be payable on the last payroll date of each quarter.
- C. All clothing damaged within the course and scope of employment shall be replaced or repaired at no cost to the member. The determination of replacement or repair will be made by the Department. Normal wear and tear of clothing articles is not included.
- D. New employees receive up to \$500 as reimbursement upon proof of uniform purchases. This \$500 is to come from the current \$1,000 annual payment, whereby a new employee can draw his first two (2) quarterly payments upon proof (receipts) that the amount was spent for uniform purchases.

Article 12 – Safety Equipment

The County agrees to supply the following safety equipment to new members. Lateral entries into the department will have the opportunity of using their own equipment or having the County furnish the equipment to them. If members wish to purchase equipment that is not standard issue of the County, they may do so at their own expense. This equipment will be replaced on a fair "wear-and-tear" basis as determined by the appropriate evaluating authority of the Inyo County Sheriff's Department. All equipment shall meet department approval.

Gun
Holster
Sam Browne belt and accessories
Baton and holder
Handcuff case and handcuffs
Flashlight (batteries and bulb)
Ammunition and holder
Safety helmet
Body armor (ballistic vest)
Parka
Rain gear, jacket and pant protectors

Ear protectors and shooting glasses will be kept at the various Sheriff stations to be issued on an as-needed basis. These items will not be issued individually to each member.

Association agrees to waive all claims for sums expended by its members to purchase equipment.

Article 13 – Sick Leave Buyout

Any member may, at the members option, exchange up to ten (10) days accrued unused sick leave with the County for monetary compensation at the employee's current hourly rate upon the following conditions:

- A. A maximum of ten (10) days of accrued unused sick leave may be exchanged during any calendar year.
- B. The exchange will be made on or before December 5th of each year.
- C. After the exchange, the member must maintain a minimum balance of one hundred (100) hours of accrued unused sick leave.

Article 14 – Other Compensation

A. Education Incentive

1. County agrees to compensate Members holding Associate College Degrees and/or an Intermediate Certificate issued by Peace Officers Standards and Training an additional five percent (5%) of the Member's classification base pay.
2. County agrees to compensate Members holding Bachelor College Degrees and/or an Advanced Certificate issued by Peace Officers Standards and Training an additional five percent (5%) of the Member's classification base pay.
3. County agrees to compensate members holding a Supervisory Certificate issued by Peace Officer Standards and Training an additional two and one-half percent (2 ½%) of the member's classification base pay.

B. Qualification Incentive

All members who qualify as "Expert" or a higher rating at a quarterly qualifying shoot will receive a one-time payment of \$50. A qualifying shoot shall be scheduled by the department once each quarter with a department appointed Range Master. For those members unable to participate in the designated qualifying shoot due to vacation, illness or other reason acceptable to the department, the department may schedule a makeup qualifying shoot. A Member may have only one attempt to qualify as "Expert" or higher for this additional compensation each quarter. The Range Master will designate, in accordance with department policy, which attempt at the qualifying shoot will be the "designated qualifying shoot".

The Range Master must certify to the Sheriff, or his designee, a list of those members qualifying for this incentive.

C. Canine Pay

Members who are assigned as K-9 Handlers shall receive an additional \$100 per month while the Handler is assigned a canine.

D. Resident Deputy Pay

Members assigned to Independence, Big Pine, and Olancho as resident deputies shall receive an additional \$100 per month. Members assigned to Death Valley, Tecopa and Shoshone as resident deputies shall receive an additional \$400 per month without deduction for rent/maintenance of County owned housing.

The personnel transferring or assigned to the Tecopa/Shoshone resident post as described in the MOU who choose to live in Pahrump, Nevada will receive half the designated resident deputy pay for Remote Availability Compensation. The employee must reside within 30 minutes of the assigned post.

E. Premium Pay/INET

This category of compensation commonly termed "premium pay" is for a specific position occupied by a member of the DSA. Under the newly reformed I.N.E.T. Task Force, the I.N.E.T. Council agreed that it would select a Supervising Agent from an I.N.E.T. member, which includes the Sheriff's Department and District Attorney's Office. The I.N.E.T. Council has sole discretion to appoint the Supervising Agent, which decision is not subject to review.

A. In the event the I.N.E.T. Council appoints a member of the Association to the Supervising Agent position, the member will be reporting to and receiving orders from the I.N.E.T. Council, which is composed of the heads of various local law enforcement agencies, including but not limited to the Sheriff's Department and District Attorney's Office. The parties hereby agree that any member appointed to the Supervising Agent position will be supervised by the I.N.E.T. Council, in addition to the regular supervision by his superiors at the Sheriff's Department or District Attorney's Office.

B. The responsibilities of Supervising Agent include significant duties and responsibilities, which may be above and beyond those usually associated with the position of the member appointed as Supervising Agent. Accordingly, the parties agree that in the event the I.N.E.T. Council selects a member as the Supervising Agent, the position of I.N.E.T. Supervising Agent shall be compensated by payment commensurate with that of Sergeant. This premium

pay above the member's base salary shall be paid to any member below the rank of Sergeant, occupying the position of Supervising Agent of the I.N.E.T. Task Force.

- C. Appointment to the position shall be at the sole discretion of the I.N.E.T. Council with the approval of the Sheriff or District Attorney. Premium pay for this position will be paid upon appointment to Supervising Agent, retroactive to the date of appointment, and for the period of time the member remains the Supervising Agent. A member may be relieved of his position of Supervising Agent at any time and for any reason by the I.N.E.T. Council, so long as the member is provided thirty (30) days prior written notice of such decision. The member may also be relieved of the position of Supervising Agent, upon thirty (30) days prior written notice, if the I.N.E.T. Task Force is disbanded or if the Sheriff or District Attorney withdraws that department's participation in the Task Force, which may be done at the department head's sole discretion. The removal of a member from the Supervising Agent position and subsequent loss of premium pay, by the Sheriff or District Attorney for disciplinary reasons, is subject to the rules regarding discipline; however the subsequent removal by the I.N.E.T. Council and subsequent loss of premium pay for non-disciplinary reasons is not subject to review and not subject to disciplinary rules. The payment of premium pay will not affect any other compensation or other terms and conditions of employment of the member occupying the position of Supervising Agent, nor will the member suffer any loss of compensation or benefits by reason of payment of premium pay.
- D. The appointment of a member to Supervising Agent of the I.N.E.T. Task Force is neither a promotion nor acting out of classification.

