

# Exhibit 8

Judgment, Amended

Exhibit "G"

Attachment "I"

JUDGMENT AMENDMENT  
TO EXHIBIT G

Exhibit G, the Overlying (Non-Agricultural) Pool Pooling Plan will be amended to revise Paragraph 5 to read as follows:

"5. Assessments.

(a) Replenishment Assessments. Each member of this Pool shall pay an assessment equal to the cost of replenishment water times the number of acre feet of production by such producer during the preceding year in excess of (a) his decreed share of the Safe Yield, plus (b) any carry-over credit under Paragraph 7 hereof.

(b) Administrative Assessments. In addition, the cost of the allocated share of Watermaster administration expense shall be recovered on an equal assessment against each acre-foot of production in the pool during such preceding fiscal year or calendar quarter; and in the case of Pool members who take substitute groundwater as set forth in Paragraph 8 hereof, such producer shall be liable for its share of administration assessment, as if the water so taken were produced, up to the limit of its decreed share of Safe Yield.

(c) Special Project OBMP Assessment. Each year, every member of this Pool will dedicate ten (10) percent of their annual share of Operating Safe Yield to Watermaster or in lieu thereof Watermaster will levy a Special Project OBMP Assessment in an amount equal to ten percent of the Pool member's respective share of Safe Yield times the then-prevailing MWD Replenishment Rate.

And to renumber Paragraph 9 as Paragraph 10 and add Paragraph 9 to read as follows:

"9. Physical Solution Transfers. All overlying rights are appurtenant to the land and cannot be assigned or conveyed separate or apart therefrom except that for the term of the Peace Agreement the members of the Overlying (Non-Agricultural) Pool shall have the discretionary right to Transfer or lease their quantified Production rights and carry-over water held in storage accounts in quantities that each member may from time to time individually determine as Transfers in furtherance of the Physical Solution: (i) within the Overlying (Non-Agricultural) Pool; (ii) to Watermaster in conformance with the procedures described in the Peace Agreement between the Parties therein, dated June 29, 2000; (iii) in conformance with the procedures described in Paragraph I of the Purchase and Sale Agreement for the Purchase of Water by Watermaster from Overlying (Non-Agricultural Pool dated June 30, 2007; or (iv) to Watermaster and thence to members of the Appropriative Pool in accordance with the following guidelines and those procedures Watermaster may further provide in Watermaster's Rules and Regulations:

(a) By December 31 of each year, the members of the Overlying (Non-Agricultural) Pool shall notify Watermaster of the amount of water each member shall make available in their individual discretion for purchase by the Appropriators. By January 31 of each year,

October 25, 2007

Watermaster shall provide a Notice of Availability of each Appropriator's pro-rata share of such water;

(b) Except as they may be limited by paragraph 9(e) below, each member of the Appropriative Pool will have, in their discretion, a right to purchase its pro-rata share of the supply made available from the Overlying (Non-Agricultural) Pool at the price established in 9(d) below. Each Appropriative Pool member's pro-rata share of the available supply will be based on each Producer's combined total share of Operating Safe Yield and the previous year's actual Production by each party;

(c) If any member of the Appropriative Pool fails to irrevocably commit to their allocated share by March 1 of each year, its share of the Overlying (Non-Agricultural) Pool water will be made available to all other members of the Appropriative Pool according to the same proportions as described in 9(b) above and at the price established in Paragraph 9(d) below. Each member of the Appropriative Pool shall complete its payment for its share of water made available by June 30 of each year.

(d) Commensurate with the cumulative commitments by members of the Appropriative Pool pursuant to (b) and (c) above, Watermaster will purchase the surplus water made available by the Overlying (Non-Agricultural) Pool water on behalf of the members of the Appropriative Pool on an annual basis at 92% of the then-prevailing "MWD Replenishment Rate" and each member of the Appropriative Pool shall complete its payment for its determined share of water made available by June 30 of each year.

(e) Any surplus water cumulatively made available by all members of the Overlying (Non-Agricultural) Pool that is not purchased by Watermaster after completion of the process set forth herein will be pro-rated among the members of the Pool in proportion to the total quantity offered for transfer in accordance with this provision and may be retained by the Overlying (Non-Agricultural) Pool member without prejudice to the rights of the members of the Pool to make further beneficial use or transfer of the available surplus.

(f) Each Appropriator shall only be eligible to purchase their pro-rata share under this procedure if the party is: (i) current on all their assessments; and (ii) in compliance with the OBMP.

(g) The right of any member of the Overlying (Non-Agricultural) Pool to transfer water in accordance with this Paragraph 9(a)-(c) in any year is dependent upon Watermaster making a finding that the member of the Overlying (Non-Agricultural) Pool is using recycled water where it is both physically available and appropriate for the designated end use in lieu of pumping groundwater.

(h) Nothing herein shall be construed to affect or limit the rights of any Party to offer or accept an assignment as authorized by the Judgment Exhibit "G" paragraph 6 above, or to affect the rights of any Party under a valid assignment."

# Exhibit 9

- Joint and Appropriative and Non- Agricultural Pool Meeting Minutes for February 12, 2009
- Board Meeting Minutes for February 26, 2009
- Board Meeting Minutes for March 26, 2009
- Joint and Appropriative and Non- Agricultural Pool Meeting Minutes for May 14, 2009
- Board Meeting Minutes for May 28, 2009
- Joint and Appropriative and Non- Agricultural Pool Meeting Minutes for June 11, 2009
- Board Meeting Minutes for June 25, 2009

Joint Appropriative and Non-  
Agricultural Pool Meeting  
Minutes

for

2-12-2009

**Minutes**  
**CHINO BASIN WATERMASTER**  
**JOINT APPROPRIATIVE & NON-AGRICULTURAL POOL MEETING**  
February 12, 2009

The Joint Appropriative and Non-Agricultural Pool Meeting were held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on February 12, 2009 at 10:00 a.m.

**APPROPRIATIVE POOL MEMBERS PRESENT**

Ken Jeske, Chair	City of Ontario
Robert DeLoach	Cucamonga Valley Water District
Mark Kinsey	Monte Vista Water District
Robert Tock	Jurupa Community Services District
Mike McGraw	Fontana Water Company
Robert Young	Fontana Union Water Company
Charles Moorrees	San Antonio Water Company
Raul Garibay	City of Pomona
Dave Crosley	City of Chino
J. Arnold Rodriguez	Santa Ana River Water Company
Anthony La	City of Upland

**NON-AGRICULTURAL POOL MEMBERS PRESENT**

Kevin Sage	Vulcan Materials Company (Calmat Division)
Mohamad El Amamy	City of Ontario

**Watermaster Board Members Present**

Geoffrey Vanden Heuvel	Agricultural Pool - Dairy
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**Watermaster Staff Present**

Kenneth R. Manning	Chief Executive Officer
Sheri Rojo	CFO/Asst. General Manager
Ben Pak	Senior Project Engineer
Danielle Maurizio	Senior Engineer
Sherri Lynne Molino	Recording Secretary

**Watermaster Consultants Present**

Michael Fife	Brownstein, Hyatt, Farber & Schreck
Mark Wildermuth	Wildermuth Environmental Inc.

**Others Present**

Jennifer Novak	State of California Dept. of Justice
Marv Shaw	Inland Empire Utilities Agency
Sandra Rose	Monte Vista Water District
Eunice Ulloa	Chino Basin Water Conservation District
Marty Zvirbulis	Cucamonga Valley Water District

Chair Jeske called the Joint Appropriative and Non-Agricultural Pool Meeting to order at 10:00 a.m.

**AGENDA - ADDITIONS/REORDER**

There were no additions or reorders made to the agenda.

**I. CONSENT CALENDAR****A. MINUTES**

1. Minutes of the Annual Non-Agricultural Pool Election Meeting held January 8, 2009
2. Minutes of the Annual Appropriative Pool Election Meeting held January 8, 2009
3. Minutes of the Joint Annual Appropriative and Non-Agricultural Pool Meeting held January 8, 2009

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of January 2009
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through December 31, 2008
4. Treasurer's Report of Financial Affairs for the Period December 1, 2008 through December 31, 2008
5. Budget vs. Actual July 2008 through December 2008

**C. CHINO BASIN WATERMASTER INVESTMENT POLICY**

Resolution 09-01 – Resolution of the Chino Basin Watermaster, San Bernardino County, California, authorizing the Watermaster's Investment Policy

Mr. DeLoach handed out a copy of the most recent Agricultural Pool attorney bills as reference material. There was no further discussion on this.

*Motion by DeLoach, second by McGraw, and by unanimous vote – Non-Ag concurred  
Moved to approve Consent Calendar A through C, as presented*

**D. ALLOCATION OF NON-AGRICULTURAL POOL VOLUME VOTE**

Non-Agricultural Pool Allocation of Volume Vote effective Calendar Year 2009

Mr. Manning commented on the revised allocation of Non-Agricultural Pool volume vote.

*Motion by Sage  
Moved to approve Consent Calendar Item D, as presented*

**II. BUSINESS ITEM****A. BUDGET TRANSFER**

Mr. Manning stated Watermaster reviews invoice monthly and meets with WEI on a quarterly basis to review task orders and progress on projects including funding. In reviewing these items, it was noted some changes needed to be made in the way of how funds will be distributed. There are four areas where we anticipate less activity and then were three areas where additional money will be needed; the budget transfer is to cover the areas that need additional funds. The budget transfer document which is included in the meeting packet explains all the details of this transfer.

*Motion by DeLoach, second by Moorrees, and by unanimous vote – Non-Ag concurred  
Moved to approve the Budget Transfer T-09-02-01 relating to: OBMP, HCMP, Desalters, Storage Program to Groundwater Level Monitoring Program, Recharge Master Plan, and MZ-3, as presented*

**B. AUCTION PRICE FLOOR AGREEMENT AND STORAGE & RECOVERY AGREEMENT**

Mr. Manning stated staff and counsel are asking for two recommendations; 1) To review the approval of the auction price floor agreement which is included in the meeting package and, 2) Direct staff to prepare the storage and recovery agreement which is included in the meeting package in draft form. Mr. Manning described the changes in the agreement. Mr. Kinsey was particularly concerned about the equity of having the buyers pay enough to enjoy the benefits of the lower loss rates. Mr. Kinsey wants to know how Watermaster staff got the \$25 acre-feet financial equivalent to go from 6% to 2%. Mr. Kinsey wants to know what has Western

Municipal Water District (WMWD) contributed to waive the equivalency payment and thinks that Watermaster staff has a responsibility to justify this amount. Mr. Manning stated that Watermaster staff did produce this information and it's up to the Parties to accept or reject it. Mr. Kinsey's stated his main point is that the fee needs to be validated. Mr. Manning stated the amounts listed are what staff thinks is fair. Mr. Kinsey noted that it is not exportable water according to the Judgment and that it is bad precedent to export water when the yield is declining along with current drought conditions. A discussion regarding export ensued. Mr. Jeske requested Watermaster staff to prepare a detailed Gantt chart regarding the process of auction timing and the use of the revenue. Mr. Manning stated staff will put together that chart. Mr. Zvirbulis presented a financial analysis which was prepared by Cucamonga Valley Water District which states that there could be almost \$70 million in present value benefits after \$30 million are spent on new recharge projects. Mr. Vanden Heuvel inquired if Western Municipal Water District indicated that they will buy all the water. Mr. Manning stated initially yes but recently they are looking for some flexibility. Mr. Kinsey inquired if the finding of broad regional benefit would include how the money will be used. Counsel and staff agreed to prepare a draft finding of broad regional benefit. Mr. Garibay inquired about taxes and any are assessed, the buyer should pay tax. Counsel Fife stated he would look into that statement in the documents. A lengthy discussion regarding the auction floor price, procedures, and possible outcome ensued. Mr. Manning stated this will not be the last time this will be brought before this committee; staff is attempting to get this item moving through the long process.

*Motion by DeLoach, second by Crosley, and by unanimous vote – Non-Ag concurred*

**Moved to review the Auction Price Floor Agreement and to direct counsel and staff to: (a) prepare: a conforming Storage and Recovery Agreement; (b) a finding of broad regional benefit; (c) a finding of No Material Physical Injury; and (d) a recommendation to retain a competent consulting firm to provide services in support of the auction, as presented**

### III. REPORTS/UPDATES

#### A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

##### 1. Court Hearing

Counsel Fife stated a court hearing took place last Monday and a notice of the hearing has not been sent out yet. After we receive the transcript a notice can then go out to the parties. Watermaster staff has been told by Judge Wade's clerk that the transcript should be ready tomorrow; once that is received counsel will put out a notice that will summarize the orders by the court that were made through the course of the hearing. Staff has contacted the court reporter and negotiated a deal so that Watermaster can distribute copies of the transcript. The court asked for another hearing which was scheduled for April 16, 2009. Counsel Fife noted April 16<sup>th</sup> conflicts with Mr. Wildermuth and staff schedule. Counsel is going to file a pleading today asking the court to provide us with a different date for the hearing. Once a new hearing date is scheduled a notice as to the new date will go out. Counsel Fife stated it appears Judge Wade will want a series of hearings to review sections of information at a time.

##### 2. Dry Year Yield Agreement

Counsel Fife stated through the agreement with Inland Empire Utilities Agency (IEUA) and Metropolitan Water District (MWD) in order to get the LRP funding for the desalters, Watermaster needs to approve an expansion of the MWD storage account from 100,000 acre-feet to 150,000 acre-feet by September, 2009. Staff has asked IEUA to submit a Storage & Recovery Application which is the same process that was gone through for the first 100,000 acre-feet. Counsel Fife stated after the IEUA application is complete it will go through the Watermaster process, this item was placed under legal reports to let you know it is in the works to come back as a business item. A discussion regarding this process ensued.



**B. ENGINEERING REPORT**1. Engineering Update

Mr. Wildermuth stated staff is working with the Regional Board on the Hydraulic Control Monitoring Program in trying to get the monitoring requirements scaled back. This will take place late this year which means there will still be monitoring obligations early into next year's fiscal year. Mr. Wildermuth stated staff is ramping up for the Production Optimization work Mr. Wildermuth stated Tom McCarthy from the Wildermuth office is heading this project up. Tom is not contacting every single appropriator; he is contacting the appropriators that Wildermuth thinks need help with their production. Mr. Wildermuth asked that the appropriators that are contacted work fairly quickly with Tom on this project so that work can get finished in a timely manner because we are working on a tight time frame.

**C. FINANCIAL REPORT**1. Watermaster Budget

Ms. Rojo stated Watermaster is starting on the budget and staff is looking at getting input from the parties. Mr. Manning stated meetings are now taking place with consultants on their numbers in an attempt to start the process in order to get the numbers firmed up for the final budget that comes through the process for approval.

**D. CEO/STAFF REPORT**1. Legislative Update

Mr. Manning stated invitations have gone out recently for the Inland Empire Utilities Agency Legislative Reception on March 17, 2009 in Sacramento. This is the same day as the Agricultural Pool meeting and Mr. Manning will be leaving directly that meeting for this reception. Mr. Manning stated this is a very well attended reception. Mr. Manning noted he was in Sacramento over a week ago and met with several legislators to discuss groundwater issues.

2. Recharge Update

Mr. Manning stated the updated Recharge Spreadsheet is not available for the meeting. In January there was approximately 1,800+ acre-feet was captured in the recharge basins and a detailed report will be available at the Advisory Committee meeting later this month. Mr. Manning stated there was a breach in one of the berms at San Sevaire 5 basin and staff is working with IEUA and others to get the repairs done.

Fontana Barrier Study

Mr. Manning stated Watermaster staff has been contacted by a group that is interested in having Watermaster involved as the project manager, with no financial involvement whatsoever, to facilitate a USGS Isotope Study of perchlorate in the north eastern portion of the Chino Basin and the Rialto/Colton Basin. This will help resolve some of the issues in the long standing debate over whether water is moving between or across the fault. Watermaster is interested in participating at this level because it will help develop information that can be used in the modeling that helps us better describe what is doing on that portion of the basin. Watermaster will also be partnering up with other agencies on this study which will be a great partnership to be involved in. A question regarding costs was raised and Mr. Manning stated Watermaster has been assured it will be reimbursed for any and all expenses; an agreement has not been received to date.

**Added Comment:**

Mr. Manning noted Watermaster had put the word out that it was looking to purchase water from storage accounts to fulfill the replenishment obligation of approximately 20,000 acre-feet. There have been some interested parties and three have given staff a definite yes that they will sell Watermaster water which totals approximately 7,500 acre-feet. There is another party that is still working on this and we should have a decision from them within the

next couple days. Watermaster could be getting between 7,500 and 8,500 acre-feet of our 20,000 acre-feet obligation out of storage; the balance is still being worked on.

**IV. INFORMATION**

1. Newspaper Articles

No comment was made regarding this item.

**V. POOL MEMBER COMMENTS**

No comment was made regarding this item.

**VI. OTHER BUSINESS**

No comment was made regarding this item.

The Non-Agricultural Pool meeting convened its meeting at 11:20 a.m.

The regular open Appropriative Pool meeting was convened to hold its confidential session at 11:20 a.m.

**VII. CONFIDENTIAL SESSION - POSSIBLE ACTION**

Pursuant to the Appropriative and Non-Agricultural Pool Rules & Regulations, a Confidential Session may be held during the Watermaster Pool meeting for the purpose of discussion and possible action.

