UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

FRED PIERCE, et al.; Plaintiffs, v. COUNTY OF ORANGE, et al.; Defendants.	SACV 01-0981 ABC (MLGx) CV 75-3075 ABC RULINGS ON FINAL OBJECTIONS TO AMENDED PLAN (Docket No. 763)

Following a bench trial and the issuance of the Court's Findings of Fact and Conclusions of Law on January 7, 2011 (Docket No. 752 ("Order")), Defendant County of Orange (the "County") submitted a proposed plan to address the deficiencies outlined in the Court's Order (Docket No. 753). Plaintiffs Timothy Conn, et al. ("Plaintiffs"), filed objections to that plan. (Docket No. 754.) The Court granted leave for the County to file a reply to Plaintiffs' objections and submit an Amended Proposed Plan, which it did on May 2, 2011, resolving many of the outstanding issues. (Docket No. 762.) However, there are several outstanding objections that the parties could not resolve, as outlined by the County. (Docket No. 763.)

The Court held a hearing on May 23, 2011 to address these issues.

Following that hearing, the County responded to several narrow factual issues on June 6, 2011 and Plaintiffs replied to the County's filing on June 9, 2011. (Docket Nos. 768, 771.) The Court also set a deadline of June 6, 2011, for the parties to propose monitors for the Court's selection, which they did. (Docket Nos. 767, 769.)

This Order resolves the remaining disputes over the appointment of a monitor and the County's final remedial plan. The County is ORDERED to submit a final plan and judgment consistent with the Court's rulings herein **no later than June 23, 2011.** Plaintiffs must file any objections to that plan **no later than June 28, 2011,** although Plaintiffs are encouraged to do so as early after June 23 as possible so the Court can enter final judgment by June 28.

APPOINTMENT OF MONITOR

The issue of the appointment of a monitor arose at several points in the parties' disagreements over the final plan. The Court retains the inherent authority to appoint a special monitor to oversee compliance with Court Orders intended to remedy statutory violations in the prison context. See Benjamin v. Fraser, 343 F.3d 35, 44—47 (2d Cir. 2003), abrogated in other part by Caiozzo v. Koreman, 581 F.3d 63, 70 (2d Cir. 2009); cf. Plata v. Schwarzenegger, 603 F.3d 1088, 1095—96 (9th Cir. 2010) (citing Benjamin and approving of use of receiver under the Prison Litigation Reform Act ("PLRA") to remedy constitutional violations in state prisons), aff'd sub nom., Brown v. Plata, __ U.S. __, __, __ S. Ct. __, __, 2011 WL 1936074 (2011).

The parties generally agree that the appointment of a monitor is appropriate in this case to gather information, assess the extent to which the County is complying with the judgment and injunction, and provide the parties and the Court with reports identifying non-

compliance and recommendations for further modifications. (Objection No. 55.) The Court also agrees that appointing a monitor is critical to ensuring compliance with the final judgment and injunctive relief because Plaintiffs may have only limited ability to observe the County's compliance with the judgment and injunction in the restrictive prison context. See Cobell v. Norton, 392 F.3d 461, 477 (D.C. Cir. 2004) ("'Monitors are appropriate if the remedy is complex, if compliance is difficult to measure, or if observation of the defendant's conduct is restricted.'" (quoting Robert E. Buckholz, Jr., et al., Special Project, The Remedial Process in Institutional Reform Litigation, 78 Colum. L. Rev. 784, 828 (1978), which also states that "[w]hen the defendant is a closed institution, such as a prison or mental hospital, observing compliance may be difficult, and then monitors will be appropriate.")).

Moreover, the County's most recent efforts to ameliorate what can only be described as pervasive violations of the ADA are commendable, but the County has not historically been willing to remedy these violations, even when found by this Court and the Ninth Circuit. Cf. Benjamin, 343 F.3d at 49 (finding appointment of monitor justified in light of history of noncompliance with prior consent decrees). Indeed, the Court recognized that the County's inertia on these issues "plainly" violated the ADA:

> This case began almost ten years ago, has been the subject of two bench trials, and has been appealed to the Ninth Circuit and reversed and remanded for further fact-finding. During this time, the County has done very little to remedy any of the physical barriers or unequal provision of programs, services, and activities pointed out by Plaintiffs, even after the Ninth Circuit found in 2008 that the existing conditions violated the ADA. As the Court discusses below, Plaintiffs have shown quite plainly that mobility- and

> dexterity-impaired detainees are, by reason of their disability, subject to physical barriers to accessibility [in] many jail facilities, excluded from participation in and denied the benefits of the services, programs, or activities offered by the County, and, until the eve of the last day of the current trial, denied notice of their rights and grievance procedures under the ADA.