F. Field Training Pay

County agrees to compensate members assigned as Field Training Officers. Members assigned as Field Training Officers shall receive one-half hour (.5 hour) of straight-time overtime compensation for each day they are actively working the assignment.

Effective July 1, 2011 the County agrees to compensate members assigned to the Field Training Officer Program. Members assigned to the Field Training Officer program while an FTO is assigned shall receive an additional 5% of base pay.

Article 15 – Special Assignment/Acting/Consecutive Days

- A. There will be no special assignments in excess of five (5) days in any thirty (30) day period out of one's beat area, except in major emergencies or when requested by the employee.

The term, "Special Assignment," is defined as "an assignment to an event or post where the member would be required to remain overnight or in some other way be unable to return home after duty hours due to some action on behalf of the Department."

Compensation for any assignment out of a member's beat area shall include travel time commencing from regular duty station and terminating upon return to regular duty station (e.g., if member is assigned temporarily from Bishop to Lone Pine, compensation commences when member checks in at Bishop; compensation further terminates when the Member returns to Bishop.) If member is on special assignment, compensation is not paid for off-duty time.

- B. Members assigned duties as Acting Sergeant, Acting Investigator or Acting Corporal for a period of eight (8) calendar days will be paid at the higher classification, retroactive to the first day worked in the acting classification, after the initial eight (8) day period and until they are no longer assigned to the "Acting" position.

A member placed into an acting position in a class with a higher salary range will be paid either at the minimum of the new range or at the nearest higher rate that he would otherwise be entitled.

"Acting Sergeant," "Acting Investigator," or "Acting Corporal," shall mean an employee assigned by the Sheriff, or his designated representative, to perform all the duties and assume full responsibility for the designated position.

- C. The scheduling policy is five (5) days on, two (2) days off. During the course of this MOU, an attempt shall be made to address the memberships concerns of having rotating days off. To address this, the following scheduling process may be used if desired by a majority of effected members within a Division.

Days off shall be distributed throughout the calendar year to equal the total number of holidays, Saturdays, and Sundays. Scheduling supervisors shall make every effort to schedule deputy members in a five (5) day on - two (2) day off format. At times this becomes

impossible (most notably at shift change rotations and when attending training.) When that occurs, and the deputy member is scheduled to work a sixth (6th) day in a row:

1. The scheduling supervisor will attempt to assure the deputy member receives the total number of days off due for the scheduling period, and
2. For any days scheduled beyond five (5) days (with the deputy member receiving the correct number of days off for the scheduling period) the deputy member shall receive four (4) hours of straight-time pay in addition to his straight-time pay unless the deputy member is entitled to overtime pay under Section 2, Article 3 for such day, in which case the deputy member shall only receive overtime pay and shall not receive the additional pay provided for in this section.

This paragraph will not apply if the days scheduled beyond five (5) days are the result of shift change rotations or attendance at training.

3. When the deputy member is required to work beyond five (5) days and does not receive the total number of days off required in the scheduling period, the deputy member shall be compensated as follows:
 - (a) if the member is entitled to over-time pay under Section 2, Article 3 for the day, the member shall receive that pay plus 8 hours of straight-time; or
 - (b) if the member is not entitled to over-time pay per Section 2, Article 3 the member shall be paid time and one-half (1-1/2) in additional to their regular straight time pay.
4. No deputy member shall be scheduled for a seventh (7th) day in a row without a Command Officers approval based on a clear statement of department need.

This modified scheduling is granted by the department at the request of the Association and during the course of the MOU may be withdrawn at the request of either the Department or Association with no explanation, and if implemented or withdrawn, shall not be grounds for a grievance. This article may be implemented or withdrawn on a Division by Division basis, solely at the discretion of

the Department. In the event this scheduling modification is withdrawn by either side, the language for this section reverts back to that of Article 25C of the previous MOU as follows:

"No member shall be given less than two (2) consecutive days off in a row in any consecutive seven (7) day period unless assigned to work overtime; and days off shall be distributed throughout the calendar year to equal the total number of the holidays, Saturdays and Sundays."

D. 12-hour work schedule is adopted for all jail personnel, Deputies assigned to the jail. The shifts will primarily consist of six (6) 12-hour shifts and one (1) 8 hours shift per fourteen (14) day work period for a total of 80 work hours.

Work Period: the work period is defined as Sunday through the second Saturday following and will be the same fourteen (14) day work period for all jail personnel. It is understood that exceptions to this schedule may/will occur to accommodate training and/or emergencies and all efforts will be made to ensure at least eighty (80) total work hours in the work period for all jail personnel.

[The Sheriff's Office is requesting that the above language be added to the Inyo County Personnel Rules and Regulations, article 5.17 defining of a "Work Week."]

Work Time/ Overtime Compensation: It is understood that all hours worked over 80 hours in the work period will be considered and paid as overtime. "Work Time" is defined as all time physically on the job (including travel time for training). Overtime will be compensated in accordance with the Inyo County Personnel Rules and Regulations, article Five (5) section 5.15.

Shift Differential: Employees working the 6 p.m. to 6 a.m. will receive the graveyard shift differential of 4%.

E Members required to work a double shift will be paid at the rate of time and one-half (1-1/2) for the second shift.

F. Members required to work a full second shift in a 24-hour period shall be paid at the rate of time and one-half (1-1/2). This shall not apply during normal shift rotation.

Section 3 – Leave

Article 1 – Vacation

Accrual rates and use of vacation leave are defined in the County Personnel Rules and Regulations Manual.