1. Budget Transfer For the Farming Portion of the TMDL Study

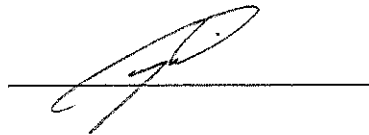
The closed session was convened at 12:04 p.m. with no comment or action reported for the confidential session.

**VIII. FUTURE MEETINGS**

February 12, 2009	10:00 a.m.	Joint Appropriative & Non-Agricultural Pool Meeting
February 17, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
February 26, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
February 26, 2009	9:00 a.m.	Advisory Committee Meeting
February 26, 2009	11:00 a.m.	Watermaster Board Meeting

The Appropriative Pool meeting was dismissed by Chair Jeske at 12:05 p.m.

Secretary: \_\_\_\_\_



Minutes Approved: March 12, 2009

Watermaster Board Meeting  
Minutes  
for  
2-26-2009

*Minutes*  
**CHINO BASIN WATERMASTER  
WATERMASTER BOARD MEETING**  
*February 26, 2009*

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on February 26, 2009 at 11:00 a.m.

**WATERMASTER BOARD MEMBERS PRESENT**

Ken Willis, Chair	City of Upland
Bob Kuhn	Three Valleys Municipal Water District
Charles Field	Western Municipal Water District
Jim Curatalo	Cucamonga Valley Water District
Michael Whitehead	Fontana Water Company
Michael Camacho	Inland Empire Utilities Agency
Bob Bowcock	Vulcan Materials Company
Paul Hofer	Agricultural Pool
Geoffrey Vanden Heuvel	Agricultural Pool

**Watermaster Staff Present**

Ken Manning	CEO
Ben Pak	Senior Project Engineer
Danielle Maurizio	Senior Engineer
Sherri Lynne Molino	Recording Secretary

**Watermaster Consultants Present**

Scott Slater	Brownstein, Hyatt, Farber & Schreck
Michael Fife	Brownstein, Hyatt, Farber & Schreck
Andy Malone	Wildermuth Environmental, Inc.
Wen-Hsing Chaing	Wildermuth Environmental, Inc.
Tom McCarthy	Wildermuth Environmental, Inc.

**Others Present**

Jennifer Novak	State of California Dept. of Justice, CIM
Bob Feenstra	Ag Pool – Dairy
Jeff Pierson	Ag Pool – Crops
Rick Hansen	Three Valleys Municipal Water District
David DeJesus	Three Valleys Municipal Water District
Mark Kinsey	Monte Vista Water District
Ken Jeske	City of Ontario
Robert Tock	Jurupa Community Services District
Ron Craig	City of Chino Hills
Dave Crosley	City of Chino
Raul Garibay	City of Pomona
Mohamad El Amamy	City of Ontario
Terry Catlin	Inland Empire Utilities Agency
Sandra Rose	Monte Vista Water District
Steven Lee	Reid & Hellyer
Eunice Ulloa	Chino Basin Water Conservation District

The Watermaster Board Meeting was called to order by Chair Willis at 11:00 a.m.

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS**

No public comments were made.

**AGENDA - ADDITIONS/REORDER**

No additions or reorders were made to the agenda.

**I. CONSENT CALENDAR**

**A. MINUTES**

1. Minutes of the Watermaster Board Meeting held January 22, 2009

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of January 2009
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through December 31, 2008
4. Treasurer's Report of Financial Affairs for the Period December 1, 2008 through December 31, 2008
5. Budget vs. Actual July 2008 through December 2008

**C. CHINO BASIN WATERMASTER INVESTMENT POLICY**

Resolution 09-01 – Resolution of the Chino Basin Watermaster, San Bernardino County, California, authorizing the Watermaster's Investment Policy

*Motion by Kuhn, second by Camacho, and by unanimous vote*

*Moved to approve Consent Calendar A through C, as presented*

**II. BUSINESS ITEM**

**A. BUDGET TRANSFER**

Mr. Manning stated this item has been presented to the Pools and Advisory Committee and was passed unanimously. Quarterly meetings take place with consultants to ensure staff and consultants are on task, both on timing and on funding. In reviewing some of the projects, staff noted some projects had to be shifted around and due to that funds needed to be moved around as well. Staff is asking for a recommendation to approve Budget Transfer Request T-09-02-01 which is detailed in the staff letter provided in the meeting package starting on page 31. Mr. Manning stated one of the items that Watermaster is undertaking is this coordination with three of the pumpers in this basin to better understand the pumping patters that they are working on in order to coordinate that activity better. This was an analysis that staff and consultants did not anticipate but as the modeling was developed it became apparent that it needed to be done. It also needed to be done for the Dry Year Yield Study. This request will not result in an increase in the budget; it is just a matter of moving monies around.

*Motion by Vanden Heuvel, second by Kuhn, and by unanimous vote*

*Moved to approve Budget Transfer Request T-09-02-01 relating to OBMP, HCMP, Desalters, and Storage Program to Groundwater Level Monitoring Program, Recharge Master Plan, and MZ-3, as presented*

**III. REPORTS/UPDATES**

**A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**

**1. Court Hearings**

Counsel Slater stated there is another court hearing scheduled on April 9, 2009 at 9:30 a.m. at the San Bernardino Court. Counsel Slater noted at the February 2 hearing the court scheduled a fallow up hearing for April 16, 2009; however, due to scheduling issues an ex-parte motion was filed with the court to move the date from April 16, to another date and the court did move that to April 9, 2009. Counsel Slater thanked all the Board members for their attendance at the hearing and noted all information and credentials presented was

Mr. Manning introduced Andy Malone and Wen-Hsing Chaing who will be giving a presentation on the 3D presentation which was given to Judge Wade at the recent hearing, Mr. Manning noted he discussed this presentation with Mr. Wildermuth about giving the same presentation to the Advisory Committee and Watermaster Board members. Mr. Malone stated this presentation will focus more on Hydraulic Control than the one given at the recent hearing. Mr. Malone stated this presentation will be reviewing some of the modeling results that demonstrate Hydraulic Control. Mr. Malone asked the parties to think about questions to be asked about specific parts of the basin that they are interested in seeing and possibly how they would want Wildermuth to construct the 3D visualizations to demonstrate water level changes or flow directions in the model results in the future. Mr. Malone reviewed several 3D scenarios using Wildermuth's simulation model and discussed the display detail. A lengthy discussion regarding Mr. Malone's presentation, water losses, and water reduction & demand ensued.

#### C. FINANCIAL REPORT

##### 1. Watermaster Budget

Mr. Manning stated staff is working with consultants on the first stages of preparing the upcoming budget. A Budget Workshop will be scheduled in April and all are invited to attend.

#### D. CEO/STAFF REPORT

##### 1. Legislative Update

Mr. Manning stated the ACWA legislative conference is taking place right now but because of the Advisory and Board meetings he was not able to attend that conference. Mr. Manning stated he recently spent two days in Sacramento with Chris Frahm and Paul Bauer visiting with members of the Senate and several legislators. Meetings were scheduled with Senator Cogdill, Senator Huff, Senator Kehoe, Senator Padilla, Senator Simitian, and Senator Wolk, Assembly Members, Huffman, Caballero, Lowenthal, and Salas. These legislators are members of the respective water committees. Mr. Manning stated they also met with Assembly Members Curren-Price, Duvall, Huber, and with SWRCB member Baggett; it was a very busy two days. Now that the state budget is resolved, water issues generally, and groundwater specifically, are front and center in the Capitol. While there is significant disagreement on the timing and components of a water bond and Delta fix, a lot of ideas will be on the table Friday, which is the bill introduction deadline. Mr. Manning stated he will be scheduling another round of legislative visits in March.

##### 2. Recharge Update

Mr. Manning stated the most current Recharge update is available on the back table. Mr. Manning stated there have been some significant storms in February and in working with IEUA there has been a lot of effort to capture as much storm water as possible. Mr. Manning commented on the San Sevaire basin # 5, with regard to one of the berms that needed strengthening and hardening that blew out in the recent storm and crews have been working with sand bags trying to fortify that broken berm.

##### 3. Fontana Barrier Study

Mr. Manning stated Watermaster has been asked to act as the project manager for a study that will look at whether or not water is moving across the Rialto/Colton barrier into the Chino Basin. Mr. Manning has spoken to the parties who are involved in this study and have indicated there is an interest for Watermaster to act as the project manager under two conditions; 1) it does not cost Watermaster any money, and 2) will be granted accessibility to the data collected to use in our modeling. Final dialog or any agreements have not yet taken place or been presented. A brief discussion regarding this matter ensued. Mr. Manning stated they are interested in having Watermaster as a disinterested party to handle all of the data. Mr. Pak will be the project manager and will handle the administrative issues and Joe LeClaire will handle the scientific issues from Wildermuth; those salaries

and time would be covered by that project. Fred Fudacz representing Fontana Water Company was the person who approached Watermaster regarding this study and additional discussions are scheduled. Mr. Manning noted this study will also help greatly in our modeling efforts.

**IV. INFORMATION**

1. Newspaper Articles

No comment was made regarding this item.

**V. COMMITTEE MEMBER COMMENTS**

Mr. Curatalo commented on the amount of time between the Advisory Committee meeting and the Watermaster Board meeting.

**VI. OTHER BUSINESS**

No comment was made regarding this item.

**VII. CONFIDENTIAL SESSION - POSSIBLE ACTION**

No comment was made regarding this item.

**VIII. FUTURE MEETINGS**

February 26, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
February 26, 2009	9:00 a.m.	Advisory Committee Meeting
February 26, 2009	11:00 a.m.	Watermaster Board Meeting
March 10, 2009	9:00 a.m.	GRCC Meeting
March 12, 2009	10:00 a.m.	Joint Appropriative & Non-Agricultural Pool Meeting
March 17, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
March 26, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
March 26, 2009	9:00 a.m.	Advisory Committee Meeting
March 26, 2009	11:00 a.m.	Watermaster Board Meeting
April 9, 2009	9:30 a.m.	Chino Basin Watermaster Hearing, San Bernardino Court
April 14, 2009	10:00 a.m.	Appropriative & Non-Agricultural Pool Meeting
April 21, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
April 23, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
April 23, 2009	9:00 a.m.	Advisory Committee Meeting
April 23, 2009	11:00 a.m.	Watermaster Board Meeting

The Watermaster Board meeting was dismissed by Chair Willis at 12:15 p.m.

Secretary:

Minutes Approved: March 26, 2009

Watermaster Board Meeting  
Minutes  
for  
3-26-2009



**Minutes**  
**CHINO BASIN WATERMASTER**  
**WATERMASTER BOARD MEETING**  
*March 26, 2009*

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on March 26, 2009 at 11:00 a.m.

**WATERMASTER BOARD MEMBERS PRESENT**

Ken Willis, Chair	City of Upland
Bob Kuhn	Three Valleys Municipal Water District
Charles Field	Western Municipal Water District
Jim Curatalo	Cucamonga Valley Water District
Michael Whitehead	Fontana Water Company
Michael Camacho	Inland Empire Utilities Agency
Kevin Sage	Vulcan Materials Company
Jeff Pierson	Agricultural Pool
Geoffrey Vanden Heuvel	Agricultural Pool

**Watermaster Staff Present**

Ken Manning	CEO
Sheri Rojo	CFO/Asst. General Manager
Ben Pak	Senior Project Engineer
Danielle Maurizio	Senior Engineer
Sherri Lynne Molino	Recording Secretary

**Watermaster Consultants Present**

Scott Slater	Brownstein, Hyatt, Farber & Schreck
Michael Fife	Brownstein, Hyatt, Farber & Schreck
Mark Wildermuth	Wildermuth Environmental Inc.
Tom McCarthy	Wildermuth Environmental Inc.

**Others Present**

Robert DeLoach	Cucamonga Valley Water District
Marty Zvirbulis	Cucamonga Valley Water District
Mark Kinsey	Monte Vista Water District
Anthony La	City of Upland
Dave Crosley	City of Chino
Raul Garibay	City of Pomona
Robert Tock	Jurupa Community Services District
Bill Kruger	City of Chino Hills
Mohamad El-Amamy	City of Ontario
Gordon Thrupp	Geosyntec
Rick Hansen	Three Valleys Municipal Water District
David DeJesus	Three Valleys Municipal Water District
Robert Young	Fontana Union Water Company
Jennifer Novak	State of California Dept. of Justice, CIM
Jack Safely	Western Municipal Water District
Tom Crowley	Western Municipal Water District
Sandra Rose	Monte Vista Water District
Steven Lee	Reid & Hellyer
Eunice Ulloa	Chino Basin Water Conservation District
Martha Davis	Inland Empire Utilities Agency
Rich Atwater	Inland Empire Utilities Agency

Terry Catlin  
Marv Shaw  
Ben Adlin  
Andrew Lazenby

Inland Empire Utilities Agency  
Inland Empire Utilities Agency  
Coro/Chino Basin Watermaster  
Black & Veatch

The Watermaster Board Meeting was called to order by Chair Willis at 11:00 a.m.

**PLEDGE OF ALLEGIANCE**

**AGENDA - ADDITIONS/REORDER**

Mr. Manning stated Business item A. Public Employee Retirement Plan is going to be removed from the agenda as an action item and will be brought back on the April agenda for action.

Mr. Manning introduced Ben Adlin from the Coro Foundation and noted he would be performing an internship for approximately 5 weeks at Watermaster. During the time spent at Watermaster Mr. Adlin will be creating a new Chino Basin Watermaster power point presentation for the Watermaster website.

**PUBLIC HEARING**

No comments were made regarding this item.

**I. CONSENT CALENDAR**

**A. MINUTES**

1. Minutes of the Watermaster Board Meeting held February 26, 2009

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of February 2009
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through January 31, 2009
4. Treasurer's Report of Financial Affairs for the Period January 1, 2009 through January 31, 2009
5. Budget vs. Actual July 2008 through January 2009

*Motion by Kuhn, second by Field, and by unanimous vote  
Moved to approve Consent Calendar A through B, as presented*

**II. BUSINESS ITEM**

**A. PUBLIC EMPLOYEE RETIREMENT PLAN**

This business item was removed from the Watermaster Board agenda.

**III. REPORTS/UPDATES**

**A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**

**1. Court Hearing Update**

Counsel Slater stated the Chino Basin Watermaster hearing has now been rescheduled to Monday, April 27, 2009 at 9:30 a.m. Counsel Slater stated meetings regarding testimony and such necessary for this upcoming hearing will be scheduled early in April by Mr. Fife.

**2. Auction Price Floor Agreement & Storage & Recovery Agreement**

Counsel Slater stated the Auction Price Floor Agreement was discussed last month and have contacted Watermaster and some Board comments were received on this matter. It was noted at the last Board meeting that this issue is still being worked through the process. Counsel Slater stated meetings with several of the Appropriators have taken place to receive further direction. Counsel Slater refreshed the Board members on this Storage & Recovery matter and noted this item must go through the process and be approved by the Board and then ultimately approved by the court. Parties interested in securing a portion of the water held in storage there are about twelve interested parties. Watermaster staff and counsel expect to come back to the Appropriative Pool next month with a proposal in the

form of a potential Storage & Recovery Agreement and a proposal as to how to address material physical harm, and a proposal made as to how to use the revenues received in the event that the auction is pursued. The members of the Appropriative Pool are entitled to compensation from a Storage & Recovery Agreement; Watermaster will be bringing back a proposal that satisfies the broad benefit test. Mr. Vanden Heuvel distributed a document and offered comment on the handout that distributed at the March Agricultural Pool meeting during closed session. Mr. Vanden Heuvel read the document and then reviewed the document in detail. A lengthy discussion with regard to Mr. Vanden Heuvel's document ensued. Counsel Slater stated additional policy questions raised in Mr. Vanden Heuvel's document. Counsel Slater stated staff and counsel recognizes it is our responsibility to prepare a detailed staff report and supporting materials that will ultimately work their way through the process to respond to questions and comments. Mr. Whitehead inquired about a loan to purchase this water and a discussion regarding a possible loan ensued. A lengthy discussion ensued.

3. Peace II CEQA Notice of Preparation

Counsel Slater stated in the Peace II Agreement there was commitment to do a CEQA analysis and Mr. Dodson has been hired to perform that work. Inland Empire Utilities Agency (IEUA) is acting as the lead agency and this is in process. The CEQA document is going to review the Peace II agreements and also will be an update to the original PEIR that was done in 2000. A notice of preparation did go out on February 25, 2009 which began the 30 day comment period which expired yesterday.

**A. ENGINEERING REPORT**

1. Recharge Master Plan Progress Report

Mr. Wildermuth stated the work on the Recharge Master Plan is proceeding on schedule and Watermaster recently held a technical consultant meeting. The production optimization work is currently underway and is on schedule. Supplemental water recharge requirements and facilities availability have been completed. Safe yield methodology description is complete and staff is wrapping up the planning criteria. There are four task memorandums that are going to be made available next week on our web site. Those four documents will be the content for the March 26, 2009 Workshop.

2. Storage Loss Calculation Update

Mr. Wildermuth stated the calculations for the storage losses are complete and an initial set of loss rate computations will be produced shortly and we will present these findings at the next Advisory Committee meeting. Wildermuth is preparing a technical memorandum for staff to review in the near future.