(Order at 66.) Thus, the appointment of a monitor is warranted in this case.[1]

The County has no substantive objections to the scope of the monitor's duties as set out by Plaintiffs. (Reply 28—29; see Objection Nos. 55, 57—65.) The parties dispute, however, who the monitor should be. The County initially proposed that the Court appoint a County employee as the monitor, namely, Stephen Connolly, the Executive Director of the County's Office of Independent Review ("OIR"). The OIR was created in 2008 to address citizen and other complaints regarding Sheriff's Department officers; the Executive Director, who must be an attorney, heads the department and monitors and reports on internal investigations and compliance with laws. (Amended Plan, Ex. 2 (County Ordinance 08-004).) Appointed in 2008, Mr. Connolly has professional experience with reviewing projects and misconduct in police departments throughout California. (Amended Plan, Ex. 3.) The County proposed that he would have at-will access to inspect facilities, review records, interview class members, and

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[1]To be clear, at this time the Court appoints only a monitor and does not intend to appoint a special master under Federal Rule of Civil Procedure 53 or the Prison Litigation Reform Act, 18 U.S.C. § 3626(f). The monitor will not be given the quasi-judicial powers of a special master and will be responsible for performing only those functions traditionally undertaken by a monitor. See Benjamin, 343 F.3d at 45—46 (explaining that the quasi-judicial duties of a special master differ from a monitor's "monitoring function" of "informing the court of ongoing compliance efforts" and "facilitat[ing] the City's awareness of its compliance with remedial directives").

communicate recommendations and concerns to Sheriff's Department staff. He would also act as the direct liaison with the Court and provide quarterly reports regarding compliance.

Plaintiffs objected to Connolly's appointment on several grounds and the Court agrees that Connolly cannot be appointed as the monitor. First, there are serious potential conflicts of interest, given the fact that Connolly is a County employee and maintains an attorney-client relationship with the County's Board of Supervisors. Second, Connolly does not have any experience monitoring ADA compliance in jail facilities, so the Court is not confident he could adequately perform the duties required of a monitor in this case.

Plaintiffs initially proposed that Heidi Olguin be appointed as the monitor. She has experience monitoring compliance with court orders, but mostly in employment discrimination and public accommodations cases; she did not have experience in implementing orders dealing with ADA structural accommodations in prisons or other governmental settings. (Docket No. 765, Ex. 1.) For that reason, the Court has reservations about her appointment.

Following the May 23 hearing, the parties proposed additional possible monitors. The County proposed the firm of Crout and Sida, whose principals have significant experience with monitoring compliance with Court orders in custodial settings. (Docket No. 767, Ex. A.) However, for the myriad reasons raised by Plaintiffs that the Court need not repeat here (Docket No. 769 & Ex. 2), the Court finds that appointing Crout and Sida as the monitor would pose significant conflicts of interest and would not be appropriate in this case. The County's other proposed monitor — John Collins — is a respected and accomplished attorney, but the County did not propose that he would

obtain the assistance of any other individuals with expertise in these areas and, acting alone, he does not have the necessary experience with either the ADA or consent decrees in the custodial setting.

Plaintiffs' additional proposed monitor is Keith Rohman of the consulting firm Public Interest Investigations. He has extensive experience working with court-ordered injunctions in the custodial setting, with regard to both investigation and oversight. (Docket No. 769, Ex. 1.) While he does not have a wealth of experience with the ADA, he intends to work with another associate at his consulting firm, Barbara Dalton, and another individual, Sue Tyler, both of whom have extensive ADA experience, and intends to retain an architectural barrier consultant as needed. Further, unlike the County's Proposed monitors of Stephen Connolly and Crout and Sida, Mr. Rohman and his firm also do not present any conflicts of interest that might undermine the integrity of his role as a neutral monitor. The Court finds that Mr. Rohman, in conjunction with Ms. Dalton and Ms. Taylor, is qualified to act as monitor in this case and is so appointed.