- A. The maximum amount of vacation days, which may be accrued, shall be 280 hours (35 days).
- B. In the event an employee would cease accruing vacation benefits due to the 35-day cap provided herein, the employee may continue to accrue vacation benefits so long as (1) the employee and his Department Head agree that the employee will take necessary vacation time at a date in the future to bring the employee below the 35-day cap; (2) the vacation must be scheduled and taken by the employee within six months; and (3) the County Administrator approves the arrangements, which approval will not be unreasonably denied.

Article 2 – Holidays

Association members shall be entitled to the following legal holidays:

January 1 (New Year's Day)
Third Monday of January (known as "Martin Luther King Day")
February 12 (known as "Lincoln's Day")
Third Monday in February (Washington's Birthday)
Last Monday in May (Memorial Day)
July 4 (Independence Day)
First Monday in September (Labor Day)
September 9 (Admission Day)
Second Monday in October (Columbus Day)
November 11 (Veteran's Day)
Thanksgiving Day
Friday immediately following Thanksgiving Day
December 25 (Christmas Day)
Christmas Eve and New Year's Eve (see below)

Every day appointed by the President or Governor for a public fast, thanksgiving or holiday is a holiday.

Article 3 – Sick

Each employee shall accrue sick leave. There is no limit on the amount of sick leave that may be accrued.

Article 4 – Flexible – Not Applicable

Article 5 – Maternity

Personnel Rule 10.2 governs maternity leave.

Article 6 – Leave Pool

County agrees to the creation of leave pool for member(s) who exhaust all accrued leave due to non-industrial injury or illness.

All members will donate an equal amount of leave from holiday leave, sick leave, or compensatory time off accruals. The Association will notify County of which type of leave is being donated to the pool and the amount donated per Member.

All members will donate to the pool on an as-needed basis. Maximum leave to be donated to a member will be 90 days per occurrence.

Article 7 – Holiday Compensation

Members will be paid for holidays as follows: The County will pay 7% (3.5% each payment) of base salary. The payments will be made semi-annually on the first payroll in June and December.

Holiday Leave/Pay Bank - Any employee at the time of ratification of the MOU with a balance in the Holiday Leave Bank/will be allowed to carry the balance until all available time is used.

Section 4 – Other Benefits

Article 1 – Insurance

1.

A. Medical – County will pay 80% of premium, employee will pay 20% of premium on either PORAC, PERSCHOICE or PERS SELECT

2. County agrees to pay 50% of the annual deductible of both plans. Payment of the deductible amount will be by

reimbursement to the employee.

3. Employees may opt out of health insurance if they have other medical coverage. If they do so, the county will pay the following amounts to the employee per pay period:
 - i. Employee only coverage - \$100
 - ii. Employee plus one - \$200
 - iii. Employee plus family - \$300

B. Dental

County agrees to pay 100% of the premiums for dental insurance during the term of this MOU. County agrees to additional orthodontia benefit for adults and children, 50% benefit schedule, \$1,200 lifetime maximum.

C. Optical

County agrees to pay 100% of the premiums for optical insurance during the term of this MOU.

D. Life

County agrees to pay 100% of the premium for life insurance during the term of this MOU.

E. Short-Term Disability

County will provide all eligible employees with a self-insured income protection plan for up to one year for non-job-related disabilities preventing a person from working. County agrees to pay the premium based on the state disability program. Any employee denied benefits under this provision may file a grievance pursuant to Article XIII of the County Personnel Rules and may have the matter heard only up to the level of the County Administrator.

F. Long-Term Disability

County agrees to pay 100% of the insurance premium for existing Long Term Disability Program for the term of this MOU.

Article 2 – Retirement Provisions

- A. County agrees to provide the 3% at 50 formula PERS retirement for Safety members for current employees.**

1. County agrees to pay the member's contribution for retirement at the rate of 9% for the 3% at 50 PERS retirement.
2. PERS benefit to safety employees shall consist of:

- a. The “highest year” computation for these employees will be based on highest one year's salary.
 - b. Upon retirement any member may convert up to three hundred (300) days accrued unused sick leave to service credit for retirement purposes.
 - c. County will pay 100% of the member’s normal contributions as employer paid member contributions (EPMC) and report the same percentage of compensation earnable as additional compensation pursuant to Government Code Sections 20636(c)(4) and 20691.
 - d. All other provisions as amended in the County PERS contract.
- B. The County agrees to provide all employees hired before January 1, 2013 the 3% at 50 formula PERS retirement for safety members. The “highest year” computation for these employees will be based on the three (3) highest paid years of service.
- C . County will implement PEPERA as outline in the law for all new employees hired after January 1, 2013.

Article 3 – Flexible Spending Program

County will to pay the administration fee for each employee who participates in flexible benefit spending program allowed by Section 125 of the Internal Revenue Code.

Article 4 – Deferred Compensation

County will provide deferred compensation programs for employees.

Article 5 – Part-time Benefits – Not Applicable

Article 6 – 401A Retirement Plan (former PORAC Premier Plan)

County agrees to pay \$30 per member, per month to a 401a plan for the term of this MOU.

Section 5 – Policy and Procedures

Article 1 – No Smoking Policy

County and Association agree to a No Smoking policy as a condition of employment for new hires.

Article 2 – Drug and Alcohol Policy

A. The Association agrees to the County Alcohol and Drug Abuse Policy as last amended, September, 1991. County agrees that members are excluded from this policy when duties require they maintain possession of alcohol or drugs. Except as provided in the County of Inyo Drug and Alcohol Policy pursuant to the Department of Transportation (as referenced below), the County also agrees that members who are required by the department to undergo an alcohol or drug test as described in the policy will:

1. Be entitled to a second sample and independent analysis of the second sample; and
2. Be evaluated under County Personnel Rules and Regulations policies with regard to "probable cause" for drug testing.

B. The Association also agrees to the County of Inyo Drug and Alcohol Policy pursuant to the Department of Transportation Regulations as last amended April 1, 1998.

Article 3 – Employee Assistance Program

County will provide an Employee Assistance Program.

Article 4 – Travel Pay

County will use the Internal Revenue Service (IRS) policy regarding reimbursement of travel pay. If the IRS rates increase, the County reimbursement rates will increase in the same amount as the IRS rates. Should the IRS rates decrease or undergo fundamental changes, renegotiations between the County and the Association on travel pay will occur.