3. Budget Schedule Update

Mr. Wildermuth stated the quarterly report that is prepared for Watermaster on a quarterly basis and summarizes Wildermuth tasks and budget status is now available. The report reads by task order for all the work that is done within a week or two. Mr. Wildermuth stated the most recent ECAC spreadsheet is available on the back table and if there are any questions on the report call himself, Joe LeClaire, or Sheri Rojo.

**C. FINANCIAL REPORT**

1. Dry Year Yield Financial Update

Ms. Rojo stated the Dry Year Yield Program that was entered into between Chino Basin Watermaster, Metropolitan Water District, with Inland Empire Utilities Agency acting as the lead agency started last fiscal year 2007-2008. MWD agreed to reimburse Watermaster \$400,000 and some of that has already been received and the balance will be received this fiscal year. The project was completed in December, 2008, and staff is now anticipating receiving the final reimbursements between Watermaster and IEUA.

**D. CEO/STAFF REPORT**

1. Legislative Update

Mr. Manning stated there are a number of bills being introduced in Sacramento and the deadline for introduction was two weeks ago. There were about a third less bills introduced this year than in previous years. In Washington there are a lot of bills going through congress and the senate under a variety of different names; mostly stimulus kinds of activities. IEUA sends out a detailed list of current legislation status which is always very informative.

2. Recharge Update

Mr. Manning stated the most recent recharge update spreadsheet is on the back table. Mr. Manning noted there was over 3,000 acre-feet of storm water capture in the month of February which was a very good month based on the storms we had. Mr. Manning stated the Watermaster, Inland Empire Utilities Agency, San Bernardino County, and the Chino Basin Conservation District were very aggressive in their efforts to capture all the water possible from the storms in the month of February. There were 5,200 acre-feet of recycled water accumulated on top of the 3,000 acre-feet of storm water which again made for a very good month.

3. Watermaster Consolidated Schedule of Reporting Due Dates

No comment was made regarding this item.

**III. INFORMATION**

1. Newspaper Articles

No comment was made regarding this item.

**IV. BOARD MEMBER COMMENTS**

No comment was made regarding this item.

**V. OTHER BUSINESS**

No comment was made regarding this item.

The regular open Watermaster Board meeting was convened to hold its confidential session at 11:45 a.m.

**VI. CONFIDENTIAL SESSION - POSSIBLE ACTION**

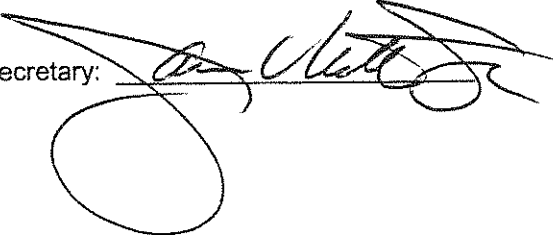
Counsel Slater stated the action taken by the Watermaster Board was to accept the settlement agreement with Hanson Aggregates.

The closed session was convened at 12:04 p.m.

**VII. FUTURE MEETINGS**

March 26, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
March 26, 2009	9:00 a.m.	Advisory Committee Meeting
March 26, 2009	11:00 a.m.	Watermaster Board Meeting
March 26, 2009	1:00 p.m.	Wildermuth Environmental Workshop
April 14, 2009	10:00 a.m.	Appropriative & Non-Agricultural Pool Meeting
April 21, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
April 23, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
April 23, 2009	9:00 a.m.	Advisory Committee Meeting
April 23, 2009	11:00 a.m.	Watermaster Board Meeting
April 27, 2009	9:30 a.m.	Chino Basin Watermaster Hearing, San Bernardino Court

The Watermaster Board meeting was dismissed by Chair Willis at 12:07 p.m.

Secretary: 

Minutes Approved: April 23, 2009

Joint Appropriative and Non-  
Agricultural Pool Meeting  
Minutes  
for  
5-14-2009

**Minutes**  
**CHINO BASIN WATERMASTER**  
**JOINT APPROPRIATIVE & NON-AGRICULTURAL POOL MEETING**  
May 14, 2009

The Joint Appropriative and Non-Agricultural Pool Meeting were held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on May 14, 2009 at 10:00 a.m.

**APPROPRIATIVE POOL MEMBERS PRESENT**

Ken Jeske, Chair	City of Ontario
John Bosler	Cucamonga Valley Water District
Mark Kinsey	Monte Vista Water District
Robert Tock	Jurupa Community Services District
Mike McGraw	Fontana Water Company
Robert Young	Fontana Union Water Company
Charles Moorrees	San Antonio Water Company
Anthony La	City of Upland
Raul Garibay	City of Pomona
Dave Crosley	City of Chino

**NON-AGRICULTURAL POOL MEMBERS PRESENT**

Kevin Sage	Vulcan Materials Company (Calmat Division)
Mohamad El Amamy	City of Ontario

**Watermaster Board Members Present**

Michael Camacho	Inland Empire Utilities Agency
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**Watermaster Staff Present**

Kenneth R. Manning	Chief Executive Officer
Sheri Rojo	CFO/Asst. General Manager
Ben Pak	Senior Project Engineer
Danielle Maurizio	Senior Engineer
Sherri Lynne Molino	Recording Secretary

**Watermaster Consultants Present**

Michael Fife	Brownstein, Hyatt, Farber & Schreck
Mark Wildermuth	Wildermuth Environmental Inc.
Tom McCarthy	Wildermuth Environmental Inc.
Wenbin Wang	Wildermuth Environmental Inc.

**Others Present**

Scott Burton	City of Ontario
Chuck Hays	City of Fontana
Tim Hampton	City of Pomona
David DeJesus	Three Valleys Municipal Water District
Mike Sovich	Three Valleys Municipal Water District
Marv Shaw	Inland Empire Utilities Agency
Patrick Shields	Inland Empire Utilities Agency
Sandra Rose	Monte Vista Water District
Eunice Ulloa	Chino Basin Water Conservation District

Chair Jeske called the Joint Appropriative and Non-Agricultural Pool Meeting to order at 10:02 a.m.

**AGENDA - ADDITIONS/REORDER**

There were no additions or reorders made to the agenda.

**I. CONSENT CALENDAR****A. MINUTES**

1. Minutes of the Joint Appropriative and Non-Agricultural Pool Meeting held April 14, 2009

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of April 2009
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through March 31, 2009
4. Treasurer's Report of Financial Affairs for the Period March 1, 2009 through February 31, 2009
5. Budget vs. Actual July 2008 through March 2009

*Motion by Kinsey, second by McGraw, and by unanimous vote – Non-Ag concurred  
Moved to approve Consent Calendar A through B, as presented*

**II. BUSINESS ITEM****A. AUCTION PRICE FLOOR AGREEMENT AND STORAGE & RECOVERY AGREEMENT –  
NON-ACTION ITEM FOR DISCUSSION ONLY**

Mr. Manning stated this item is being brought to seek direction from the Pool members. Mr. Manning stated the original agreement is in the packet; however there will be a new agreement before this item comes back through the Watermaster process for approval. Counsel Slater handed out an outline of a proposed storage and recovery agreement and noted there has been a shift from a stocking horse bid to a reserved based auction. Counsel Slater reminded the parties of the end of year deadline. Chair Jeske noted he wanted to allow the parties to ask questions as Counsel Slater gave the update. A discussion regarding the deadline ensued. Mr. Kinsey stated the Appropriators are not ready for an auction and should exercise the right to purchase the water and hold it collectively; the auction can move forward at a later date. A discussion regarding Mr. Kinsey's comments ensued. Chair Jeske inquired to the Watermaster staff if there are enough funds in reserve to exercise the first increment of the purchase or would an immediate special assessment need go out to exercise that. Mr. Manning stated a special assessment would need to be sent out in order to generate those funds. A discussion regarding a possible special assessment ensued. Counsel Slater reviewed a proposed schedule. Mr. Manning offered comment on the possibility of special assessments and budget revisions if the end of June deadline is not met to bring a Storage and Recovery Agreement to the court. Counsel Slater stated the items that need to be taken care of in order for this to be on the June agenda are as follows: 1) Determination by staff and Wildermuth Environmental regarding the possibility of no material physical injury, 2) Determination of what a broad public benefit is going to be, and 3) Who or what professional company will conduct the auction. A discussion regarding this matter ensued and it was noted one or two informal meetings need to take place in order to keep moving forward an approval in June.

*No action taken.*

**B. CHINO BASIN WATERMASTER 2009-2010 BUDGET**

Mr. Manning noted the 2009-2010 Budget is in the meeting package and staff is seeking an approval today. Mr. Manning stated staff is looking at approving the budget as it was approved last year in that a revised budget will be presented half way through the fiscal year just prior to the Assessment Package approval with proposed revised numbers. Ms. Rojo reviewed the 2009-2010 budget and the 2008-2009 budget changes and summarized the Peace II portion and the MZ1 Long Term Plan portion of the budget. Ms. Rojo reviewed the 2009-2010 budget noting there is no COLA for Watermaster staff, there are 11 approved positions but only 10.25 are budgeted. Watermaster staff has worked to not increase administrative expenses, there are reductions in OBMP & Special Project categories, and Watermaster is still working to



reduce "maximum benefit" related monitoring costs. Ms. Rojo examined the detailed portion of the Recharge Debt Service and Recharge O&M budget detail. Ms. Rojo reviewed several years of OBMP & Project Costs by Fiscal Year with and without recharge debt and O&M spreadsheet in detail. A brief discussion on the presented 2009-2010 budget ensued.

*Motion by Garibay, second by Crosley, and by unanimous vote – Non-Ag concurred*  
**Moved to approve Chino Basin Watermaster 2009-2010 Budget, as presented**

### C. APPLICATION FOR STORAGE ACCOUNT

Mr. Manning stated this item was put on the April agenda as an information item and noted this month it is being brought back as an action item because of deadlines that are required and necessary as to not lose the subsidies that are built into the LRP Agreements for the Desalters. Mr. Manning stated the proposed application for Storage Account is in your meeting package starting on page 81. Mr. Manning reviewed the issues that need to be resolved and the issues of preferential treatment on storage rights that need to be dealt with and direction provided to staff. Mr. Manning stated there has also been an alternate proposal produced and circulated between the parties and staff will also need direction on that alternate proposal. Mr. Garibay made an inquiry regarding the alternate proposal and Mr. Manning stated it is not a Watermaster proposal, therefore staff cannot comment on other than Cucamonga Valley Water District submitted this proposal to allow the parties to look at this different approach to a storage agreement with Metropolitan Water District. Chair Jeske noted there have been discussions regarding this alternate proposal and other options to attempt to resolve the issues and one that parties can agree with. Chair Jeske noted since this proposed outline was released there have been some changes to it including the funding for DYY from MWD which dramatically changes the scope of the proposal. Mr. Manning stated the parties could move forward with the existing agreement; although a more logical approach would be for this group to approve Watermaster staff to work with the municipal water districts within the Chino Basin regarding this matter and to ask for an extension of time to deal with the storage program and to allow Watermaster staff to work with those same parties to see if there is a viability of working with this new storage program. Mr. Manning stated with that then staff would come back next month with a report. Mr. Kinsey stated he has a two part motion to offer to the group because of existing contractual issues that are yet to be worked out and then an interest in looking at this in a completely different way of utilizing storage in the Chino Basin for the benefit of the parties which is significantly different that what is proposed in the current DYY Expansion. A discussion regarding Mr. Kinsey's comments and this item ensued.

*Motion by Kinsey, second by Bosler, and by unanimous vote – Non-Ag concurred*  
**Moved to defer item until June and request staff to work with Metropolitan Water District and the MWD agencies in our area on a six month extension, as presented**

## III. REPORTS/UPDATES

### A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

#### 1. April 27, 2009 Hearing

Counsel Fife stated a hearing took place on April 27, 2009. Information was presented to the Judge and he asked questions and seemed to appreciate the presentation and information given to him. Judge Wade has scheduled the next hearing for June 29, 2009 at 9:30 a.m. which will to present Program Elements 4, 5, and 6. Judge Wade took action at the April 27<sup>th</sup> hearing with regard to Watermaster's reporting; he had asked for a complete report about all of the reports that are done at Watermaster. A list of the reports was presented to the Judge and an upcoming report on the Recharge Master Plan Update was due July 1<sup>st</sup>; however, Judge Wade excused Watermaster from preparing and filing that report. There seems to be a general desire on the Judges part to streamline the reporting that Watermaster does.

**B. ENGINEERING REPORT**1. Brooks Basin Recharge Recycled Water

Mr. Wildermuth stated there are three reports to report on today with the first being on the Brooks Basin Recharge Recycled Water. Mr. Wildermuth stated Watermaster and IEUA must meet certain recycled water contributions at each basin over a rolling 60-month average. IEUA proposed to amend the Watermaster and IEUA recharge permit to expansion the dilution period from 60 to 120 months. Both the Department of Public Health (DPH) and the Regional Water Quality Control Board (RWQCB) appear to be supportive of this permit expand. Mr. Wildermuth noted that the City of Pomona has expressed concern that this is a material change from the current permit, due to water quality concerns at its nearby wells and that IEUA should make a new application to Watermaster for analysis and approval pursuant to the Peace Agreement. Mr. Wildermuth reviewed a table from the 2010 Recharge Master Plan Perspective for the Chino Basin Recycled water Groundwater Recharge Program in detail. Several maps were reviewed in detail. Mr. Wildermuth stated for the Phase II recycled water recharge application, Watermaster found no material injury provided that IEUA could obtain DPH approval and a permit from the RWQCB. Mr. Wildermuth stated they would both likely come to the same conclusion if the proposed dilution period was extended from 60 to 120 months. Mr. Wildermuth reviewed the TDS projections for the Chino basin North Management Zone which included Max Benefit Objective and Ambient TDS concentrations. A brief discussion regarding Mr. Wildermuth's presentation ensued.

2. Storage Losses

Mr. Wildermuth stated Watermaster currently assess a 2% loss to water in storage accounts pursuant to the Peace Agreement. Staff was asked to re-evaluate the storage loss amount given the additional data collected by Watermaster and based on the new high resolution model. Mr. Wildermuth discussed the storage loss term and noted the linear reservoir theory is commonly applied in hydrology models to describe groundwater discharge to streams. Mr. Wildermuth reviewed the charts, Cumulative Change in Chino Basin Groundwater Storage for Each Alternative, Comparison of Projected Difference in Annual Santa Ana River Discharge at Prado for DYY Expansion Program Alternatives Relative to Baseline, and Approximate Relationship between Incremental Changes in Storage and Incremental Changes in Groundwater Discharge in Santa Ana River in detail. A brief discussion regarding Storage Losses ensued.

3. Recharge Master Plan Update

Mr. Wildermuth gave the 2010 Recharge Master Plan Update Progress Report presentation. Mr. Wildermuth reviewed the current Storm Water Recharge, Safe Yield – pending storm water work, Production and Recharge Optimization, and Projection and Recharge Optimization including the problems and the solution approach. Several estimated drawdown maps between 2006 and 2030 were reviewed in detail. Figures examining simulated groundwater water levels in the Cucamonga Valley Water District, the City of Ontario, and Jurupa Community Services District were reviewed in detail. Mr. Wildermuth stated supplemental water requirements are done and most of the data collection is done with major efforts to begin in late June. The schedule is being adjusted to reflect actual and a draft report should be ready next February. A brief discussion regarding the Recharge Master Plan Update ensued.

**C. FINANCIAL REPORT**1. Hanson Settlement

Ms. Rojo noted the settlement was discussed at previous meetings. Ms. Rojo stated the settlement is for damages caused by Hanson Aggregates at the Lower Day Basin. The settlement amount is \$450,000.00 and a check in the amount of \$117,000 has been received. Staff needs to come up with a plan as to how to equitably breakdown those monies as they come in along with how it will be allocated. Ms. Rojo reviewed the Hanson

Expense Analysis slide in detail, and this item will be discussed again at future meetings. A discussion regarding this matter ensued.

2. Replenishment Obligation Update

Ms. Rojo stated this item deals with our current unmet replenishment obligation (CURO); there is still a 13,000 acre-foot replenishment obligation from the previous year that staff is looking to come up with sources of water to meet that amount. Ms. Rojo discussed interest income, fund balance interest, and replenishment water account interest.

Added Item:

Ms. Rojo noted she would like to add an item for information. Ms. Rojo stated ACWA put out a National Geographic magazine opportunity and several parties who have expressed an interest in purchasing this magazine. This particular magazine has four different seasons and must be purchased in a minimum amount of 1,000 magazines at four different times. The cost is .35 cents for each copy; however the cost of shipping the magazine is almost the same price of the magazine. Ms. Rojo noted some parties expressed an interest in going together combine orders to meet the minimum amount that needs to be purchased.

D. CEO/STAFF REPORT

1. Legislative Update

Mr. Manning stated on April 15, 2009, Inland Empire Utilities Agency had taken action to support and oppose a few legislative bills in Sacramento. One that is of particular interest to them was vetoed by the governor last year, in its previous form; although now it is AB1366 and that did pass the committee today and will go to the assembly floor later today. Mr. Manning noted the ACWA Conference is next will and he will attend that conference.