RULINGS ON PLAINTIFFS' OBJECTIONS[2]

1. **Moot in part; overruled in part.**

a. The County has adopted a definition of disability to include detainees with mobility or dexterity impairments, not just detainees who must use wheelchairs, and has expressly provided that the definition of "disability" "means a disability as defined by the Court's findings." That is

[2]The Court has numbered the objections in the same way the County numbered them in its summary. (Docket No. 763.) The Court assumes familiarity with the substance of those objections and does not repeat them in this Order.

sufficient to address Plaintiffs' objection.

b. The County is correct that 42 U.S.C. § 12201(h), effective January 1, 2009, excuses an entity covered by Title II of the ADA from providing a reasonable accommodation to an individual who is merely "regarded as having" a covered impairment, as provided in § 12102(1)(C). Even before these amendments, the Ninth Circuit has held in the employment context that "there is no duty to accommodate an employee in an 'as regarded' case." Kaplan v. City of N. Las Vegas, 323 F.3d 1226, 1233 (9th Cir. 2003) ("Because [the plaintiff] is not actually disabled, the City did not have a duty to accommodate him."). Thus, the class definition should not cover detainees solely "regarded as" disabled.

2. **Overruled in part; sustained in part.**

a. In some circumstances, temporary impairments or injuries may not be covered by the ADA because they do not substantially limit a major life activity. See Sanders v. Arneson Prods., Inc., 91 F.3d 1351, 1354 (9th Cir. 1996). However, Plaintiffs are correct that the class is not limited to individuals with only "permanent" disabilities because an impairment could be technically "temporary" (in that it might eventually disappear), but still substantially limit a major life activity during that time within the meaning of the ADA. See 29 C.F.R. § 1630.2(j)(1)(ix) (explaining that six-month "transitory and minor" exception to "regarded as" definition of disability does not apply to the "actual disability" and "record of" disability definitions); 29 C.F.R. Part 1630 App., § 1630.2(j) (effective May 24, 2011)

(explaining that "an impairment does not have to last for more than six months in order to be considered substantially liming" under the "actual disability" or "record of" disability coverages). While Plaintiffs cite 42 U.S.C. § 12102(3)(B) to define the class as detainees with impairments expected to last six months or longer, that provision only applies to individuals "regarded as" disabled, which does not apply here. Thus, the class is properly defined as pretrial detainees whose impairments substantially limit a major life activity, regardless of duration.

b. The County is incorrect that it need not accommodate class members whose impairments only manifest intermittently. The ADA specifically provides that "[a]n impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active." 42 U.S.C. § 12102(4)(D). The Court understands the potential administrative difficulty in classifying detainees whose impairments are not obvious at the time they are classified and placed in housing. However, that concern could be ameliorated by either placing detainees claiming to be disabled in modified housing or placing these detainees in regular housing and moving them into ADA-compliant housing when the condition manifests, which is the point at which reasonable accommodations would be required.

3. **Moot.**

4. **Overruled.** There is no need to appoint a separate medical expert to monitor the classification process, which would only second-

guess County medical personnel. As compliance is monitored, if an issue arises regarding the classification process, Plaintiffs can seek permission from the Court to allow their expert to conduct a review. But until that time, the need for another expert does not exist.

5. **Moot.**

6. **Moot.**

7. **Overruled.** Plaintiffs' request that any long-term modifications be completed within one year appears practically unrealistic. While lengthy, the County's proposed long-term time line is probably reasonable, given the bureaucratic process for these types of major changes, which includes advance planning; open bidding for architects, engineers, and contractors; board approval; and construction.

8. **Overruled.** The PLRA provides that an injunction "shall be terminable upon the motion of any party or intervenor — 2 years after the date the court granted or approved the prospective relief." 18 U.S.C. § 3626(b)(1)(A)(i). The Court may extend that time if it "makes written findings based on the record that prospective relief remains necessary to correct a current and ongoing violation of the Federal right, extends no further than necessary to correct the violation of the Federal right, and that the prospective relief is narrowly drawn and the least intrusive means to correct the violation." Id. § 3626(b)(3); see also Pierce v. County of Orange, 526 F.3d 1190, 1203 (9th Cir. 2008). Thus, the County is correct that at least the initial duration cannot exceed two years. The Court understands Plaintiffs' concern that the two-year duration may not be long enough for

County officials to internalize new procedures and complete the necessary modifications, but, at the end of two years, Plaintiffs may apply to renew the injunction pursuant to § 3626(b)(3) if the facts at that time meet that standard.

9.