Article 5 – Tuition Reimbursement

The County agrees to reimburse educational expenses up to a maximum of \$350 per year per member for tuition and books approved by Department Head and CAO.

The County agrees to consider allocating an additional amount to any given member, subject to available funding, engaged in a course of study that has a direct relationship to duties performed and would benefit the Department and County. If such a situation exists, the Sheriff's recommendation for payment is necessary.

The County will reimburse the member for course work completed with a grade of 2.0 or higher or a Certificate of Completion if no grade is given. The member must submit a final grade report or a Certificate.

If a member makes a commitment to attend course work either in county or out-of-county, the department will make every attempt to accommodate a member's request for duty scheduling to allow for successful course completion. The member will be required to utilize leave time, if time off in excess of normally scheduled time off is required, for successful course completion.

If the Department grants scheduling priority to a member and such a priority causes other members to receive undesirable shift work or not receive the normal rotational shift change, the Department will not be subject to grievance issues.

Article 6 – Not Applicable

Article 7 – Mistaken Overpayments

Should any covered employee be overpaid due to any mistake or inadvertence, the County may recover the amount of overpayment by subsequent unilateral deduction from the pay of the employee in question up to not more than the amount of the overpayment. However, not more than twenty-five percent (25%) of any such employee's net pay shall be deducted from any one paycheck for this purpose.

Article 8 – Probation Period

All deputies will serve an eighteen (18) month probationary period. At twelve (12) months a probationary step increase will be granted if satisfactory evaluation is received. All new promotional positions will serve a twelve (12) month probationary period.

Article 9 – Departmental Cooperation

A. The Sheriff's Department will allow reasonable space on bulletin boards for the posting of Association notices and information.

B. The Department will allow the Association to distribute material

through the Department's traffic distribution system.

Article 10 – Personnel Complaints Per Section 832.5 of the California Penal Code

- A. Personnel complaints will be taken as required by law.
- B. In those cases where a personnel complaint is of a nature that may result in disciplinary action as referenced in §3300 through §3311 of the California Government Code, the Department will request such complaint be made in writing. If the complaining party refuses to write or sign such complaint, such refusal will be noted in the Investigator's Report along with the reason, if known.

Article 11 – Internal Affairs

- A. This MOU hereby incorporates by reference the provisions of §3300 through §3311 of the Government Code of the State of California, which Sections are collectively known as the Public Safety Officers' Procedural Bill of Rights Act.
- B. Rights under the Skelly Decision: This MOU hereby incorporates by reference the holding of the California Supreme Court in Skelly v. State Personnel Board, 15 CaL3D. 194; 124 CaLRptr. 14, 530; P 2d, 774, it being understood that this decision has reference to the constitutional rights of public employees with respect to punitive and disciplinary action taken against said employees by management. Said decision shall be incorporated in this agreement subject to any and all court decisions, which may modify or alter the decision in any way.

Article 12 – Court Time

When a member is off duty and is subpoenaed or called to appear in court, the member will be paid time and one-half (1-1/2) for a minimum of four (4) hours.

- A. Actual hours worked shall be credited to hours worked for purposes of calculating overtime.
- B. In the event a member becomes subject to a “Call-Out” in conjunction with court time, only one minimum, either “Call-Out” or Court Time, compensation will apply.

Article 13 – Appointment Within Department

An applicant for appointment or promotion in the Sheriff's Department shall be processed in accordance with the County Merit System. Whenever possible, promotions through the rank of Sergeant will be made within the Department.

A. Examinations to be administered using the below listed procedures:

1. Sergeant's Exam

a. Oral exam only.

b. Oral board to consist of no less than three (3) law enforcement persons of the rank of Lieutenant or above.

c. No civilian personnel to sit on the oral board with exception of the District Attorney, Assistant District Attorney or Deputy District Attorney.

2. Investigator Exam

a. Oral exam only.

b. Oral board to consist of no less than three (3) law enforcement persons of the rank of Lieutenant or above.

c. No civilian personnel to sit on the oral board with exception of the District Attorney, Assistant District Attorney or Deputy District Attorney.

3. Corporal Exam

a. Oral exam only.

b. Oral board to consist of no less than three (3) law enforcement persons of the rank of Sergeant or above.

c. No civilian personnel to sit on the oral board with exception of the District Attorney, Assistant District Attorney or Deputy District Attorney.

B. Oral Board Guidelines

1. Review of past yearly evaluations.

2. Review of past departmental disciplinary action with candidate allowed reasonable time to explain his position on such past action.
 3. Past experience of supervision or ability to supervise.
 4. Educational accomplishment.
- C. Job Experience Requirement: A minimum of three (3) years as a full-time Peace Officer in the State of California, the last two (2) years of which shall have been with the Inyo County Sheriff's Department and must possess an Intermediate P.O.S.T. Certification.
- D. Promotional Eligibility List
1. Separate lists shall be maintained for the position of Corporal, Investigator and Sergeant.
 2. Lists shall be available for review by all candidates.

Article 14 – Administrative Reorganization

If Department layoffs are required, those having a below-standard evaluation at last annual evaluation will be laid off first, and, thereafter, layoffs will be made by seniority.

When the Department rehires after layoffs have occurred, the last employee laid off will be the first employee rehired.

Article 15 – Transfers

The Sheriff shall notify the membership of all opportunities for permanent and/or temporary transfers. This notification shall indicate whether the transfer is permanent or temporary and if temporary the duration of the assignment. members interested in the transfer position will be allowed a minimum of seven (7) business days to respond by memo of interest for the transfer and must comply with all requests for any resumes or other supplemental information requested by the Sheriff in order to be considered for the transfer.

All transfers, permanent or temporary shall first consider any member(s) desiring to volunteer for the transfer. If more than one member volunteers for the transfer, the Sheriff shall consider seniority as the basis for making the selection to transfer. If the employee ultimately selected for the transfer is a member with

less seniority than other interested members, the Sheriff must provide written documentation for his decision to the County Administrator.

In the event of an emergency, the Sheriff or his designee may make temporary transfer assignments not to exceed 90 days in duration.