2. Recharge Update

Mr. Manning stated the most recent recharge update spreadsheet is available on the back table for your review.

3. Foothill Water Coalition

Mr. Manning stated the parties will see an agreement regarding the Foothill Water Coalition in the next 30-60 days. Mr. Manning gave an overview of the Foothill Water Coalition. One of the projects that this coalition is working on has tremendous benefit to the Chino Basin it is the connection between the two pipelines that will connect the Agua De Lejos and WFA facility; this will also allow a turnout for the Chino Basin to take water off of that line when there are times that other water districts water is not available to us. The estimated cost to join this coalition is \$10,000 which does get Watermaster involved in the project and at the table; this is a onetime payment. More information will be given at future meetings. A brief discussion regarding other parties' involvement costs.

4. Zone 1 Repair to San Sevaine Channel Agreement

Mr. Manning stated a portion of this item was discussed under the Budget item. The Zone 1 repair to the San Sevaine Channel Agreement will be coming back in June and at that time a discussion regarding Watermaster's commitments and obligations will take place. Mr. Manning reminded the parties that this mainly stems from the Christmas Day 2003 storm repairs; the actual costs are almost 100% complete and will be reflected in the upcoming agreement.

IV. INFORMATION

1. Newspaper Articles

No comment was made regarding this item.

**V. POOL MEMBER COMMENTS**

Mr. Kinsey requested a look up and report back action item for Mr. Manning and Counsel Fife regarding Peace II and the ongoing imported recharge obligation in Management Zone 1 and whether that obligation is cumulative. Mr. Manning agreed that it is accumulative. Mr. Kinsey stated since we are not doing recharge right now and wants to make sure that there is some sort of tracking procedure to keep track of that so that when water does becomes available there will be an agreed upon commitment to satisfy that obligation. A brief discussion regarding Mr. Kinsey's comments ensued.

**VI. OTHER BUSINESS**

No comment was made regarding this item.

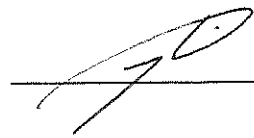
**VII. CONFIDENTIAL SESSION - POSSIBLE ACTION**

No confidential session was held.

**VIII. FUTURE MEETINGS**

May 14 2009	10:00 a.m.	Appropriative & Non-Agricultural Pool Meeting
May 19, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
May 28, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
May 28, 2009	9:00 a.m.	Advisory Committee Meeting
May 28, 2009	11:00 a.m.	Watermaster Board Meeting
May 28, 2009	1:00 p.m.	WE Workshop #3 Tasks 8.2 through 8.5

The Appropriative Pool meeting was dismissed by Chair Jeske at 11:34 a.m.

Secretary:  \_\_\_\_\_

Minutes Approved: June 11, 2009

Watermaster Board Meeting  
Minutes  
for  
5-28-2009

**Minutes**  
**CHINO BASIN WATERMASTER**  
**WATERMASTER BOARD MEETING**  
May 28, 2009

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on May 28, 2009 at 11:00 a.m.

**WATERMASTER BOARD MEMBERS PRESENT**

Ken Willis, Chair  
Bob Kuhn  
Jim Curatalo  
Michael Whitehead  
Michael Camacho  
Bob Bowcock  
Paul Hofer  
Bob Feenstra

City of Upland  
Three Valleys Municipal Water District  
Cucamonga Valley Water District  
Fontana Water Company  
Inland Empire Utilities Agency  
Vulcan Materials Company  
Agricultural Pool  
Agricultural Pool

**Watermaster Staff Present**

Ken Manning  
Sheri Rojo  
Ben Pak  
Sherri Lynne Molino

CEO  
CFO/Asst. General Manager  
Senior Project Engineer  
Recording Secretary

**Watermaster Consultants Present**

Scott Slater  
Michael Fife  
Mark Wildermuth

Brownstein, Hyatt, Farber & Schreck  
Brownstein, Hyatt, Farber & Schreck  
Wildermuth Environmental Inc.

**Others Present**

Robert DeLoach  
Mark Kinsey  
Anthony La  
Dave Crosley  
Raul Garibay  
Bill Kruger  
Ron Craig  
Ken Jeske  
Mohamad El-Amamy  
Charles Moorrees  
David DeJesus  
Rick Hansen  
Jeff Pierson  
Sandra Rose  
Steven Lee  
Eunice Ulloa  
Terry Catlin

Cucamonga Valley Water District  
Monte Vista Water District  
City of Upland  
City of Chino  
City of Pomona  
City of Chino Hills  
City of Chino Hills  
City of Ontario  
City of Ontario  
San Antonio Water Company  
Three Valleys Municipal Water District  
Three Valleys Municipal Water District  
Ag Pool  
Monte Vista Water District  
Reid & Hellyer  
Chino Basin Water Conservation District  
Inland Empire Utilities Agency

The Watermaster Board Meeting was called to order by Chair Willis at 11:06 a.m.

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS**

No public comments were made.

**AGENDA - ADDITIONS/REORDER**

No additions or reorders were made to the agenda.

## Added Comment:

Mr. Manning informed the parties present about Board member Charles Fields recent health conditions and noted Mr. John Rossi will be sitting in as his alternate until Mr. Fields returns. Mr. Manning stated a card is being passed around for the Board members to sign.

**I. CONSENT CALENDAR****A. MINUTES**

1. Minutes of the Watermaster Board Meeting held April 23, 2009

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of April 2009
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through March 31, 2009
4. Treasurer's Report of Financial Affairs for the Period March 1, 2009 through February 31, 2009
5. Budget vs. Actual July 2008 through March 2009

**C. WATER TRANSACTION**

1. **Consider Approval for Notice of Sale or Transfer** – Cucamonga Valley Water District is purchasing 500 acre-feet of water from West Valley Water District. This purchase is made from WVWD's water in storage and is to be placed in CVWD's Excess Carryover Account. Date of Application: March 10, 2009
2. **Consider Approval for Notice of Sale or Transfer** – Chino Basin Watermaster will purchase 1,000 acre-feet of water from the Jurupa Community Services District Toward Replenishment Obligation. Date of Application: March 17, 2009
3. **Consider Approval for Notice of Sale or Transfer** – On March 9, 2009, Watermaster received Form 5 "Application to Transfer Annual Production Right or Safe Yield, with KCO, LLC (Koll) as Transferor and the City of Ontario (as Overlying Non-Agricultural party) as Transferee in the amount of 22 acre-feet – a permanent transfer of its share of safe yield. Date of Application: March 9, 2009

**D. PERS AMENDMENT**

Final Contract for Public Employee Retirement formula from 2.0% at 55 to 2.5% at 55

*Motion by Kuhn, second by Camacho, and by unanimous vote*

***Moved to approve Consent Calendar A through D, as presented***

**II. BUSINESS ITEM****A. CHINO BASIN WATERMASTER 2009-2010 BUDGET**

Mr. Manning noted the 2009-2010 Budget is in the meeting package. Mr. Manning stated staff is looking at approving the budget as it was approved last year in that a revised budget will be presented half way through the fiscal year just prior to the Assessment Package approval with proposed revised numbers. Ms. Rojo reviewed the 2009-2010 budget and the 2008-2009 budget changes and summarized the Peace II portion and the MZ1 Long Term Plan portion of the budget. Ms. Rojo reviewed the 2009-2010 budget noting there is no COLA for Watermaster staff, there are 11 approved positions but only 10.25 are budgeted. Watermaster staff has worked to not increase administrative expenses, there are reductions in OBMP & Special Project categories, and Watermaster is still working to reduce "maximum benefit" related monitoring costs. Ms. Rojo examined the detailed portion of the Recharge Debt Service and Recharge O&M budget detail. Ms. Rojo reviewed several years of OBMP & Project Costs by Fiscal Year with and without recharge debt and recharge O&M in detail.

*Motion by Camacho, second by Hofer, and by unanimous vote*

***Moved to approve the Chino Basin Watermaster 2009-2010 Budget, as presented***

**III. REPORTS/UPDATES****A. WATERMASTER GENERAL LEGAL COUNSEL REPORT****1. April 27, 2009 Hearing**

Counsel Slater stated a copy of the notice of the ruling from the April 27, 2009 hearing is available on the back table. Chino Basin Watermaster was excused by Judge Wade on the final report on Condition Subsequent No. 5 which was a report on the progress in the development of the Recharge Master Plan Update and that is reflected in the notice. A third hearing is now scheduled for June 29, 2009 at 9:30 a.m. which will cover Program Elements No. 4, 5, and 6. Counsel Slater described the Program Elements in detail and noted staff is working with the City of Chino Hills and the City of Chino to decide how Program Element No. 4 will be presented.

**2. Auction Price Floor Agreement and Storage & Recovery Agreement**

Counsel Slater stated that this process is moving forward at the Pool level. There has still been no action taken by the underlying Pools with regard to making a formal recommendation or to bring a project forward to the Watermaster Board. The expectation is this item will be more complete and ready to be brought forward next month; hopefully, having board approval at the end of June. If this is approved in June it will be submitted to the court, with approval from the court 30 to 60 days later and then conduct the auction in the fall. There is some interest in developing an alternative to the straight auction process so that in the event the auction process does not yield the results that the parties are looking for. This possible alternative will assist the parties in not losing the opportunity negotiated under Peace II documents. The key questions that will be presented to the Watermaster Board will be the Storage & Recovery Agreement; no party can hold a storage account in the Chino Basin unless they hold an approved storage agreement. The approval must be from the Watermaster Board and from the court. Included in the approval there must be a finding of no material physical injury; Wildermuth Environmental will develop that analysis. There has been a lot of discussion regarding broad benefit and those discussions included the notion that the auction process may not be the best way to proceed. Counsel Slater stated under the Peace Agreement there is a requirement that all of the revenue secured from a Storage & Recovery Agreement, must be earmarked for the members of the Appropriate Pool; however, it cannot be discriminatory or discreet so that only certain members of the pool benefit and there will need to be a finding that all parties of the pool are benefitted. Staff is working with the parties to try and develop a standard to present to the Board members so you can conclude a broad benefit is being provided. A lengthy discussion regarding this matter ensued.

**3. Application for Storage Account**

Counsel Slater stated this was a business item on the Pools agenda that has been moved to reports for the Advisory Committee and Watermaster Board meetings. Counsel Slater stated this is the application by Inland Empire Utilities Agency, Three Valleys Municipal Water District, and Western Municipal Water District for the MET DYY Expansion. The Appropriate Pool voted to table this item for this month and to move it to the agenda for next month; the materials were kept in the packet for reference and transparency.

**B. ENGINEERING REPORT****1. Brooks Basin Recharge Recycled Water**

Mr. Wildermuth stated there are three items to report on today with the first being the Brooks Basin Recharge Recycled Water permit. Mr. Wildermuth stated Watermaster and IEUA must meet certain recycled water contributions at each basin over a rolling 60-month average. IEUA proposed to amend the Watermaster and IEUA recharge permit to expanding the dilution period from 60 to 120 months. Both the Department of Public Health (DPH) and the Regional Water Quality Control Board (RWQCB) appear to be supportive of this permit expansion. Mr. Wildermuth noted that the City of Pomona has expressed concern that this is a material change from the current permit, due to water quality concerns at its nearby wells and that IEUA should make a new application to Watermaster for analysis and approval pursuant to the Peace Agreement. Mr. Wildermuth reviewed a table from the 2010 Recharge Master Plan Perspective for the Chino Basin Recycled water



Groundwater Recharge Program in detail. Several maps were reviewed in detail. Mr. Wildermuth stated for the Phase II recycled water recharge application, Watermaster found no material injury provided that IEUA could obtain DPH approval and a permit from the RWQCB. Mr. Wildermuth stated they would both likely come to the same conclusion if the proposed dilution period was extended from 60 to 120 months. Mr. Wildermuth reviewed the TDS projections for the Chino Basin North Management Zone which included Max Benefit Objectives and Ambient TDS concentrations. A brief discussion regarding Mr. Wildermuth's presentation ensued.

2. Storage Losses

Mr. Wildermuth stated Watermaster currently assesses a 2% loss to water in storage accounts pursuant to the Peace Agreement. Staff was asked to re-evaluate the storage loss amount given the additional data collected by Watermaster and based on the new high resolution model. Mr. Wildermuth discussed the storage loss term and noted the linear reservoir theory is commonly applied in hydrology models to describe groundwater discharge to streams. Mr. Wildermuth reviewed the charts, Cumulative Change in Chino Basin Groundwater Storage for Each Alternative, Comparison of Projected Difference in Annual Santa Ana River Discharge at Prado for DYY Expansion Program Alternatives Relative to Baseline, and Approximate Relationship between Incremental Changes in Storage and Incremental Changes in Groundwater Discharge in Santa Ana River in detail. In summary, it appears that the use of 2% as a storage loss factor is consistent with the model results. A lengthy discussion regarding storage losses ensued.

3. Recharge Master Plan Update

Mr. Wildermuth gave the 2010 Recharge Master Plan Update Progress Report presentation. Mr. Wildermuth reviewed the current Storm Water Recharge, Safe Yield – pending storm water work, Production and Recharge Optimization, and Projection and Recharge Optimization, including the problems and the solution approach. Several estimated drawdown maps between 2006 and 2030 were reviewed in detail. Figures examining simulated groundwater water levels in the service areas of Cucamonga Valley Water District, the City of Ontario, and Jurupa Community Services District were reviewed in detail. Mr. Wildermuth stated supplemental water requirements are done and most of the data collection is done with major efforts to begin in late June. The schedule is being adjusted to reflect actual and a draft report should be ready next February. A brief discussion regarding the Recharge Master Plan Update ensued. Mr. Manning stated a workshop will be held to discuss this item in greater detail.

**C. FINANCIAL REPORT**

1. Hanson Settlement

Ms. Rojo noted the settlement was discussed at previous meetings. Ms. Rojo stated the settlement is for damages caused by Hanson Aggregates at the Lower Day Basin. The settlement amount is \$450,000.00 and a check in the amount of \$117,000 has been received. Staff has come up with a plan as to how to equitably breakdown those monies as they come in along with how it will be allocated. Ms. Rojo reviewed the Hanson Expense Analysis slide in detail.

2. Replenishment Obligation Update

Ms. Rojo stated this item deals with our Current Unmet Replenishment Obligation (CURO); there is still a 13,000 acre-foot replenishment obligation from the previous year that staff is looking to come up with sources of water to meet. Ms. Rojo discussed interest income, and how interest earnings attributed to money held for purchasing replenishment water will have that interest unedited to the replenishment water funds.

**D. CEO/STAFF REPORT**

1. Legislative Update

Mr. Manning noted the slide show that was playing on the screen as people walked in to the meeting room were of photos taken at the recent ACWA Conference in Sacramento. The protest demonstration was the very first for ACWA and was held right in front of the Governor's office. Mr. Manning offered comment on the demonstration efforts. Mr. Manning stated IEUA puts together a very detailed report on legislative issues and those sheets start of page 285 in the meeting packet for your review. Mr. Manning stated the first issue out of four of the National Geographic magazine on water is now available, it is a very informative magazine, and you can even get your logo printed on the back of it.

2. Recharge Update

Mr. Manning stated the most recent recharge update is available on the back table for review.

3. Foothill Water Coalition

Mr. Manning stated the parties will see an agreement regarding the Foothill Water Coalition in the next 30-60 days. Mr. Manning gave an overview of what the Foothill Water Coalition is and does. One of the projects that this coalition is working on has tremendous benefit to the Chino Basin is the connection between the two pipelines that will connect the Agua De Lejos and WFA facility; this will also allow for a turnout for the Chino Basin to pull water off of that when there are times that other water districts water is not available to us. The estimated cost to join is \$10,000 which gets Watermaster involved in the project and at the table; this is a onetime payment. More information will be provided future meetings.

4. Zone 1 Repair to San Sevaine Channel Agreement

Mr. Manning noted this agreement will be brought back next month.

**IV. INFORMATION**

1. Newspaper Articles

No comment was made regarding this item.

**V. COMMITTEE MEMBER COMMENTS**

No comment was made regarding this item.

**VI. OTHER BUSINESS**

No comment was made regarding this item.

**VII. CONFIDENTIAL SESSION - POSSIBLE ACTION**

Pursuant to Article 2.6 of the Watermaster Rules & Regulations, a Confidential Session may be held during the Watermaster committee meeting for the purpose of discussion and possible action.

No confidential session was called to order.

**VIII. FUTURE MEETINGS**

May 28, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
May 28, 2009	9:00 a.m.	Advisory Committee Meeting
May 28, 2009	11:00 a.m.	Watermaster Board Meeting
June 11, 2009	10:00 a.m.	Appropriative & Non-Agricultural Pool Meeting
June 16, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
June 25, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
June 25, 2009	9:00 a.m.	Advisory Committee Meeting
June 25, 2009	11:00 a.m.	Watermaster Board Meeting
June 25, 2009	1:00 p.m.	WE Workshop #3 Task 4.3 and Task 6.2
June 29, 2009	9:30 a.m.	CBWM Court Hearing – San Bernardino Court

The Watermaster Board meeting was dismissed by Chair Willis at 11:53 a.m.