9A. **Overruled.** The Court previously concluded that Theo Lacy was a "new" facility that must be made "readily accessible to and usable by individuals with disabilities." (Order at 29, FF ¶ 106.) Based on this ruling, Plaintiffs request that the Theo Lacy facility be brought into "full compliance" with the ADA; Plaintiffs also identify specific shortcomings to the County's plan and proposed modifications. Because the request for "full compliance" itself is vague and must be read in light of the specific issues raised in this case, the Court overrules that general objection. Moreover, since the County has agreed to implement all the changes specifically identified by Plaintiffs, Plaintiffs' more general objection is moot.

9B. **Moot.**

9C. **Moot.**

9D. **Moot.**

10. **Moot.** Although not precisely the language requested by Plaintiffs, the County's amended plan requires the installation of a "dexterity fixture control," which responds to Plaintiffs' objection that the shower controls must be modified to be fully accessible. (Amended Plan 4.)

11. **Moot**, provided that the County continues diligent efforts to transfer and house class members at Theo Lacy in accessible cells

and areas.

12. **Overruled.** Plaintiffs object that at least three single-person cells should be modified in the short term to accommodate class members who require segregation from other inmates. The County has indicated that only a few items for Module O of Theo Lacy are intermediate-term projects, while the rest are short-term projects, and once those modifications are done, the County will have complied with Plaintiffs' request. (Amended Plan 5-6.) However, Plaintiffs' objection appears to be that one accessible single-man cell is inadequate, while the County seems to believe that one single-man cell, one four-man cell, and the open dormitory would provide the required accommodations. The Court agrees with the County, given that 2% of the 36 single-man cells in Module O of Theo Lacy would amount to only one cell that would have to be modified. Plaintiffs has pointed to no specific evidence that the number of class members needing single-person cells would compel modifying more single-person cells. Thus, the County's proposal complies with the Court's findings.

13. **Moot.**

14. **Overruled.** Plaintiff did not offer evidence that the fountain and toilet in the Theo Lacy "Green Sector" were not accessible. Nevertheless, the County indicates that it will be part of a larger renovation plan. (See Amended Plan 6.)

15. **Moot.**

16. **Moot.**

17. **Overruled in part; sustained in part.**

    a. The County states that it will not provide "the same range of classes" at Theo Lacy as at other facilities, including

Musick. The Court interprets that to mean that, while the County will not offer the same classes at Theo Lacy as it offers at MCJ (because class members have the opportunity to be housed at either location), it will take measures to ensure that class members housed at Theo Lacy and the MCJ are given equal access to classes offered at Musick, such as by transporting them to Musick for that purpose. (See, e.g., Amended Plan 6-7.)

b. The County indicates that it intends to purchase an accessible modular structure, but has not incorporated this into its Amended Plan. The Court ORDERS the County to do so.

18. **Sustained.** The County indicates that it will provide an accessible bathroom in any new modular structure, but the County has not included that provision into the Amended Plan. The Court ORDERS the County to do so.

19. **Moot.**

20. **Sustained.** To the extent the County has not incorporated Plaintiff's specific requests for training on ADA procedures in its Amended Plan, it is ORDERED to do so.

21. **Moot.**

22. **Overruled.** The County's Amended Plan provides that one cell on the female side and one cell on the male side in the Booking Loop of the IRC will be made accessible for booking class members. The County's Amended Plan also provides that, in lieu of modifying court transfer cells and release cells, the County will transfer class members for court purposes by moving them directly from their housing areas to awaiting vehicles and will conduct

release procedures for class members in their housing areas, then release them directly from there. This is a reasonable accommodation and the County need not physically modify court transfer cells and release cells in the Booking Loop.

23. **Overruled.** See Objection No. 22.

24. **Overruled.** See Objection No. 22.

25. **Moot.**

26. **Sustained.** While the Court's findings of fact indicate that the record supported modifying ten cells in the IRC to comply with ADAAG requirements (Order at 25, FF ¶ 83; Order at 68), the Court agreed with Plaintiff's proposed injunctive relief that three cells in the IRC would need to be modified immediately (Order at 78, ¶ 13; Docket No. 742 ¶ 441). The County requests that only three cells be required to be modified at all, given than the Women's Central Jail will possibly be opened in the "not too distant future" to house female class members. Given that there is no certainty as to when the WCJ will open, ten cells will have to be modified in Module K of the IRC. The Court ORDERS the County to modify at least three of those ten cells on the intermediate time line. The modifications for the other seven cells may follow the County's long-term time line.

27. **Sustained.** The County must install portable toilet and shower units in the dayroom of Module K of the IRC. The County and Plaintiffs have agreed that this work will be completed no later than February 28, 2012 and the Court ORDERS County to complete this work within that time line.