Article 16 – Seniority

Seniority shall be determined by length of service within a rank. If seniority within the rank is not determinative between two or more members of the same rank, than length of service with the Department shall prevail.

The County shall provide the Association with a list of members showing each member's department employment date and rank appointment date.

Section 6 – Other Terms

Article 1 - Authorized Agents

Authorized agents, for the purpose of administering the terms and provisions of this MOU shall be:

A: County:
County Administrator
P.O. Box N
Independence, CA 93526

B: Association:
President, Inyo County Deputy's
Sheriff's Association
P. O. Box 36
Independence, CA 93526

Article 2 – No Strike – No Lockout

- A. The Association, its officers, agents, representatives, and/or members agree that during the term of this MOU they will not cause or condone any strike, walkout, slow down, sick out or any other job action by withholding or refusing to perform services.
- B. The County agrees that it shall not lockout its employees during the term of this MOU. The term "lockout" is hereby defined so as not to include the discharge, suspension, termination, layoff, failure to recall or failure to return to work of employees of the County in the exercise of its rights as set forth in any of the provisions of this MOU or applicable ordinance or law.
- C. Any employee who participates in any conduct prohibited in Section 1 above may be subject to disciplinary action up to and including discharge.
- D. In the event that anyone or more officers, agents, representatives, or members of the Association engage in any of the conduct prohibited in paragraph A of this article above, the Association shall immediately instruct any persons engaging in such conduct that their conduct is in violation of this MOU and is unlawful and they must immediately cease engaging in conduct prohibited in Section 1 above, and return to work.

Article 3 – Emergency Waiver

In the event of circumstances beyond the control of the County, such as acts of God, fire, flood, insurrection, civil disorder, national emergency, or similar circumstance, if the Chief Administrative Officer or his designee so declares, any provision of this MOU, the Personnel Rules or resolutions of the County which

restricts the County's ability to respond to these emergencies shall be suspended for the duration of such emergency. After the emergency is declared over, the Association shall have the right to meet and confer with the County regarding the impact on employees of the suspension of these provisions in the MOU and any personnel rules and policies.

Article 4 – Re-Opener Clause

Either the DSA or the County may reopen this MOU to negotiate any term(s) and condition(s) expressly addressed or absent from this MOU upon 30 days written notice to the other side. Both parties agree to meet regarding any issues subject to the request to reopen the MOU. Changes will only be made by mutual agreement of both sides.

Article 5 – Organizational Rights and Responsibilities

Section 1. Dues Deductions - The County shall deduct for dues, on a regular basis, from the pay of all employees in the classifications and positions recognized to be represented by the Association, who voluntarily authorize such deduction, in writing, on a mutually agreed upon form to be provided for this purpose. The County shall remit such funds to the Association within thirty (30) days following their deduction.

Section 2. Indemnification - The County will not be responsible or liable for any claims, causes of action, or lawsuits arising out of the deductions or transmittal of such funds to the Association, except the intentional failure of the County to transmit to the Association monies deducted from the employees pursuant to this Article.

Section 3. DSA Release Time

- A. The Department will allow the on-duty officers of the Association (President, Vice-President, Secretary and Treasurer) to attend to Association business on duty, conducted in a reasonable manner and for a reasonable amount of time, not to exceed two (2) hours at any one time.
- B. On-duty members of the Association may attend Association meetings within their beat areas for a reasonable amount of time, not to exceed two (2) hours at any one time.
- C. The conduct of Association business while on duty will not excuse any member from the duties imposed on the Sheriff and his deputies by Federal, State, or Local law, nor from any act or omission contrary to the rules and resolutions, orders, either written or verbal, and policy of the Department and the County of Inyo.

Article 6 – Separability

Should any provision of this MOU be found to be inoperative, void, or invalid by a court of competent jurisdiction, all other provisions of this MOU shall remain in full force and effect.

Article 7 – Sole and Entire Memorandum of Understanding

- A. It is the intent of the parties hereto that the provisions of this MOU shall supersede all prior agreements and memoranda of agreement or memoranda of understanding, or contrary salary and/or personnel resolutions, oral or written, expressed or implied, between the parties and shall govern the entire relationship and shall be the sole source of any and all rights which may be asserted hereunder. This MOU is not intended to conflict with federal or state law.
- B. The parties acknowledge that the Board of Supervisors will adopt this agreement by resolution and that said resolution shall remain in full force and effect during the life of this Memorandum of Understanding.

Article 8 – Term of MOU

This Memorandum of Understanding shall continue and be in full force and effect until April 30, 2016 or until the negotiations for a comprehensive MOU between the County and Association for the period beginning May 1, 2016 have concluded, whichever is later. For purposes of this Article, negotiations are concluded when (1) the County and Association enter into a comprehensive MOU for the period beginning May 1, 2016, or (2) either County or Association declares impasse with regard to negotiation for a comprehensive MOU for the period beginning May 1, 2016. The County will provide each employee represented by the Association a copy of this and all subsequent MOUs.

Article 9 – Equity Reductions

Recognizing that furloughs do not have the same desired budgetary effect in the Sheriff's Department as it does in other departments, the DSA agrees to open the MOU to identify and implement reductions that have equal impacts on DSA employees as those agreed to by other County bargaining units, as a group, up to a maximum of the equivalent of 10 days of sick leave buy back per year. If the reductions agreed to by other bargaining groups are in excess of the equivalent of 10 days sick leave buy back, County and DSA agree to meet and confer on the impacts over and above 10 days.

Article 10 – Ratification and Execution

The County and the Association acknowledge that this Memorandum of Understanding shall not be in full force and effect until ratified by the Association and adopted by the Board of Supervisors of the County of Inyo.