Secretary 

Minutes Approve: June 25, 2009

Joint Appropriative and Non-  
Agricultural Pool Meeting  
Minutes  
for  
6-11-2009

**Minutes**  
**CHINO BASIN WATERMASTER**  
**JOINT APPROPRIATIVE & NON-AGRICULTURAL POOL MEETING**  
June 11, 2009

The Joint Appropriative and Non-Agricultural Pool Meeting were held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on June 11, 2009 at 10:00 a.m.

**APPROPRIATIVE POOL MEMBERS PRESENT**

Ken Jeske, Chair	City of Ontario
Robert DeLoach	Cucamonga Valley Water District
Mark Kinsey	Monte Vista Water District
Mike McGraw	Fontana Water Company
J. Arnold Rodriguez	Santa Ana River Water Company
Anthony La	City of Upland
Raul Garibay	City of Pomona
Dave Crosley	City of Chino

**NON-AGRICULTURAL POOL MEMBERS PRESENT**

Kevin Sage	Vulcan Materials Company (Calmat Division)
Mohamad El Amamy	City of Ontario

**Watermaster Staff Present**

Sheri Rojo	CFO/Asst. General Manager
Ben Pak	Senior Project Engineer
Sherri Lynne Molino	Recording Secretary

**Watermaster Consultants Present**

Michael Fife	Brownstein, Hyatt, Farber & Schreck
Scott Slater	Brownstein, Hyatt, Farber & Schreck

**Others Present**

Marv Shaw	Inland Empire Utilities Agency
Tom Love	Inland Empire Utilities Agency
Sandra Rose	Monte Vista Water District
Eunice Ulloa	Chino Basin Water Conservation District
Kati Parker	Chino Basin Water Conservation District
Dave Penrice	Aqua Capital Management
Maria Camacho	Guest

Chair Jeske called the Joint Appropriative and Non-Agricultural Pool Meeting to order at 10:00 a.m.

**AGENDA - ADDITIONS/REORDER**

There were no additions or reorders made to the agenda.

**I. CONSENT CALENDAR**

**A. MINUTES**

1. Minutes of the Joint Appropriative and Non-Agricultural Pool Meeting held May 14, 2009

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of May 2009
2. Watermaster Visa Check Detail

3. Combining Schedule for the Period July 1, 2008 through April 30, 2009
4. Treasurer's Report of Financial Affairs for the Period February 1, 2009 through April 30, 2009
5. Budget vs. Actual July 2008 through April 2009

### C. WATER TRANSACTION

1. **Consider Approval for Notice of Sale or Transfer** – Monte Vista Water District will purchase 3,500 acre-feet of water from the City of Pomona. This purchase is made first from Pomona's net underproduction, if any, in Fiscal Year 2008-09, with any remainder to be recaptured from storage. Date of application: May 11, 2009
2. **Consider Approval for Notice of Sale or Transfer** – Fontana Water Company has agreed to purchase from The Nicholson Trust annual production right in the amount of 5.619 acre-feet to satisfy a portion of the company's anticipated Chino Basin replenishment obligation for Fiscal Year 2008-09. Date of application: May 21, 2009
3. **Consider Approval for Notice of Sale or Transfer** – On June 3, 2009, Watermaster received Form 5, "Application to Transfer Annual Production Right or Safe Yield," with CalMat Company/Vulcan Materials Company as transferor and Aqua Capital Management LP as transferee in the amount of 317.844 acre-feet annual right, all water in its annual account will be transferred as well (the transfer does not include CalMat's water in storage as of June 30, 2008 of 315.637 acre-feet). Date of application: June 1, 2009
4. **Consider Approval for Notice of Sale or Transfer** – Chino Basin Watermaster will purchase 3,400 acre-feet of water from the Marygold Mutual Water Company. Water will purchase the water at \$295.00 per acre-foot, which is the MWD replenishment rate (not including IEUA and OCWD fees). The transfer will be made from Marygold Mutual Water Company's water in storage. This transfer will solely offset Fontana Water Company's current (Assessment Year 2008-2009)

*Motion by DeLoach, second by La, and by unanimous vote – Non-Ag concurred*  
***Moved to approve Consent Calendar A through C1 and C2, as presented***

There were some brief clarifications and discussion on item C3 prior to the motion.

*Motion by Kinsey, second by DeLoach, and by unanimous vote – Non-Ag concurred*  
***Moved to approve Consent Calendar item C3, as presented***

A discussion on item C4 regarding the possibility of needing an accounting procedures on this particular kind of water transaction ensued. A discussion regarding the wording on this type of water transaction and replenishment obligations ensued. Counsel Fife concurred a procedure will need to be created.

*Motion by Jeske, second by Kinsey, and by unanimous vote – Non-Ag concurred*  
***Moved to approve Consent Calendar item C4, as presented***

## II. BUSINESS ITEM

### A. OVERLYING NON-AGRICULTURAL POOL AUCTION ISSUES

1. Storage & Recovery Agreement
2. Broad Benefit
3. Determination on Material Physical Injury

Counsel Fife noted this particular item consists of three different parts as listed on the agenda and staff is seeking one motion on this business item. Counsel Fife stated when a bidder comes into the auction; they will be bidding on the right to hold this agreement with Chino Basin Watermaster as a Storage & Recovery Agreement. In order to move forward with this auction the Watermaster Board will need to make findings that under the Peace Agreement this Storage & Recovery Program will provide broad mutual benefit and to make a finding concerning material physical injury; these issues are described in the staff report. Counsel Slater stated under separate cover the Storage & Recovery Agreement was distributed and this agreement was

based on the previous agreements that have been distributed previously. The only new portion is the conditionality at the end of the agreement with regard to material physical injury that came out of the Wildermuth analysis. Counsel Slater stated there are a couple items not present in the meeting packet because they will be distributed and discussed during the closed session. Counsel Slater stated there is a comprehensive staff report regarding the auction process in the meeting packet. Chair Jeske asked if there were any comments or questions regarding this item. Mr. Crosley inquired about the conclusion paragraph on page 94 of the meeting packet regarding MZ1. Counsel Slater stated the Storage & Recovery Agreement is intended to identify those things that may be permitted without further Watermaster approvals and will not cause material harm. There are other things that are not prohibited and will require additional discretionary approval by Watermaster. A lengthy discussion regarding Mr. Crosley's questions, Counsel Slater's comments, and the current MZ1 Management Plan ensued. It was noted a sub-committee needs to be formed to work with staff to further elaborate or refine the wording to avoid prejudice to any specific producer or zone with regard to the auction. A discussion on the needed sub-committee ensued and it was decided the City of Ontario, the City of Chino, Monte Vista Water District, and Cucamonga Valley Water District would appoint a person to sit in on the sub-committee to work on this issue prior to the next Watermaster Board meeting. Chair Jeske stated the suggestion noted from this committee is to move this item contingent on a sub-committee agreeing to the language on the extraction plans.

*Motion by DeLoach, second by La, by a majority vote, Non-Ag concurred, and Kinsey voted no*  
***Moved to approve Overlying Non-Agricultural Pool Auction which include the Storage & Recovery Agreement, Broad Benefit, and Material Physical Injury, with the condition of rewording regarding the MZ1 portion by a sub-committee consisting of the City of Ontario, the City of Chino, Monte Vista Water District, and Cucamonga Valley Water District appointees recommendation on the extraction plan language, as presented***

### III. REPORTS/UPDATES

#### A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

##### 1. June 29, 2009 Hearing

Counsel Fife stated a copy of the notice of the ruling from the April 27, 2009 hearing is available on the back table. Chino Basin Watermaster was excused by Judge Wade on the final report on Condition Subsequent No. 5 which was a report on the progress in the development of the Recharge Master Plan Update and that is reflected in the notice. A third hearing is now scheduled for June 29, 2009 at 9:30 a.m. which will cover Program Elements No. 4, 5, and 6. Counsel Fife described the Program Elements in detail and noted Andy Malone from Wildermuth Environmental will be giving the presentation on Program Element 4.

#### B. ENGINEERING REPORT

##### 1. Recharge Master Plan Progress Report

Ms. Rojo stated that she will be giving the engineering report due to lack of availability of Wildermuth staff to attend today's meeting. Ms. Rojo stated with regard to the Recharge Master Plan (RMP) update Wagner and Bonsignore are working to finalize their storm water memorandum and local project (small local recharge facilities) details. Wildermuth has halted the majority of their work waiting for these local projects to be identified. The modeling for the production optimization modeling has been completed; documentation is now in process as part of the Peace II CEQA analysis. The Peace II CEQA work is currently being conducted. Mr. Wildermuth will be at the next Advisory Committee and Watermaster Board meeting to give a more detailed report on the Recharge Master Plan update.

##### 2. Upcoming Workshop Schedule

Ms. Rojo stated there is a scheduled workshop on June 18, 2009 at 10:00 - 12:00 (Non RMP Workshop) scheduled which will include losses resulting from increased storage and assumptions used in the Peace 2 CEQA analysis. Ms. Rojo stated there is no June 25, 2009 Workshop; however, there will be one on July 28, 2009 which is a RMP Workshop #3 and will

cover Task 4.3 Determine How Land use and Storm Water Recharge Decisions Affect Safe Yield and Task 6.2 Identify Potential Storm Water Recharge Projects. Ms. Rojo stated there is also a scheduled workshop on August 27, 2009 which is RMP Workshop #4 and will cover Task 6.3 Develop New Storm Water Recharge Alternatives. Ms. Rojo also noted the September 24, 2009 workshop which is RMP Workshop #5 and will cover Task 7.3 Identify New Supplemental Water Recharge Projects. Mr. Wildermuth will be at the next Advisory Committee and Watermaster Board meeting to give a more detailed report on the upcoming workshops.

#### C. FINANCIAL REPORT

##### 1. Fiscal Year End Update

Ms. Rojo stated Watermaster's fiscal year ends up June 30, 2009. Staff has already begun work in the Ag Conversions and the current land use conversion progress; those agencies are currently being contacted. Production Reports will be going out shortly along with the Water Activity Reports.

#### D. CEO/STAFF REPORT

##### 1. Legislative Update

Ms. Rojo stated Mr. Manning is going to be giving a detailed legislative update at the Advisory Committee meeting.

Ms. Rojo stated she attended the Three Valleys Municipal Water Leadership Breakfast today along with several people who are present at today's meeting. Brian Thomas who is the CFO/Assistant General Manager of Metropolitan Water District was the key speaker at the breakfast. Ms. Rojo noted Mr. Thomas spoke on the outlook of the water supply availability for the Southern California area. Ms. Rojo offered comment on the presentation/discussions that took place at the breakfast.

##### 2. Recharge Update

Ms. Rojo noted Mr. Manning will give a detailed report on the recharge update at the Advisory Committee meeting and stated the most recent recharge update is available on the back table for review.

#### IV. INFORMATION

##### 1. Newspaper Articles

No comment was made regarding this item.

#### V. POOL MEMBER COMMENTS

Mr. Shaw commented on the EIR optimization schedule.

#### VI. OTHER BUSINESS

No comment was made regarding this item.

The Non-Agricultural Pool meeting convened its meeting at 10:50 a.m.

The closed session was convened at 11:30 a.m.

#### VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

Pursuant to the Appropriative and Non-Agricultural Pool Rules & Regulations, a Confidential Session may be held during the Watermaster Pool meeting for the purpose of discussion and possible action.

1. Administration for the Auction of the Non-Agricultural Pool Water in Storage
2. Metropolitan Water District Dry Year Yield Meeting on June 2, 2009

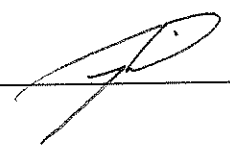
No reportable action was provided from the confidential session.



**VIII. FUTURE MEETINGS**

June 11, 2009	10:00 a.m.	Appropriative & Non-Agricultural Pool Meeting
June 16, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
June 18, 2009	10:00 a.m.	Workshop (Losses & Assumptions in Peace II CEQA)
June 25, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
June 25, 2009	9:00 a.m.	Advisory Committee Meeting
June 25, 2009	11:00 a.m.	Watermaster Board Meeting
June 25, 2009	1:00 p.m.	WE Workshop #3 Task 4.3 and Task 6.2
June 29, 2009	9:30 a.m.	CBWM Court Hearing – San Bernardino Court

The Appropriative Pool meeting was dismissed by Chair Jeske at 11:31 a.m.

Secretary:  \_\_\_\_\_

Minutes Approved: July 9, 2009

Watermaster Board Meeting  
Minutes  
for  
6-25-2009

**Minutes**  
**CHINO BASIN WATERMASTER**  
**WATERMASTER BOARD MEETING**  
*June 25, 2009*

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on June 25, 2009 at 11:00 a.m.

**WATERMASTER BOARD MEMBERS PRESENT**

Ken Willis, Chair  
John Rossi  
Bob Kuhn  
Jim Curatalo  
Michael Whitehead  
Michael Camacho  
Bob Bowcock  
Jeff Pierson  
Bob Feenstra

City of Upland  
Western Municipal Water District  
Three Valleys Municipal Water District  
Cucamonga Valley Water District  
Fontana Water Company  
Inland Empire Utilities Agency  
Vulcan Materials Company  
Agricultural Pool  
Agricultural Pool

**Watermaster Staff Present**

Kenneth R. Manning  
Sheri Rojo  
Ben Pak  
Danielle Maurizio  
Sherri Lynne Molino

Chief Executive Officer  
CFO/Asst. General Manager  
Senior Project Engineer  
Senior Engineer  
Recording Secretary

**Watermaster Consultants Present**

Scott Slater  
Michael Fife  
Mark Wildermuth

Brownstein, Hyatt, Farber & Schreck  
Brownstein, Hyatt, Farber & Schreck  
Wildermuth Environmental Inc.

**Others Present**

Mark Kinsey  
Marty Zvirbulis  
Dave Crosley  
Raul Garibay  
Robert Young  
John Mura  
Ron Craig  
Ken Jeske  
Jennifer Novak  
Robert Tock  
David DeJesus  
Dan Horan  
Sandra Rose  
Steven Lee  
Eunice Ulloa  
Terry Catlin  
David Penrice  
Hank Stoy

Monte Vista Water District  
Cucamonga Valley Water District  
City of Chino  
City of Pomona  
Fontana Union Water Company  
City of Chino Hills  
City of Chino Hills  
City of Ontario  
State of California Department of Justice, CIM  
Jurupa Community Services District  
Three Valleys Municipal Water District  
Three Valleys Municipal Water District  
Monte Vista Water District  
Reid & Hellyer  
Chino Basin Water Conservation District  
Inland Empire Utilities Agency  
Aqua Capital Management  
Cucamonga Valley Water District

The Watermaster Board Meeting was called to order by Chair Willis at 11:00 a.m.

**PLEDGE OF ALLEGIANCE****PUBLIC COMMENTS**

No public comments were made.

**AGENDA - ADDITIONS/REORDER**

Mr. Manning stated there were three new handouts regarding the auction Business Item II A; 1) Revised Staff Letter, 2) Supplement staff letter, and 3) Exhibit A – Conditions for Storage and Recovery Agreement. Mr. Manning stated these three items are what will be used to make your decision today for the auction.