28. **Sustained in part; overruled in part.** The County must lower the phones and jail rules in Module K within the one-month short-term

time line, consistent with similar modifications at Theo Lacy the County has agreed to implement on the short-term time line. (Amended Plan 4.) The County may follow the intermediate time line to install an accessible table, consistent with the time line for the same modification at Theo Lacy. (Id.)

29. **Overruled in part; sustained in part.** The Court agrees that three months probably does not provide enough time to implement the modification of the sink and toilet in the outdoor area in Module K of the IRC. However, the Court is concerned that the long-term time line is too long to implement this modification. The Court ORDERS that these modifications be completed within six months.

30. **Sustained.**

a. The County has agreed to install a stairway lift at the IRC to ensure access to visiting booths in the IRC for female class members who do not qualify for non-barrier visits, although the County proposes that this be done on a long-term time line. At the May 23 hearing, the County agreed that, during construction of the stairway lift, these class members will be transported to the WCJ for visitation.

b. The County has agreed to accommodate female class members whose security classification permits them to have non-barrier visits at the WCJ and, if needed, they would be transported to Musick for non-barrier visitation. (Amended Plan 10, 15.) This is a reasonable accommodation and must be implemented in the short-term.

c. The County may not avoid these accommodations in the IRC by claiming that at some unidentified point in the future the

WCJ will be reopened.

31. **Sustained.** The County's final plan must provide procedures for documenting all requests for visits by class members, where the visit was provided, and whether the visit was denied for the inability to accommodate the class member's disability. Class members must also be informed in writing that they are entitled to request non-barrier visits at Musick and the MCJ/WCJ. These records should be maintained for three years.

32. **Moot.**

33. **Sustained.**

a. The Court presumes that the parties are referring to male class members (physically disabled detainees) who also suffer from mental health conditions. If so, the County's plan for them is inadequate. Module L of the IRC is the only specialized mental health unit in the jail system. The County houses all non-physically-disabled male inmates and detainees with mental health conditions there (except for those with severe mental disorders, who are housed in the hospital) and provides around-the-clock mental health services to them. (Order at 25, FF ¶ 87.) Under the County's proposed accommodation, male class members with mental health conditions would not be housed in Module L like similarly situated non-disabled detainees; instead, they would be moved in with other class members in accessible housing areas and be provided mental health services in those locations. Yet, the County presumably created Module L to segregate inmates and detainees with mental health conditions from the general population for

medical and security reasons. The County does not explain why those same reasons suddenly no longer apply when dealing with class members who also suffer from mental health issues and who could pose serious risks to themselves and others if they are placed in housing with class members without mental health issues. In fact, the County implicitly recognized the need to house class members in Module L when it renovated one cell in Module L in 2004 to make it accessible. (Order at 26, FF ¶ 88.) Thus, the County's proposal is not a reasonable alternative to implementing the additional physical modifications necessary to make Module L fully accessible to class members with mental health conditions who would be housed there, but for their physical disabilities.

b. The County must make the following physical modifications to ensure reasonable accommodation of class members with mental health issues in Module L (Order at 25—26, FF ¶¶ 87—91): install an ADA-compliant toilet and sink in the dayroom; lower the phones; install an ADA-compliant table in the dayroom; and modify the recreation area's toilet and sink to make them accessible. The County may propose time lines for these modifications consistent with similar modifications at other facilities.

34. **Sustained in part; overruled in part.** The Court agrees with the County that not all modifications would have to be completed at the WCJ before any female class members would be transferred there. However, in order to transfer female class members to the WCJ, the areas where they will be housed must be <u>at least</u> as

accessible as the areas where they were being housed before the transfer. Plaintiffs must be given the opportunity to inspect housing areas in the WCJ prior to transfer to ensure that accessibility is at the same or greater level as at the prior housing area.

35. **Moot.**

36. **Sustained.**

a. While the County agrees to comply with Plaintiffs' objection, the Amended Plan does not incorporate the clarification that the toilet and sink area in the WCJ Infirmary dayroom be made "fully accessible." The Court ORDERS that language to be included in the final plan.

b. Consistent with Objection No. 34, the modifications to the sink and toilet must be completed before any transfers to ensure they are as accessible as those in the prior housing area.

37. **Conditionally overruled.** So long as the County does not open the rooftop bathroom in the WCJ to any detainees or inmates, regardless of disability, then no modifications are necessary. If the County does reopen the bathroom to non-disabled detainees and inmates, however, it must make the modifications ordered by the Court to make the area accessible. (Order at 29, FF ¶ 104; Order at 80 ¶ 25.)