Subject to the foregoing, this Memorandum of Understanding is hereby executed by the authorized representatives of the County and Association, and entered into this



Kelvin Johnston
President Inyo County Deputy Sheriff's
Association

Linda Arcularius
Chairperson Inyo County Board of
Supervisors

DSA EMPLOYEES

EFFECTIVE MAY, 2013

Range	Step A	Step B	Step C	Step D	Step E
067SA	4027	4230	4435	4668	4900
067SB	4228	4441	4656	4901	5145
067SC	4440	4663	4890	5146	5402
067SD	4550	4780	5012	5274	5538
070SA	4423	4643	4868	5122	5378
070SB	4644	4876	5112	5378	5648
070SC	4876	5119	5367	5648	5929
070SD	4998	5247	5502	5789	6078
071SA	4658	4892	5129	5397	5665
071SB	4891	5137	5385	5667	5949
071SC	5136	5394	5654	5950	6245
071SD	5264	5528	5796	6099	6402
074SB	5113	5370	5631	5924	6221
074SC	5369	5640	5913	6220	6532
074SD	5504	5780	6061	6375	6695

DSA EMPLOYEES

EFFECTIVE JANUARY, 2014

Range	Step A	Step B	Step C	Step D	Step E
067SA	4107	4315	4524	4761	4998
067SB	4312	4530	4749	4999	5248
067SC	4529	4757	4988	5249	5510
067SD	4641	4875	5113	5380	5648
070SA	4511	4736	4966	5225	5486
070SB	4737	4973	5214	5486	5761
070SC	4973	5222	5475	5761	6048
070SD	5098	5352	5612	5904	6200
071SA	4752	4990	5231	5505	5778
071SB	4989	5239	5492	5780	6068
071SC	5238	5502	5767	6069	6370
071SD	5370	5639	5912	6221	6530
074SB	5216	5478	5744	6043	6345
074SC	5477	5752	6031	6344	6663
074SD	5614	5896	6182	6503	6829

DSA EMPLOYEES

EFFECTIVE JANUARY, 2015

Range	Step A	Step B	Step C	Step D	Step E
067SA	4149	4358	4569	4808	5048
067SB	4356	4575	4797	5049	5300
067SC	4574	4804	5038	5301	5565
067SD	4688	4924	5164	5434	5705
070SA	4556	4783	5015	5277	5541
070SB	4784	5023	5267	5541	5818
070SC	5023	5274	5529	5818	6108
070SD	5149	5405	5668	5963	6262
071SA	4799	5040	5283	5560	5836
071SB	5039	5292	5547	5838	6128
071SC	5291	5557	5825	6129	6434
071SD	5423	5695	5971	6283	6595
074SB	5268	5532	5801	6103	6409
074SC	5531	5810	6092	6408	6729
074SD	5670	5955	6244	6568	6897



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

8

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: County Administrator - Personnel

FOR THE BOARD MEETING OF: April 29, 2013

SUBJECT: Contract with William Avery & Associates for Executive Recruitment Services for County Counsel

DEPARTMENTAL RECOMMENDATION:

Request your Board consider Agreement between the County of Inyo and William Avery & Associates for Executive Recruitment Services for County Counsel, in an amount not to exceed \$27,000 for the term April 29, 2013 through December 31, 2013, and authorize the Chair to sign contingent on all appropriate signatures being obtained and future County budgets.

SUMMARY DISCUSSION:

The County Counsel has announced his intent to retire from office on August 4, 2013. To identify options for recruiting for this top level and critical position, staff prepared a Request For Proposal for Executive Recruitment Services for County Counsel which was issued on April 2, 2013. The RFP was sent to directly to 13 firms, located in California and throughout the west, that specialize public sector executive recruitments. Responses to the RFP were due on April 15th.

Several firms contacted staff to express their regrets about not being able to submit a proposal due to an abundance of existing recruitment contracts or the distance involved in traveling to Inyo County to assist your Board in the recruitment process. One proposal and one letter of interest were received, the former from William Avery & Associates, and the later from Terry Gooch Ross. A sub-committee of your Board, comprised of Supervisors Griffiths and Pucci, met with staff to review the proposals and recommended presenting the proposal from William Avery & Associates to the full Board of Supervisors for your consideration. The Avery proposal is complete and responsive to the County's needs as outlined in the RFP, and the firm has the experience and contacts to successfully undertake a far-reaching recruitment. A detailed description of the services proposed can be found in the proposal which is attached.

If your Board remains interested procuring the services of a professional recruitment agency with experience in executive level California public sector recruitments, it is recommended you consider acting on the attached contract today, as the timeline for completing the recruitment is very short. Paul Kimura, who will serve as the Project Lead for the Avery Team, has indicated that he can work with the County to shorten the 16-week timeline indicated in the proposal, but to do so will entail meeting with your Board and, as recommended, senior County leadership, to identify the most important traits to meet the County's needs in a County Counsel, within the next couple weeks.

ALTERNATIVES:

Your Board could choose not to contract with an executive recruiting firm to assist in filling the vacant County Counsel position and direct that the recruitment be conducted by County staff.

OTHER AGENCY INVOLVEMENT:

None

FINANCING:

There is sufficient funding for this contract in the Personnel budget approved by your Board for Fiscal Year 2012-2013.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  Approved: _____ Date <u>4-24-13</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.) Approved: _____ Date _____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: <u>✓</u> Date <u>4/24/13</u>

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)  Date: 04-24-2013
(The Original plus 20 copies of this document are required)

AGREEMENT BETWEEN COUNTY OF INYO
AND William Avery & Associates, Inc
FOR THE PROVISION OF Professional Recruitment/Headhunter SERVICES

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Professional recruitment services of William Avery & Associates of Los Gatos, CA (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Kevin Carunchio, whose title is: County Administrator. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, county, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

2. TERM.

The term of this Agreement shall be from April 29, 2013 to December 31, 2013 unless sooner terminated as provided below.

3. CONSIDERATION.

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed \$27,000 Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9, attached hereto as Attachment C, upon executing this Agreement.

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses

or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.epls.gov>.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

7. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

8. WORKERS' COMPENSATION.

Contractor shall provide Statutory California Worker's Compensation coverage and Employer's Liability coverage for not less than \$1,000,000 per occurrence for all employees engaged in services or operations under this Agreement. The County of Inyo, its agents, officers and employees shall be named as additional insured or a waiver of subrogation shall be provided.