**I. CONSENT CALENDAR****A. MINUTES**

1. Minutes of the Watermaster Board Meeting on May 28, 2009

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of May 2009
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through April 30, 2009
4. Treasurer's Report of Financial Affairs for the Period February 1, 2009 through April 30, 2009
5. Budget vs. Actual July 2008 through April 2009

**C. BANK OF AMERICA**

1. Bank of America Visa Request to Appoint Ken Manning, CEO as Authorized Agent at Chino Basin Watermaster with a Credit Limit of \$10,000.00 for the Visa Account No. XXXX-XXXX-XXXX-9341

*Motion by Kuhn, second by Bowcock, and by unanimous vote*

*Moved to approve Consent Calendar A through C, as presented*

**II. BUSINESS ITEM****A. OVERLYING NON-AGRICULTURAL POOL AUCTION ISSUES**

1. Storage & Recovery Agreement
2. Broad Benefit
3. Determination on Material Physical Injury

Mr. Manning stated at the Advisory Committee meeting this morning a report was made that this item had gone to the Pools, and at the Appropriative and Non-Agricultural Pool meeting those pools took action to support and approve all three items listed under the business item and at the Agricultural Pool meeting, that committee took an action to take no action. At the Advisory Committee meeting there were a number of comments made and the action taken by that committee was approved; however, they took all three items independently and voted on them separately. At the Advisory Committee meeting there were some changes made within the documents and that committee is asking this Board to take their recommendation to approve those documents with those changes. Mr. Manning referenced the new staff report that was handed out this morning which included items 1, 2, 3, and 4; item 4 is for information only and will not have action taken on it today. Mr. Manning noted the Draft Storage & Recovery Agreement is the Draft Template Storage & Recovery Agreement and is included in the meeting package. There was a change to the findings on page 2 of the new staff report on Broad Mutual Benefit; the Advisory Committee asked for the insertion of, "the Appropriative Pools share of, on the third line after *Sale Agreement for* and before *capital* for clarification." Mr. Manning noted the other change was in the actual draft template within the recitals N to strike the word "unanimously" from that document because the vote was won by a majority vote at the Appropriative and Non-Agricultural Pool and a no vote at the Agricultural Pool meetings. Mr. Manning stated staff is seeking one motion on all three items; however, they can be taken separately if that is the Boards discretion. Mr. Manning noted several of the parties who were

present at the Advisory Committee meeting this morning are also present for this meeting if any clarification is needed as to what took place. Chair Willis asked for any comments or observations on this item. Mr. Bowcock stated the Non-Agricultural Pool wants to see this process move forward and stated with regard to broad mutual benefit, there is concern from the Non-Agricultural Pool that is contrary to the language with regard to the Peace II Agreement regarding exclusive benefit being between the Overlying Non-Agricultural Pool and the Appropriative Pool. The Appropriative Pool has elected to make themselves extremely exclusive in that process. At this time the Non-Agricultural Pool is not objecting to that exclusiveness, knowing there will be further dialog as to how those benefits will ultimately be shared. Mr. Manning stated Mr. Bowcock is correct and there will be additional dialog. Mr. Manning stated the parties are referring to a \$25 storage space fee that will be paid for by the parties that are successful in the auction; this is the part that the Overlying Non-Agricultural Pool is specifically referring to. Mr. Manning stated staff has no opinion on the section in question and there will be further discussions on it. Mr. Feenstra commented on what took place at the recent Agricultural Pool meeting regarding this matter and noted Ms. Novak will be giving a statement on the pools behalf. Ms. Novak stated the Agricultural Pool feels, even though they have been told they have no stake in the game, they want the process to move forward; although, at the same time, the pool wants to voice its opinion on concerns as they come up and have done so verbally at the Pool, Advisory Committee and Watermaster Board meetings and in writing. Ms. Novak stated she wanted it to be noted for the record that the Agricultural Pool has concerns and some of them are policy based, some of them are questions about the legal conditionality's, and some are technical based. Counsel Slater noted there have been legal, technical, and policy issues that have been raised through the Pool process and they are largely identified in the issue list within the staff report and are responded to. Counsel Slater stated the opinion of counsel and staff is not the final word; what is here is a process which is going to generate a Template Storage & Recovery Agreement, and Watermaster does not have the power, on its own, to execute a Storage & Recovery Agreement without court approval. Counsel Slater stated the process is that a Template Storage & Recovery Agreement will be nominated and submitted to the court along with the findings, rationale, and support of the conditions that are attached to the Template Storage & Recovery Agreement. The court will then be asked to approve the template so that the court will rule in advance of the auction. A lengthy discussion regarding the comments made on this item and on the downside of not voting on this issue today. Mr. Kuhn stated he was having a difficult time understanding what is being asked of this Board today. Mr. Manning restated the issues being presented today and the needed result to move this item forward in a timely manner to be taken to the court and ultimately to auction by December 31, 2009. A lengthy discussion regarding Mr. Manning's comments ensued. Counsel Slater restated the process that has been taking place, the needed outcome to move forward, and the legalities of the entire process to resolve this matter. A lengthy discussion regarding Counsel Slater's comments including conflict of interest concerns ensued. Mr. Whitehead stated he is thankful this item has been on the agenda at least as an information item for the past several months which led to several open discussions and noted this is an iterative process and if an action is taken today, that iterative process will continue because there is more to do. Mr. Whitehead inquired about professional services and noted the written expression of obtaining these professional services as being extremely important. Mr. Whitehead offered comment on the task at hand for this board, Watermaster staff, legal counsel, and for the professional services that are needed. Counsel Slater acknowledged that professional services are needed as to how to conduct an auction. Counsel Slater offered commentary on the professional services that conduct auctions and noted counsel has contacted them and engaged in dialog with them. Counsel Slater stated he has met with the pool members and has received feedback as what to do next and counsel is now in the position to carry out that instruction and bring that recommendation back through the Watermaster process in the next 30 days. A lengthy discussion regarding professional services ensued. Chair Willis stated he, as the chairman of this Board, would like to see this Board try to participate and trust the process to the extent that we are fully knowledgeable in all areas and will be ready to act when needed. Mr. Kuhn expressed his concern at moving forward today; however, noted it would be extremely beneficial if there would be a special meeting or workshop

to cover these items in greater detail. Counsel Slater reviewed the needed sequencing timeline in detail. Counsel Slater stated the Appropriative Pool are the compensation beneficiaries of the excess revenue and it is effectively their expense associated with conduction of the auction; the Appropriative Pool is fair to state they do not want to incur a six figure potential expense in administering a dry hole. The Appropriative Pool wants to know there is momentum and support for this activity before a professional service is retained which leads this board back to sequencing. A discussion regarding Counsel Slater's comments ensued. Mr. Curatalo offered comment on this matter and inquired about the possible meeting or workshop. Mr. Manning reviewed the sequence of events that would take place and noted they will be more defined by the actions taken today. Mr. Manning stated the foundation needs to be set first and then the next steps can be taken; however, if the foundation is not set first then this will not be moving forward to start on the next steps that are needed. Mr. Kuhn stated he would make a broad motion that the Board approves the three items presented that the opportunity to take this to the auction stage is not missed. Mr. Kuhn also noted a workshop needs to be scheduled as soon as possible. A lengthy discussion regarding this item ensued. Mr. Feenstra called for a roll call vote. Mr. Bowcock offered comment on the Agricultural Pool's abstention and offered encouragement for that pool to attend the upcoming workshops. A lengthy discussion regarding stopping the process at any point in time ensued. Mr. Manning stated staff and counsel designed this process where it is a constant check-in with the Pools, Advisory Committee and Watermaster Board as it is moved along the process so that there is a level of comfort. Mr. Jeske offered comment on the schedule and noted the urgency of getting these three items moving forward so that the next elements can begin. It was noted the auction administration portion is not being decided upon today. A lengthy discussion regarding the timeframe and the issues being covered for the upcoming workshop ensued.

*Motion by Kuhn, second by Curatalo, and by majority roll call vote – Ag Pool abstained  
Moved to approve the Storage & Recovery Template Agreement, the Broad Benefit definition, and the determination on Material Physical Injury and Watermaster staff will schedule two workshops: #1 Auction Process and #2 Auction Administration, as presented*

### III. REPORTS/UPDATES

#### A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

##### 1. June 29, 2009 Hearing

Counsel Slater stated there is a Watermaster hearing scheduled for Monday, June 29, 2009 at 9:30 a.m. and this hearing will cover Program Elements No. 4, 5, and 6. Presentations will be given by Watermaster staff and Watermaster consultants only. An email went out recently with the stipulation which applies to this hearing. The hearing should end around noon because the presentations being given are not lengthy.

##### 2. Auction Administration Contract

Counsel Slater stated this item was covered in detail under the Business Item section. No further comment was made.

#### B. ENGINEERING REPORT

##### 1. Recharge Master Plan Progress Report

Mr. Wildermuth stated the Recharge Master Plan, from a technical standpoint, is divided into two parts; there is a supplemental water track and a storm water track. The storm water work is being done by the Chino Basin Water Conservation District and their consultants along with calibrating with Inland Empire Utilities Agency staff; their first draft test memorandum is to be released shortly. Mr. Wildermuth stated with regard to the supplemental water track, Wildermuth Environmental has prepared and released some estimates for the supplemental water recharge requirements for the future and have only received minor comments back on that report. This report will be used as a goal for the future and in all the work that is being done. It was noted this basin probably does not need any more spreading facilities; however, improvements to the current spreading facilities will

need to be done. An additional source of supplemental water will be needed unless Metropolitan Water District (MWD) can change their projections of being able to supply water. Black & Veatch is working on facility improvements for both injection and the possibility of moving water from the San Gabriel line into some of the spreading basins that have not been looked previously at. Wildermuth Environmental is looking at the parameters for a new supplemental water source. Mr. Wildermuth stated with regard to the production optimization work, this work was an additional task added to the recharge master plan and is being worked on currently by working with our water agencies to possibly revise their pumping patterns. Mr. Wildermuth stated working with those agencies was successful and two new scenarios were run; one was if the basin remains limited by getting water from MWD and the other scenario is if that limitation is removed. Mr. Wildermuth reviewed the scenario results in detail.

2. Upcoming Workshop Schedule

Mr. Wildermuth stated there is a workshop scheduled on July 23, 2009 directly after the Watermaster Board meeting and at that workshop; production optimization work will be reviewed in detail.

**C. FINANCIAL REPORT**

1. Fiscal Year End Update

Ms. Rojo stated the fiscal year ends next week and staff is currently ahead of schedule in that the Land Use Conversions are almost completed. Production reports have been sent out to the parties and staff should be receiving them back shortly after the fiscal year closes.

**D. CEO/STAFF REPORT**

1. Legislative Update

Mr. Manning stated he was recently in Sacramento on behalf of the California Groundwater Coalition (CGC) offered comment on Proposition 1A regarding the state borrowing money from property taxes. Mr. Manning discussed several of the bills that the CGC has taken a support position on. Mr. Manning offered comment on the issue with regulation of water softeners and what is taking place in Sacramento because of this bill. Mr. Manning stated he recently received an email regarding the joint hearing of the Water Parks & Wildlife and the Senate Natural Resources was set for July 7, 2009 at 9:00 a.m. and the reason this is so important is because this is the first time that the public will have an opportunity to respond to the proposed Delta Package that has been moving around as five separate bills which are now being consolidated as one proposal. Mr. Manning stated he has not seen a draft of this consolidated proposal to date and noted the hearing should be fascinating with all that is going on regarding this important issue. Mr. Manning stated he was able to meet with several legislators to discuss bills and this upcoming hearing. The CGC has put together a two page outline discussing what is of importance to groundwater agencies that should be incorporated into any proposal that moves forward regarding the Delta issue and that outline will be submitted prior to July 7<sup>th</sup>. Included in that outline are energy savings issues, monitoring, and priority on groundwater storage which are all still very important. Mr. Manning stated it was time very well spent in Sacramento this trip and noted the buzz there right now is on the budget. Mr. Manning noted in the meeting package IEUA has current detailed legislative section that covers both federal and state issues starting on page 73 of the meeting packet.

2. Recharge Update

Mr. Manning stated there is a current recharge update on the back table for review.

**Added Comment:**

Mr. Manning stated there is a copy of the Orange County Grand Jury Report which was just issued regarding the water situation in Orange County for informational purposes only. Mr. Manning offered comment on the report.

**IV. INFORMATION**

1. Newspaper Articles

No comment was made regarding this item.

**V. BOARD MEMBER COMMENTS**

Mr. Rossi gave an update on Judge Field.

**VI. OTHER BUSINESS**

No comment was made regarding this item.

**VII. CONFIDENTIAL SESSION - POSSIBLE ACTION**

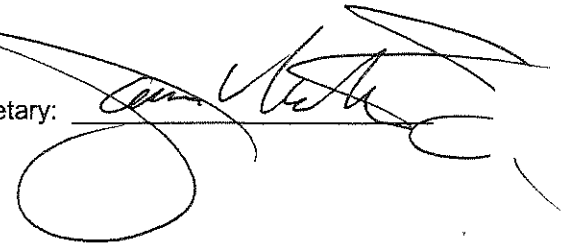
No confidential session was held.

**VIII. FUTURE MEETINGS**

June 25, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
June 25, 2009	9:00 a.m.	Advisory Committee Meeting
June 25, 2009	11:00 a.m.	Watermaster Board Meeting
June 29, 2009	9:30 a.m.	CBWM Court Hearing – San Bernardino Court
July 9, 2009	10:00 a.m.	Appropriative & Non-Agricultural Pool Meeting
July 21, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
July 23, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
July 23, 2009	9:00 a.m.	Advisory Committee Meeting
July 23, 2009	11:00 a.m.	Watermaster Board Meeting
July 23, 2009	1:00 p.m.	WE Workshop #3 Task 4.3 and Task 6.2

The Watermaster Board meeting was dismissed by Chair Willis at 12:30 p.m.

Secretary: \_\_\_\_\_



Minutes Approved: July 23, 2009



# Exhibit 10

Stipulation between  
Appropriative Pool and Non-  
Agricultural Pool Regarding  
Financial Benefits Derived  
from Auction

# Stipulation Between Appropriative Pool and Non-Agricultural Pool Regarding Financial Benefits Derived from Auction

July 2009

WHEREAS, the Peace II Measures includes the Purchase and Sale Agreement for the Purchase of Water by Watermaster from Overlying (Non-Agricultural) Pool ("Purchase and Sale Agreement") as approved and ordered by the Court on December 21, 2009.

WHEREAS, on June 25, 2009 the Advisory Committee and Board approved a Template Storage and Recovery Agreement that will implement an auction of the water purchased through the Purchase and Sale Agreement. The assets to be auctioned will also include the storage space that the water currently occupies. Under the Template Storage and Recovery Agreement, the cost for the storage space is fixed at \$25 per acre-foot.

WHEREAS, The June 25, 2009 Advisory Committee and Board approval included a condition regarding the manner in which net proceeds derived from the auction would be utilized. This condition states:

"Upon receipt of a written recommendation from the Appropriative Pool and further Board approval, Watermaster may authorize the use of excess revenues received from the Purchase and Sale Agreement for the Appropriative Pool share of capital improvements to be spread equitably among management zones and that are: (i) designed, approved and scheduled for timely implementation under the Court approved Recharge Master Plan or any approved yield enhancement/preservation program and (ii) will facilitate Watermaster's recharge goals of maintaining hydrologic balance within each Management Zone and the Basin. "Capital improvements" means physical facilities that will be actually used in the production, storage, treatment and distribution of water that will recharge the Chino Basin, including but not limited to recharge basins, injection wells, pipelines and water supplies. The qualifying capital improvements may facilitate recharge directly or indirectly through approved in-lieu strategies." (emphasis added)

WHEREAS, a dispute has arisen between the Non-Agricultural Pool and the Appropriative Pool regarding the propriety of the above condition given paragraph 5.2(c)(v) of the Peace Agreement, entitling the members of the Appropriative Pool and the Non-Agricultural Pool the exclusive beneficiaries of all compensation from Storage and Recovery Agreement. Specifically, the Non-Agricultural Pool contends that the use of proceeds to cover only the "Appropriative Pool share of capital improvements" is not appropriate because the Non-Agricultural Pool should share proportionately in the compensation derived from the sale of storage space as provided in the Peace Agreement. The Appropriative Pool denies this interpretation and contends that the Non-Agricultural Pool was fully compensated for both the

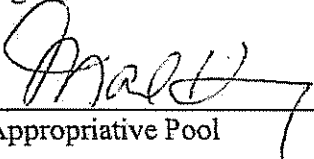
acquisition of water and for its use in connection with a Storage and Recovery Agreement as described in the Purchase and Sale Agreement. The Non-Agricultural Pool denies the contention of the Appropriative Pool.

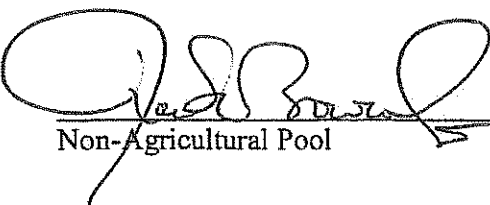
WHEREAS, the Appropriative Pool and Non-Agricultural Pool wish to knowingly and finally resolve this dispute regarding the integrated interpretation of the Peace Agreement and the Purchase and Sale Agreement.

THEREFORE, it is agreed that:

1. The Non-Agricultural Pool's compensation from the proceeds of the auction associated with the Template Storage and Recovery Agreement shall be in the form of a credit against any assessments associated with the capital improvements under the updated Recharge Master Plan as defined in the June 25, 2009 Board staff report.
2. So long as proceeds exist from the auction, including any funds such as grant funds, the Non-Agricultural Pool shall not be assessed for any capital improvements under the updated Recharge Master Plan as defined in the June 25, 2009 staff report.
3. The Non-Agricultural Pool shall receive no benefits from the capital improvements under the updated Recharge Master Plan that are paid for with proceeds from the auction, including any funds such as grant funds.
4. At the time when proceeds from the auction, including any funds such as grant funds, no longer exist, distribution of assessment liability and corresponding benefits shall be accomplished according to normal Watermaster rules and procedures.
5. The words "*the Appropriative Pool share of*" shall be removed from the description of the method use of the proceeds from the auction and Watermaster counsel shall notify the Court of such modification and submit a conforming revised Proposed Order prior to the August 11, 2009 hearing.

Signed:

  
\_\_\_\_\_  
Appropriative Pool

  
\_\_\_\_\_  
Non-Agricultural Pool

# Exhibit 11

August 11, 2009

Court Order

AUG 11 2009

BY Olivia McDonald  
DEPUTY

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER DISTRICT,  
Plaintiff,  
vs.  
CITY OF CHINO, ET AL.,  
Defendant.