38. **Conditionally overruled.** The Court agrees to some extent that the implementation of procedures at the WCJ may be premature without a fixed date for its reopening. However, the County has repeatedly represented that the reopening of the WCJ in the "not too distant future" should excuse modifications to the IRC. (See

Objection Nos. 26, 28, 30.) The County cannot have it both ways. Thus, the Court will excuse the County from creating written procedures for the WCJ until a date is selected for its reopening, but will not excuse the County from making the required modifications in the IRC pending reopening of the WCJ.

39. **Moot.**

40. **Moot.**

41. **Sustained.** The County indicates that it is moving forward with the renovations in the MCJ Ward C shower area, but that it cannot do those renovations within six months, "for a variety of reasons." However, the County has known that this shower was inaccessible since the Ninth Circuit's decision in 2008. Pierce, 526 F.3d at 1217–18. Nevertheless, the County has represented and Plaintiffs have agreed that the modifications in the Ward C and D shower areas will be done no later than February 28, 2012, so the Court ORDERS County to complete this work within that time line.

42. **Moot in part; overruled in part.** The County has agreed to lower the mirror and the posting of jail rules within the short term. The County must lower the phone within the intermediate term.

43. **Moot.**

44. **Sustained in part.** The County must complete modifications of the shower and dayroom in the Sheltered Living area of the MCJ within four months of final judgment.

45. **Moot in part; sustained in part.** The County's policies and procedures must include training orders for deputies assigned to Ward C in the MCJ.

46. **Sustained.** The Court agrees that deputies should document all

transfers of class members in and out of the dayroom shower in Ward C of the MCJ. Those records should be maintained and provided to the monitor consistent with the County's documentation proposal. (Amended Plan 15.)

47. **Sustained.** The Court agrees that the County should document, report, and monitor transports for non-barrier visitations to the same extent as with other transport-dependent program offerings.

48. **Sustained.** The Court agrees that the County should document, report, and monitor these transports for programs to the same extent as with other transport-dependent program offerings.

49. **Moot**, although the County does not address Plaintiffs' questions regarding the discontinuing of certain classes not mentioned in the Amended Plan. The County must include in the final plan provisions that either enable class members to be transported to Musick to attend classes or ensure that equivalent classes will be offered in areas where class members are housed.

50. **Overruled.**

51. **Overruled.**

52. **Overruled.**

53. **Overruled.**

54. **Overruled.**

55. **Moot.**

56. **Moot**, given the selection of the monitor herein.

57. **Moot.**

58. **Moot.**

59. **Moot.**

60. **Moot.** The injunction will last for two years, but the County has otherwise agreed with Plaintiffs' proposal.

61. **Moot.** The Court agrees with the County that the monitor need not be the one to conduct the required training, provided that the person the County selects for training is qualified to train personnel on ADA-related topics.

62. **Moot.**

63. **Moot.**

64. **Moot.**

65. **Sustained.** Obviously, if the monitor contracts with experts or consultants, they would be reasonably compensated for that work.

66. **Moot.**

67. **Moot.**

68. **Sustained in part; overruled in part.** Plaintiffs shall be permitted to conduct one additional inspection in the second year. After the expiration of two years, if Plaintiffs seek to extend the injunction, they may be permitted to conduct an additional inspection in preparation for any motion to extend the injunction.

69. **Moot.**

70. **Moot.**

71. **Moot.**

72. **Moot.**

73. **Moot.**

74. **Overruled.** The Court will not rule on any request for attorney's fees at this stage of the litigation, including for the expense of Plaintiffs' counsel's ensuring compliance with any injunction. This does not prevent Plaintiffs from seeking attorney's fees and costs after final judgment, as well as renewing the pending and currently stayed attorney's fees motion.

75. **Overruled.** Plaintiffs' proposal is vague and overbroad. The County's proposals for documenting compliance with the Court's order are sufficient. The County must permit Plaintiffs to inspect compliance records within a reasonable time period on request.

The County is ORDERED to submit a final plan and judgment consistent with the Court's rulings herein no later than June 23, 2011. Plaintiffs may respond to the proposed plan no later than June 28, 2011, although the Court encourages Plaintiffs to respond earlier to ensure the Court can enter final judgment by June 28, 2011.

IT IS SO ORDERED.

DATED: June 10, 2011

Audrey B. Collins

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AUDREY B. COLLINS
CHIEF UNITED STATES DISTRICT JUDGE