9. INSURANCE.

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment D and with the provisions specified in that attachment.

10. STATUS OF CONTRACTOR.

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

11. DEFENSE AND INDEMNIFICATION.

Contractor shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the performance of this Agreement by Contractor, or Contractor's agents, officers, or employees. Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Contractor's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other costs which is caused in whole or in part by any act or omission of the Contractor, its agents, employees, supplier, or any one directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Contractor, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

12. RECORDS AND AUDIT.

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

13. NONDISCRIMINATION.

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

14. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

15. ASSIGNMENT.

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

16. DEFAULT.

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

17. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-four (24) below.

18. CONFIDENTIALITY.

Contractor agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by

Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County.

19. CONFLICTS.

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

20. POST AGREEMENT COVENANT.

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

21. SEVERABILITY.

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

22. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-four (24) (Amendment).

23. ATTORNEY'S FEES.

If either of the parties hereto brings an action or proceeding against the other, including, but not limited to, an action to enforce or declare the cancellation, termination, or revision of the Agreement, the prevailing party in such action or proceeding shall be entitled to receive from the other party all reasonable attorney's fees and costs incurred in connection therewith.

24. AMENDMENT.

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

25. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo	
Personnel Department	Department
P.O. Box 249	Street
Independence, CA 93526	City and State

Contractor:	
William Avery & Associates	Name
3-1/2 N. Santa Cruz Ave., Suite A	Street
Los Gatos, CA 95030	City and State

26. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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AGREEMENT BETWEEN COUNTY OF INYO
AND William Avery & Associates, Inc
FOR THE PROVISION OF Professional Recruitment/Headhunter SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS
THIS _____ DAY OF _____, _____.

COUNTY OF INYO

CONTRACTOR

By: _____

By: _____
Signature

Dated: _____

Print or Type Name

Dated: _____

APPROVED AS TO FORM AND LEGALITY:

County Counsel

APPROVED AS TO ACCOUNTING FORM:

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

County Risk Manager

ATTACHMENT A

**AGREEMENT BETWEEN COUNTY OF INYO
AND William Avery & Associates, Inc
FOR THE PROVISION OF Professional Recruitment/Headhunter **SERVICES****

TERM:

FROM: April 29, 2013 **TO:** December 31, 2013

SCOPE OF WORK:

See attached Scope of Work.

Attachment A
William Avery & Associates, Inc
Scope of Work

Recruitment Strategy and Services Provided

I. Position Profile and Organizational Assessment

The initial assessment phase is a critical component of the search process. Mr. Kimura will meet with the key decision makers to discuss the organizational needs and position requirements and to formalize the job description.

In this assignment we anticipate Mr. Kimura having individual meetings with the Board of Supervisors and with key executive staff members to solicit their views on the ideal candidate. Following the preliminary input meetings, Mr. Kimura will prepare a written status report to the Board, highlighting the ideal profile feedback solicited from executive staff.

Our goal for this aspect of the recruitment process is to:

- Understand the County's priorities for this position.
- Develop a clear understanding and consensus on the expertise, experience, education, performance attributes and operational style of the ideal candidate.
- Discuss the goals, objectives, deliverables, and challenges related to this position.
- Gain insight of the various organizational dynamics and departmental issues that exist within the organization.
- Identify the compelling aspects to this opportunity.

The formal position description and a subsequent ideal candidate profile would be developed from the above discussions and incorporated into the formal position announcement. The candidate profile is also utilized in various other means as a marketing tool, for advertising copy, postings, and for other announcements.

II. Development of the Search Strategy

Our search strategy will be developed in conjunction with the organizational assessment. The final approach is based on your input and considerations during the assessment activity. For this assignment, we feel it is critical to develop a high level of visibility with a comprehensive outreach program supplemented by a focused targeted recruitment approach. We would incorporate the following elements into this search:

- Original research, which consists of identification and contact of current city attorneys or attorneys associated with law firms operating in the public sector who meet the profile, but are not actively seeking other employment.
- Development of a targeted candidate list based on our current and extensive database of city attorney personnel, and referrals or recommendations from key sources/contacts that have extensive networks in this area. The sources would include city and county management personnel, attorneys affiliated with law firms or entities that would have visibility into the public sector.
- Outreach to the numerous regional, ethnic-based and gender-based Bar Associations throughout the state.
- An extensive mailing campaign to individuals and law firms identified through the means identified above and/or those affiliated with the legal profession throughout the western states.
- Advertising in WESTERN CITY magazine, JOBS AVAILABLE magazine, and other publications or periodicals deemed appropriate for this search. On occasion our clients feel advertising in the Daily Journal is appropriate. If desired we would do although the cost of that advertisement is not a part of the proposed expense budget.
- Job postings on Internet-based national public sector employment bulletin boards, association-based web sites, and our company website to reach active candidates.
- Development and distribution of the comprehensive position announcement to various cities, counties, and state level departments.

III. Candidate Assessment

Our assessment process involves several “tiers” of evaluation. All candidates responding to this position will initially be evaluated based on their resume and if appropriate, an extensive phone “screening” by a member of the project team. Candidates who pass the initial “qualifying” criteria are then scheduled for a formal interview with Mr. Kimura. These extended personal interviews typically take one hour and a thorough discussion of their experience, accomplishments, management philosophy and interpersonal style takes place.

In interviewing candidates, we utilize a methodology based on “behavioral” interview techniques. Fundamentally, this approach explores a candidate’s past accomplishments and experiences that relate to the position being considered. The philosophy here is that the best indicator of future performance is to evaluate past behavior. This methodology allows the firm to “project” how a candidate would approach and address the key challenges in the new position.

Those individuals who best fit the position requirements will have a Candidate Assessment Report developed by the Principal who conducted the interview. Additionally, two initial reference interviews are performed on these candidates. The reference interviews provide our clients with additional insights on the candidate's "behavior" and style.

IV. Candidate Presentation

Upon completion of formal interviews, a selection of candidates for presentation is made. We feel our extensive qualification, interview, and reference interviewing process and the knowledge gained during our initial assessment period; enable our client to proceed with fewer rather than more finalists. However, we will not restrict or limit the number of candidates recommended as this decision is related to the overall strength and depth of the candidate pool.