Case No. RCV 51010  
[Assigned for All Purposes to the Honorable JOHN P. WADE]  
*JW/OM*  
~~[REMOVED PROPOSED]~~ ORDER ON WATERMASTER'S MOTION FOR APPROVAL OF TEMPLATE STORAGE AND RECOVERY AGREEMENT

Having read, reviewed and considered all pleadings filed in support and in response, if any, to the Watermaster's Motion for Approval of Template Storage and Recovery Agreement, including the argument of counsel presented at the August 11, 2009 hearing, and good cause appearing therefore,

THE COURT FINDS THAT:

(1) The proposed Storage and Recovery Agreement will not cause Material Physical Injury, as that is defined in the June 2000 Peace Agreement, so long as the final Agreement is conditioned upon adherence to the Judgment, the Peace Agreement, and the requirement that the recovery of the water does not cause permanent subsidence. The Court hereby incorporates the findings and recommendations of Watermaster's staff, as expressed in the June 25, 2009 Advisory

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
21 East Carrillo Street  
San Jose, CA 95101

1 Committee and Board's staff report and supplemental staff report attached to Watermaster's Motion  
2 as Exhibit "C."

3 (2) The proposed allocation of benefits from implementation of the Template Storage  
4 and Recovery Agreement, as described in Watermaster's Motion and in the June 25, 2009 staff  
5 report and supplemental staff report to the Advisory Committee and Board, will provide broad  
6 mutual benefits consistent with the Peace Agreement. To meet the broad mutual benefit standard,  
7 Watermaster conditioned its approval on a commitment that the revenues received from the auction  
8 that are in excess of the purchase price set forth in the Purchase and Sale Agreement, be placed in  
9 an interest bearing escrow account and earmarked by Watermaster for the following purpose:

10  
11 "Upon receipt of a written recommendation from the Appropriate Pool  
12 and further Board approval, Watermaster may authorize the use of excess  
13 revenues received from the Purchase and Sale Agreement for capital  
14 improvements to be spread equitably among management zones and that  
15 are: (i) designed, approved and scheduled for timely implementation under  
16 the Court approved Recharge Master Plan or any approved yield  
17 enhancement/preservation program and (ii) will facilitate Watermaster's  
18 recharge goals of maintaining hydrologic balance within each  
19 Management Zone and the Basin. "Capital improvements" means  
20 physical facilities that will be actually used in the production, storage,  
21 treatment and distribution of water that will recharge the Chino Basin,  
22 including but not limited to recharge basins, injection wells, pipelines and  
23 water supplies. The qualifying capital improvements may facilitate  
24 recharge directly or indirectly through approved in-lieu strategies."

19 The Court's approval of the Template Storage and Recovery Agreement is conditioned upon  
20 compliance with this condition. Watermaster shall provide an accounting to the parties on an  
21 appropriate basis and in a form reasonably intended to allow the parties to evaluate Watermaster's  
22 compliance with this condition. If any party believes that Watermaster is not in compliance with  
23 the condition, then it may file an objection and request review by the Court. The objecting party  
24 shall meet and confer with Watermaster prior to the filing of its objection.

25 (3) The Court finds that the proposed Template Storage and Recovery Agreement  
26 contains sufficient detail to allow the Court to evaluate and approve the Template Agreement.  
27 However, because the Template Agreement is not yet in the final form, the Court hereby Orders  
28

1 Watermaster to provide notice to all parties when the Template Agreement is in the final form.  
2 Within 30 days of such Notice, any party who believes that the final Agreement differs substantially  
3 from the Template Agreement, may provide Watermaster with a notice that the party believes the  
4 Agreement differs and that this difference causes harm to that individual or to the Basin. In such  
5 event, Watermaster will schedule a hearing with the Court to consider the matter. The scope of  
6 such hearing shall be strictly limited to that aspect of the final Agreement that differs from the  
7 Template Agreement and the harm caused to the moving party or to the Basin. If no such notice is  
8 received by Watermaster within 30 days of Watermaster's Notice, the final Agreement shall be  
9 presumed approved.

10 (4) The export of the water that will be auctioned is not prohibited by the Judgment and  
11 does not trigger the replenishment requirement of Judgment, Exhibit "H," Paragraph 7(b).  
12 However, this finding is specifically limited to the quantity of water that is the subject of the  
13 Template Storage and Recovery Agreement. This finding may not be used as precedent for future  
14 export proposals and this finding shall not apply to any water placed in to the storage account in  
15 addition to the initial amount.

16 On the basis of the foregoing, Watermaster's Motion is hereby GRANTED.

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18  
19 August 11, 2009

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**JOHN P. WADE**  

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The Honorable John P. Wade

CHINO BASIN WATERMASTER

Case No. RCV 51010

Chino Basin Municipal Water District v. The City of Chino

PROOF OF SERVICE

I declare that:

I am employed in the County of San Bernardino, California. I am over the age of 18 years and not a party to the within action. My business address is Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On August 11, 2009 I served the following:

1) **ORDER ON WATERMASTER'S MOTION FOR APPROVAL OF TEMPLATE STORAGE AND RECOVERY AGREEMENT**

BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:  
**See attached service list:** Mailing List 1

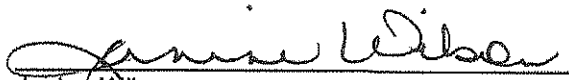
BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

BY FACSIMILE: I transmitted said document by fax transmission from (909) 484-3890 to the fax number(s) indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting fax machine.

BY ELECTRONIC MAIL: I transmitted notice of availability of electronic documents by electronic transmission to the email address indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting electronic mail device.

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

Executed on August 11, 2009 in Rancho Cucamonga, California.

  
Janine Wilson  
Chino Basin Watermaster



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Jeff Pierson	jpierson@unitexcorp.com
Jerry King	jking@psomas.com
Jim Hill	jhill@cityofchino.org
Jim Taylor	jim_taylor@ci.pomona.ca.us
Joe P LeClaire	jleclaire@wildermuthenvironmental.com
John Anderson	janderson@ieua.org
John Ayers	jayers@sunkistgrowers.com
John Bosler	JohnBo@cvwdwater.com
John Huitsing	johnhuitsing@gmail.com
John Thornton	jthornton@psomas.com
John V. Rossi	jrossi@wmwd.com

**Members:**

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Joseph S. Aklufi	AandWLaw@aol.com
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John Vega  
Justin Brokaw  
Kathy Kunysz  
Kathy Tiegs  
Ken Jeske  
Ken Kules  
Kenneth Willis  
Kevin Sage  
Kyle Snay  
Lisa Hamilton  
Maria Klachko Blair  
Mark Hensley  
Martin Zvirbulis  
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kkules@mwdh2o.com  
kwillis@homeowners.org  
Ksage@IRMwater.com  
kylesnay@gswater.com  
Lisa.Hamilton@corporate.ge.com  
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mhensley@localgovlaw.com  
martinz@cvwdwater.com  
mthies@spacecenterinc.com  
tseni@dwq.swrcb.ca.gov

# Exhibit 12

Final Notice of Intent to  
Purchase



# CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, Ca 91730  
Tel: 909.484.3888 Fax: 909.484.3890 [www.cbwm.org](http://www.cbwm.org)

---

**KENNETH R. MANNING**  
Chief Executive Officer

## NOTICE OF INTENT TO PURCHASE

Pursuant to Section C of the *Purchase and Sale Agreement for the Purchase of Water by Watermaster from Overlying (Non-Agricultural) Pool*, Watermaster hereby provides notice to the Overlying (Non-Agricultural) Pool that Watermaster intends to tender purchase of the Storage Transfer Quantity pursuant to the terms of the Purchase and Sale Agreement for the following uses: 36,000 acre-feet for use in a Storage and Recovery Agreement, and 2,652 acre-feet for use as Desalter replenishment.

On August 13, 2009 the Appropriative Pool provided approval for the issuance of this notice. The date of issuance of this notice is December 18, 2009.

# Exhibit 13

September 24, 2009

Watermaster Board Meeting

Minutes



*Minutes*  
**CHINO BASIN WATERMASTER  
WATERMASTER BOARD MEETING**

September 24, 2009

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on September 24, 2009 at 11:00 a.m.

**WATERMASTER BOARD MEMBERS PRESENT**

Jim Curatalo, Chair  
Charles Field  
David DeJesus  
Michael Whitehead  
Kevin Sage  
Bob Feenstra  
Paul Hofer

Cucamonga Valley Water District  
Western Municipal Water District  
Three Valleys Municipal Water District  
Fontana Water Company  
Vulcan Materials Company  
Agricultural Pool  
Agricultural Pool

**Watermaster Staff Present**

Kenneth R. Manning  
Sheri Rojo  
Ben Pak  
Danielle Maurizio  
Sherri Lynne Molino

Chief Executive Officer  
CFO/Asst. General Manager  
Senior Project Engineer  
Senior Engineer  
Recording Secretary

**Watermaster Consultants Present**

Scott Slater  
Michael Fife  
Mark Wildermuth

Brownstein, Hyatt, Farber & Schreck  
Brownstein, Hyatt, Farber & Schreck  
Wildermuth Environmental Inc.

**Others Present**

Bill Kruger  
Lonnie Curtis  
Eunice Ulloa  
Jack Safely  
Scott Burton  
Ken Jeske  
Marty Zvirbulis  
Mark Kinsey  
Dave Crosley  
Ron Craig  
Tim Hampton  
Charles Moorrees  
Robert Young  
Mike McGraw  
Jeff Pierson

City of Chino Hills  
City of Upland  
Chino Basin Water Conservation District  
Western Municipal Water District  
City of Ontario  
City of Ontario  
Cucamonga Valley Water District  
Monte Vista Water District  
City of Chino  
City of Chino Hills  
City of Pomona  
San Antonio Water Company  
Fontana Union Water Company  
Fontana Water Company  
Ag Pool – Crops

Chair Curatalo called the Watermaster Board meeting to order at 11:05 a.m.

**PLEDGE OF ALLEGIANCE**

**AGENDA - ADDITIONS/REORDER**

No additions or reorders were made to the agenda.

**I. CONSENT CALENDAR****A. MINUTES**

1. Minutes of the Watermaster Board Meeting held August 27, 2009

**B. FINANCIAL REPORTS**

1. Watermaster Visa Check Detail for the month of July 2009
2. Combining Schedule for the Period July 1, 2009 through July 31, 2009
3. Treasurer's Report of Financial Affairs for the Period July 1, 2009 through July 31, 2009
4. Budget vs. Actual July 2009

*Motion by Hofer, second by Feenstra, and by unanimous vote*

*Moved to approve Consent Calendar A through B, as presented*

**II. BUSINESS ITEM****A. COMPREHENSIVE SOLUTION FOR THE SACRAMENTO-SAN JOAQUIN DELTA – POLICY POSITION**

Mr. Manning reviewed this item in detail and noted Watermaster has not taken a position on this item; however, the Advisory Committee took action to support this item today. Mr. Manning stated this item comes before the board from a request by a member of the Watermaster Board who is very active on the Southern California Water Committee regarding working on a comprehensive solution regarding the Delta. The Southern California Water Committee has taken a policy position and is asking other agencies to support them in their endeavor and Mr. Vanden Heuvel, who is not present today, is asking Chino Basin Watermaster to support this effort. A discussion regarding Delta issues and solutions ensued. Chair Curatalo, Mr. Feenstra, Mr. Whitehead, and Mr. Field offered comment and support for this item. Mr. Manning noted Inland Empire Utilities Agency has already offered support for this item.

*Motion by Whitehead, second by Feenstra, and by unanimous vote*

*Moved to approve supporting the Southern California Water Committees position on the Comprehensive Solution for the Sacramento-San Joaquin Delta, as presented*

Added Comment:

Mr. Manning stated there will be two representatives from Brownstein, Hyatt, Farber & Schreck, Chris Frahm and Paul Bauer, who are both lobbyists who will be attending the upcoming Strategic Planning Conference to discuss the Delta Package. Mr. Manning stated he will also be contacting Phil Rosentrater from Western Municipal Water District to invite him to sit on the panel with Ms. Frahm and Mr. Bauer. This will create a well rounded panel to review the Delta issues.

**III. REPORTS/UPDATES****A. WATERMASTER GENERAL LEGAL COUNSEL REPORT****1. Court Transition Process**

Counsel Slater stated we received a letter from the presiding judge which is in response from a letter sent to the court regarding Watermaster offer to assist in the new judge selection process. The letter simply states thank you but no thank you; a new assignment will be made by the court. There will be a waiting period to see if there are any preemptory challenges on the judge that is chosen.

**B. FINANCIAL REPORT**1. Financial Changes

Ms. Rojo stated as a result in the change in the meetings normally there are five financial reports included in the meeting package and now there will be a month lag time for the cash disbursement report which is a listing of all the checks paid. That report is not in the package this month but will be back in the package starting next month.

2. Assessment Package Workshop

Ms. Rojo stated the Assessment Package Workshop was held on September 9, 2009 which went well. There was some feedback on some of the title headings which is an easy fix. The discussion did become focused on the Cumulative Unmet Replenishment Obligation (CURO). Ms. Rojo reviewed what CURO is and how it plays a role for the parties. Ms. Rojo stated the CURO will be the main focus at the upcoming Strategic Planning Conference next week.

**C. CEO/STAFF REPORT**1. Legislative Update

Mr. Manning stated the legislature did have a tremendous amount of work that was accomplished on the Delta Package in their legislative session. There was discussion to bring that legislation back into session to try and accomplish more on the Delta Package. Mr. Manning stated he will keep the parties apprised as the information becomes available. Mr. Manning stated AB 1366 regarding water softeners has passed is going to be sent to the governor's office this week for signature.

2. Recharge Update

Mr. Manning stated the most recent recharge update is available on the back table.

3. Watermaster Policy Manual

Mr. Manning stated Watermaster is in the process of developing a Policy Manual and noted this item has been mentioned and discussed at previous meetings. Mr. Manning noted the Appropriative Pool had put together an Ad-Hoc Committee regarding the manual. Mr. Manning stated Jeff Pierson from the Agricultural Pool was recently appointed to sit on that Ad-Hoc Committee and that appointment came two days after the committee met for the first time. After the Ad-Hoc Committee met the committee chair gave Watermaster staff some good direction and will be providing some suggested changes. A discussion regarding this item ensued.

4. Auction Update

Mr. Manning demonstrated the Chino Basin Watermaster web page which contains a separate water auction website. Mr. Manning reviewed the new water auction website in detail. Mr. Manning stated there is a team that is working on all elements of the water auction. A due diligence package and resource materials have been developed to assist possible bidders. A discussion on the progress of the water auction ensued.

**IV. INFORMATION**1. Newspaper Articles

No comment was made regarding this item.

**V. BOARD MEMBER COMMENTS**

No comment was made regarding this item.

**VI. OTHER BUSINESS**

Mr. Manning discussed the upcoming holiday schedule which will require meeting dates for November and December to be changed.

Mr. Manning stated the next IEUA Dry Year Yield meeting that was scheduled for October 15, 2009 has been changed to October 22, 2009 at 9:00 a.m.

**VII. CONFIDENTIAL SESSION - POSSIBLE ACTION**



Pursuant to the Advisory Committee Rules & Regulations, a Confidential Session may be held during the Advisory Committee meeting for the purpose of discussion and possible action.

No confidential session was called.

**VIII. FUTURE MEETINGS**

September 22, 2009	10:00 a.m.	Water Quality Meeting @ CBWM
September 24, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
September 24, 2009	9:00 a.m.	Advisory Committee Meeting @ CBWM
September 24, 2009	11:00 a.m.	Watermaster Board Meeting @ CBWM
September 28, 2009	11:00 a.m.	Golf Tournament @ Oak Quarry
September 28, 2009	5:00 p.m.	Strategic Planning Kick-Off Reception @ Oak Quarry
September 29, 2009	7:30 a.m.	Strategic Planning Conference @ Etiwanda Gardens
October 1, 2009	1:00 p.m.	Appropriative & Non-Agricultural Pool Meeting @ CBWM
October 8, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
October 15, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
October 15, 2009	9:00 a.m.	Advisory Committee Meeting @ CBWM
October 22, 2009	11:00 a.m.	Watermaster Board Meeting @ CBWM
October 22, 2009	1:00 p.m.	Recharge Master Plan Workshop @ CBWM

The Watermaster Board meeting was dismissed by Chair Curatalo at 11:40 a.m.

Secretary:   


Minutes Approved: October 22, 2009

# Exhibit 14

November 19, 2009

Advisory Committee and  
Board Meeting Minutes

Watermaster Advisory  
Committee Minutes  
for  
11-19-2009

*Minutes*  
**CHINO BASIN WATERMASTER  
ADVISORY COMMITTEE MEETING**

*November 19, 2009*

The Advisory Committee meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga CA, on November 19, 2009 at 9:00 a.m.

**ADVISORY COMMITTEE MEMBERS PRESENT**

**Appropriative Pool**

Robert DeLoach, Chair

Ken Jeske

Mark Kinsey

Dave Crosley

Ron Craig

Raul Garibay

Charles Moorrees

J. Arnold Rodriguez

Tom Harder

Robert Young

Josh Swift

**Agricultural Pool**

Jeff Pierson

Jennifer Novak

**Non-Agricultural Pool**

Kevin Sage

Cucamonga Valley Water District

City of Ontario

Monte Vista Water District

City of Chino

City of Chino Hills

City of Pomona

San Antonio Water Company

Santa Ana River Water Company

Jurupa Community Services District

Fontana Water Company

Fontana Union Water Company

Ag Pool – Crops

State of California, Dept. of Justice, CIM

Vulcan Materials Company (Calmat Division)

**Watermaster Board Members Present**

Michael Camacho

Inland Empire Utilities Agency

**Watermaster Staff Present**

Ken Manning

Sheri Rojo

Ben Pak

Danielle Maurizio

Sherri Lynne Molino

CEO

CFO/Asst. General Manager

Senior Project Engineer

Senior Engineer

Recording Secretary

**Watermaster Consultants Present**

Michael Fife

Brownstein, Hyatt, Farber & Schreck

**Others Present**

Bill Kruger

Steve Nix

Mike Maestas

Ron Craig

Doug LaBelle

John Mura

Steven Lee

Martha Davis

Rich Atwater

Terry Catlin

City of Chino Hills

City of Chino Hills

City of Chino Hills

City of Chino Hills

City of Chino Hills

City of Chino Hills

Reid & Hellyer

Inland Empire Utilities Agency

Inland Empire Utilities Agency

Inland Empire Utilities Agency

Chair DeLoach called the Advisory Committee meeting to order at 9:00 a.m.