The final candidates are presented in our extensive candidate presentation "book". Each finalist will have a file consisting of a candidate summary sheet, the submitted cover letter and resume, the Candidate Assessment Report (based on the "behavioral" interview), and two candidate reference interviews. This extensive profile on each recommended candidate continually generates positive feedback from our clients as it provides extensive detail beyond just a resume.

The Candidate book also identifies other candidates who were given secondary consideration, which provides the client insight on others who were interviewed. Candidate summary sheets are created for everyone who submitted a resume would also be included. This provides the client an insight to the level and nature of response for their position.

V. Selection Process

Once the final candidate interview group is identified, we will assist in the structuring of the interview process and coordinate the interview scheduling activity. Our firm will also provide candidates with guidance related to travel planning, hotel accommodations, as well as other interview planning issues. Our firm will also develop potential interview questions and be in attendance during final interviews to help facilitate the process and to lead an end of day debrief and evaluation process.

Upon request, our firm will also arrange for summary background evaluations on the County's final one or two candidates. A copy of these confidential reports can be provided for you. The costs for these investigations are considered independent of the recruitment expenses listed below and will be invoiced separately.

VI. Position Closure and Follow-Up

Based on the firm's experience in human resource management and executive search, we are able to assist our clients in formulating appropriate compensation and other employment arrangements. We will be available throughout our retention to assist in this process.

As a matter of policy, Avery Associates monitors the transition and progress of any executive we place with a client. Within the first three to six months following the hired individual joining the County, we will speak with that individual to ensure the transition has effectively occurred. During the same period we will also review the individual's status with your office.

ATTACHMENT B

**AGREEMENT BETWEEN COUNTY OF INYO
AND William Avery & Associates, Inc
FOR THE PROVISION OF Professional Recruitment/Headhunter **SERVICES****

TERM:

FROM: April 29, 2013

TO: December 31, 2013

SCHEDULE OF FEES:

Total Consulting Fee: \$17,900

* Initial Retainer : \$6,900

* Second invoice: \$5,500 (submitted on acceptance of finalist candidate group)

* Final Invoice: \$5,500 (submitted on acceptance of a job offer constituting completion of search)

Professional Services Fee: \$6,500

Expenses for this assignment would be a not-to-exceed amount of \$6,500 without the express consent of the County. These expenses include: advertising, clerical time, supplies, printing, telephone, postage, summary background evaluations, and consultant travel for client discussions, meetings and local or out-of-area candidate interviews. All expense items will be detailed and billed on a monthly basis.

ATTACHMENT C

**AGREEMENT BETWEEN COUNTY OF INYO
AND William Avery & Associates, Inc
FOR THE PROVISION OF Professional Recruitment/Headhunter **SERVICES****

TERM:

FROM: April 29, 2013

TO: December 31, 2013

Form W-9

Request for Taxpayer
Identification Number and Certification
(Please submit W-9 form with Contract, available on-line or by County)

ATTACHMENT D

AND _____
AGREEMENT BETWEEN COUNTY OF INYO
FOR THE PROVISION OF _____ **SERVICES**

TERM:

FROM: _____ **TO:** _____

SEE ATTACHED INSURANCE PROVISIONS



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

9

- Consent
 Departmental
 Correspondence Action
 Public Hearing
 Scheduled Time for
 Closed Session
 Informational

FROM: Kevin D. Carunchio, County Administrator

FOR THE BOARD MEETING OF April 29, 2013

SUBJECT: Continuation of declaration of local emergency

DEPARTMENTAL RECOMMENDATION: - Request Board discuss and consider staff's recommendation regarding continuation of the local emergency, The Death Valley Roadeater Emergency, that resulted in flooding in the eastern portion of Inyo County during the month of August 2012, per Resolution #2012-32.

SUMMARY DISCUSSION: - During your August 28, 2012 Board of Supervisors meeting your Board took action to declare a local emergency, which has been named The Death Valley Roadeater Emergency, which was a result of flooding in the southeastern portion of Inyo County during the month of August. Since the circumstances and conditions relating to this emergency persist, your Board directed that the continuation of the declaration be considered on a by-weekly basis. The recommendation is that the emergency be continued until the further evaluation of the damage is completed and staff makes the recommendation to end the emergency.

ALTERNATIVES: N/A

OTHER AGENCY INVOLVEMENT: N/A

FINANCING: N/A

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i> Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i> Approved: _____ Date _____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i> Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received) _____ Date: _____
(The Original plus 20 copies of this document are required)



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

10

- Consent
 Departmental
 Correspondence Action
 Public Hearing
 Scheduled Time for
 Closed Session
 Informational

FROM: CLERK OF THE BOARD
By: Patricia Gunsolley, Assistant Clerk of the Board

FOR THE BOARD MEETING OF: April 29, 2013

SUBJECT: Approval of Minutes

DEPARTMENTAL RECOMMENDATION: - Request approval the minutes of the Board of Supervisors Meeting of A) Regular Meeting of April 2, 2013; B) Special Meeting of April 4, 2013; C) Special Meeting of April 8 & 9, 2013; and Regular Meeting of April 16, 2013.

SUMMARY DISCUSSION: - The Board is required to keep minutes of its proceedings. Once the Board has approved the minutes as requested, the minutes will be made available to the public via the County's web page at www.inyocounty.us.

ALTERNATIVES: - Staff awaits your Board's changes and/or corrections.

OTHER AGENCY INVOLVEMENT: - n/a

FINANCING: n/a

APPROVALS	
BUDGET OFFICER:	BUDGET AMENDMENTS <i>(Must be reviewed and approved by Budget Officer prior to being approved by others, as needed, and submission to the Assistant Clerk of the Board.)</i>
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the Assistant Clerk of the Board.)</i> Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the Assistant Clerk of the Board.)</i> Approved: _____ Date _____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the Assistant Clerk of the Board.)</i> Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:
 (Not to be signed until all approvals are received) _____ Date: _____
 (The Original plus 20 copies of this document are required)