**AGENDA - ADDITIONS/REORDER**

No additions or reorders were made to the agenda.

**I. CONSENT CALENDAR****A. MINUTES**

1. Minutes of the Advisory Committee Meeting held October 15, 2009

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of September 2009
2. Watermaster Visa Check Detail for the month of September 2009
3. Combining Schedule for the Period July 1, 2009 through September 30, 2009
4. Treasurer's Report of Financial Affairs for the Period September 1, 2009 through September 30, 2009
5. Budget vs. Actual July through September 2009

**C. SEMI-ANNUAL REPORT**

1. Consider Approval of Status Report 2009-1

*Motion by Crosley, second by Moorrees, and by unanimous vote*

***Moved to approve consent calendar items A through C, as presented***

**II. REPORTS/UPDATES****A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**

1. Completion of SWRCB Santa Ana River Process

Counsel Fife stated as reported at the Pool meetings, this process is now complete and there were no challenges to the permit.

2. Implementation of Plan B for Purchase of Overlying Non-Agricultural Pool Water

Counsel Fife stated discussion took place in closed session at the last Appropriate Pool meeting earlier this month regarding this matter. Counsel Fife noted this item is provided for in the Purchase and Sale Agreement; Watermaster will handle this water upon direction from the Appropriate Pool members. Watermaster staff is seeking direction from that Pool now that the water auction has been postponed. The Appropriate Pool provided direction to Watermaster staff as to how to revise the proposed Plan B and that was done and a copy of that revised plan is in the meeting package. This Plan B is not on the agenda for action but for information only. A brief discussion regarding the water auction ensued.

**B. WATERMASTER FINANCIAL REPORT**

1. PERS Audit

Ms. Rojo stated Watermaster underwent a PERS audit recently and PERS will be issuing a report on their findings in the next several months. That report will be presented to the Watermaster Board.

2. Engineering Budget Update

Ms. Rojo stated Watermaster staff finished the Wildermuth Environmental budget update. That update is now complete and is on the back table for your review. This is an inclusive report and provides a breakdown of what work is done, by each budget category. This report presents the information for the first quarter of the fiscal year.

3. Disposition of Water Purchased from the Non-Agricultural Pool

Ms. Rojo stated on the back table is a breakdown of the cost to purchase the Non-Agricultural Pool water. Ms. Rojo noted it is a two sided document and reviewed the document in detail. Ms. Rojo stated the assessments should be mailed out next week and a copy of this document will be included in the assessment package/invoice mailing for your accounting department.



**C. CEO/STAFF REPORT**1. Legislative Update

Mr. Manning stated there is a copy of the Department of Water Resources Summary of Legislation that recently passed. This is the better summaries that have been published in a long time. There will be several questions regarding what is specifically the bond will provide for and it will be approximately a year before the election regarding the bond element that is included in the summary is voted on. A discussion regarding the legislative groundwater issues including the financial aspect of these bonds ensued. A discussion regarding the legislative groundwater issues including the financial aspect of these bonds ensued.

2. Recharge Report

Mr. Manning noted the most current Recharge Report is on the back table for your review.

3. State of the Basin Report

Mr. Manning stated this report is now complete in draft form and the final edits are being worked on now.

4. Manning 4<sup>th</sup> Annual Holiday Gathering

Mr. Manning invited all parties to join him and his wife for their 4<sup>th</sup> Annual Holiday Open House at their home on Thursday, December 17, 2009 starting at 4:00 p.m.

**D. INLAND EMPIRE UTILITIES AGENCY**1. Recycled Water Update

Mr. Atwater provided an update on recycled water.

2. Status Report on DYY and Drought Allocation Implementation

Mr. Atwater stated all parties are right on target for the drought plan. Mr. Atwater reviewed the numbers being seen from the efforts on fighting the drought situation.

3. Recycled Water Program Update

No comment was made regarding this item.

4. Water Resources & Conservation Programs Monthly Report

No comment was made regarding this item.

5. Quarterly Water Resources & Conservation Programs Monthly Report

No comment was made regarding this item.

6. Monthly Water Use Report

No comment was made regarding this item.

7. Recycled Water Newsletter

No comment was made regarding this item.

8. State and Federal Legislative Reports

No comment was made regarding this item.

9. Community Outreach/Public Relations Report

No comment was made regarding this item.

10. Peace II SEIR Schedule

No comment was made regarding this item.

**F. OTHER METROPOLITAN MEMBER AGENCY REPORTS**

No comment was made regarding this item.

**III. INFORMATION**

1. Newspaper Articles

No comment was made regarding this item.

**IV. COMMITTEE MEMBER COMMENTS**

No comment was made regarding this item.

**V. OTHER BUSINESS**

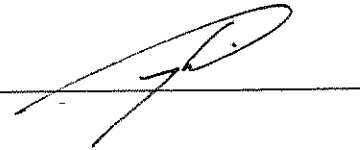
No comment was made regarding this item.

**VI. FUTURE MEETINGS**

November 19, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
November 19, 2009	9:00 a.m.	Advisory Committee Meeting @ CBWM
November 19, 2009	11:00 a.m.	Watermaster Board Meeting @ CBWM
December 3, 2009	1:00 p.m.	Appropriative & Non-Agricultural Pool Meeting @ CBWM
December 10, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
December 17, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
December 17, 2009	9:00 a.m.	Advisory Committee Meeting @ CBWM
December 17, 2009	11:00 a.m.	Watermaster Board Meeting @ CBWM
December 17, 2009	1:00 p.m.	Recharge Master Plan Workshop @ CBWM

The Advisory Committee meeting was dismissed by Chair DeLoach at 9:30 a.m.

Secretary: \_\_\_\_\_



Minutes Approved: December 17, 2009

Watermaster Board Meeting  
Minutes  
for  
11-19-2009

*Minutes*  
**CHINO BASIN WATERMASTER**  
**WATERMASTER BOARD MEETING**

*November 19, 2009*

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on November 19, 2009 at 11:00 a.m.

**WATERMASTER BOARD MEMBERS PRESENT**

Ken Willis, Chair  
Michael Camacho  
Charles Field  
Bob Kuhn  
Michael Whitehead  
Kevin Sage  
Geoffrey Vanden Heuvel  
Paul Hofer

City of Upland  
Inland Empire Utilities Agency  
Western Municipal Water District  
Three Valleys Municipal Water District  
Fontana Water Company  
Vulcan Materials Company  
Agricultural Pool  
Agricultural Pool

**Watermaster Staff Present**

Kenneth R. Manning  
Sheri Rojo  
Ben Pak  
Danielle Maurizio  
Sherri Lynne Molino

Chief Executive Officer  
CFO/Asst. General Manager  
Senior Project Engineer  
Senior Engineer  
Recording Secretary

**Watermaster Consultants Present**

Scott Slater  
Michael Fife

Brownstein, Hyatt, Farber & Schreck  
Brownstein, Hyatt, Farber & Schreck

**Others Present**

Bill Kruger  
Terry Catlin  
Jack Safely  
Ken Jeske  
Mark Kinsey  
Ben Lewis  
Rick Hansen  
Dave Crosley  
Raul Garibay  
Tom Harder  
Charles Moorrees  
Robert Young  
Josh Swift  
Jeff Pierson  
Jennifer Novak

City of Chino Hills  
Inland Empire Utilities Agency  
Western Municipal Water District  
City of Ontario  
Monte Vista Water District  
Golden State Water Company  
Three Valleys Municipal Water District  
City of Chino  
City of Pomona  
Jurupa Community Services District  
San Antonio Water Company  
Fontana Union Water Company  
Fontana Water Company  
Ag Pool – Crops  
State of California, Dept. of Justice, CIM

Chair Willis called the Watermaster Board meeting to order at 11:00 a.m.

**PLEDGE OF ALLEGIANCE**

**AGENDA - ADDITIONS/REORDER**

No additions or reorders were made to the agenda.

**I. CONSENT CALENDAR****A. MINUTES**

1. Minutes of the Watermaster Board Meeting held October 22, 2009

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of September 2009
2. Watermaster Visa Check Detail for the month of September 2009
3. Combining Schedule for the Period July 1, 2009 through September 30, 2009
4. Treasurer's Report of Financial Affairs for the Period September 1, 2009 through September 30, 2009
5. Budget vs. Actual July through September 2009

**C. SEMI-ANNUAL REPORT**

1. Consider Approval of Status Report 2009-1

*Motion by Kuhn, second by Sate, and by unanimous vote*

*Moved to approve consent calendar items A through C, as presented*

**II. REPORTS/UPDATES****A. WATERMASTER GENERAL LEGAL COUNSEL REPORT****1. Completion of SWRCB Santa Ana River Process**

Counsel Slater stated the Santa Ana River process and the decisions related to all the pending period applications are now complete and the parties are in the process of moving forward on implementation.

**2. Implementation of Plan B for Purchase of Overlying Non-Agricultural Pool Water**

Counsel Slater stated Plan B is now being implemented for the purchase of the Non-Agricultural Pool water. The water auction was postponed and staff met with members of the Appropriative Pool to obtain direction as to how they would like to proceed. There is a draft of this Plan B in the meeting packet starting on page 29 which articulates a proposal through which the members of the Appropriative Pool would make arrangements to acquire the water, hold it in a separate storage account, and then conduct an auction in the spring. A discussion regarding holding the water auction in the spring and the philosophy of Plan B ensued.

**B. WATERMASTER FINANCIAL REPORT****1. PERS Audit**

Ms. Rojo stated Watermaster underwent a PERS audit recently and PERS will be issuing a report on their findings in the next several months. That report will be presented to the Watermaster Board.

**2. Engineering Budget Update**

Ms. Rojo stated Watermaster staff finished the Wildermuth Environmental budget update. That update is now complete and is on the back table for your review. This is an inclusive report and provides a breakdown of what work is done, by each budget category. This report presents the information for the first quarter of the fiscal year.

**3. Disposition of Water Purchased from the Non-Agricultural Pool**

Ms. Rojo stated on the back table is a breakdown of the cost to purchase the Non-Agricultural Pool water. Ms. Rojo noted it is a two sided document and reviewed the document in detail. Ms. Rojo stated the assessments should be mailed out next week and a copy of this document will be included in the assessment package/invoice mailing for your accounting department.

**C. CEO/STAFF REPORT**

1. Legislative Update

Mr. Manning stated there is a copy of the Department of Water Resources Summary of Legislation that recently passed. This is the better summaries that have been published in a long time. There will be several questions regarding what is specifically the bond will provide for and it will be approximately a year before the election regarding the bond element that is included in the summary is voted on. A discussion regarding the legislative groundwater issues including the financial aspect of these bonds ensued.

2. Recharge Report

Mr. Manning noted the most current Recharge Report is on the back table for your review.

3. State of the Basin Report

Mr. Manning stated this report is now complete in draft form and the final edits are being worked on now.

4. Manning 4<sup>th</sup> Annual Holiday Gathering

Mr. Manning invited all parties to join him and his wife for their 4<sup>th</sup> Annual Holiday Open House at their home on Thursday, December 17, 2009 starting at 4:00 p.m.

**III. INFORMATION**

1. Newspaper Articles

No comment was made regarding this item.

**IV. COMMITTEE MEMBER COMMENTS**

No comment was made regarding this item.

**V. OTHER BUSINESS**

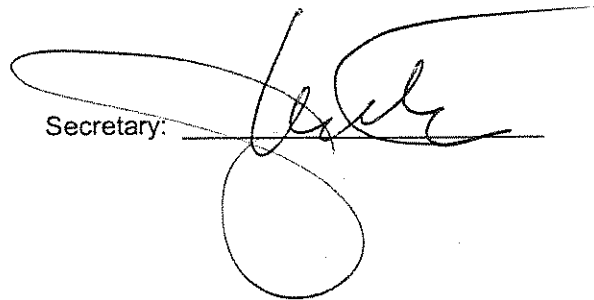
No comment was made regarding this item.

**VI. FUTURE MEETINGS**

November 19, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
November 19, 2009	9:00 a.m.	Advisory Committee Meeting @ CBWM
November 19, 2009	11:00 a.m.	Watermaster Board Meeting @ CBWM
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December 10, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
December 17, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
December 17, 2009	9:00 a.m.	Advisory Committee Meeting @ CBWM
December 17, 2009	11:00 a.m.	Watermaster Board Meeting @ CBWM
December 17, 2009	1:00 p.m.	Recharge Master Plan Workshop @ CBWM

The Watermaster Board meeting was dismissed by Chair Willis at 11:40 a.m.

Secretary: \_\_\_\_\_



Minutes Approved: December 17, 2009

# Exhibit 15

Spreadsheet of Specific  
Allocation of Plan B  
Assessment Distributed to  
Advisory Committee and  
Watermaster Board

## Non Agricultural Pool Storage Account Analysis

(used to determine water available per Peace II document for sale at auction)

	A	B	C	D	E	F*
	Storage as of 6/30/2007	Less Peace II Agreed Xfr Amount	Subtotal	Less 10% Agreed Desalter Contribution	Total Storage 6/30/2007	X 1/4
Ameron, Inc.	1,960.539		1,960.539	(196.054)	1,764.485	441.121
Angelica Textile Service						
California Speedway	1,410.054		1,410.054	(141.005)	1,269.049	317.262
California Steel Industries, Inc.	3,161.774		3,161.774	(316.177)	2,845.597	711.399
CCG Ontario, LLC	9,057.725		9,057.725	(905.773)	8,151.953	2,037.988
General Electric Co						
Kaiser Ventures, Inc.						
KCO, LLC/The Koll Company						
Loving Savior of the Hills						
Praxair, Inc.	4,463.259		4,463.259	(446.326)	4,016.933	1,004.233
Reliant Energy Etiwanda	6,016.559		6,016.559	(601.656)	5,414.903	1,353.726
San Antonio Winery						
San Bernardino Cty (Chino Airport)	184.014		184.014	(18.401)	165.613	41.403
Southern California Edison Company	212.568		212.568	(21.257)	191.311	47.828
Space Center Mira Loma, Inc.						
Sunkist Growers, Inc.	13,633.504		13,633.504	(1,363.350)	12,270.154	3,067.538
Swan Lake Mobile Home Park	2,630.551		2,630.551	(263.055)	2,367.496	591.874
Vulcan Materials Company	8,745.600	(8,530,000)	215.600	(21.560)	194.040	48.510
Vwest Venture Development						
	51,476.147	(8,530,000)	42,946.147	(4,294.615)	38,651.532	2,176,950.928

\* Amount available for purchase exceeds the 36,000 outlined in the purchase documents by 2,651.532AF.



Non-Agricultural Pool Storage Account Balance  
Following sale of water pursuant to Peace II Agreement

	Local Storage Balance as of 6/30/09	Less 2% Losses	Subtotal Storage	Less Amount Allocated/Sold	Remaining Storage Balance
Ameron, Inc.	2,053.411	(41.068)	2,012.343	(1,960.539)	51.804
Aqua Capital Management	10,076.934	(201.539)	9,875.395	(9,057.725)	817.670
Auto Club Speedway	2,002.622	(40.052)	1,962.570	(1,410.054)	552.516
California Steel Industries, Inc.	3,036.569	(60.731)	2,975.838	(3,161.774)	(185.936)
Ontario, City of	14,517.533	(290.351)	14,227.182	(13,633.504)	593.678
Praxair, Inc.	4,793.031	(95.861)	4,697.170	(4,463.259)	233.911
RRI Etiwanda, Inc.	6,128.256	(122.565)	6,005.691	(6,016.559)	(10.868)
San Bernardino Cty (Airport)	176.728	(3.535)	173.193	(184.014)	(10.821)
So. Cal Edison Company	252.867	(5.057)	247.810	(212.568)	35.242
Swan Lake Mobile Home Park	3,256.676	(65.134)	3,191.542	(2,630.551)	560.991



## CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, Ca 91730  
Tel: 909.484.3888 Fax: 909.484.3890 [www.cbwm.org](http://www.cbwm.org)

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KENNETH R. MANNING  
Chief Executive Officer

January 14, 2010

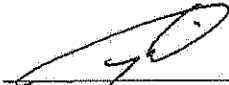
Dear Non-Agricultural Pool Member:

As you may recall, Watermaster entered into discussions and negotiations with parties in the Basin, and these conversations resulted in our Peace II settlement agreement. Part of that document allows for the sale of water in storage from the Non-Agricultural Pool to the Appropriators. In accordance with this provision, the Appropriators have exercised their option to purchase the stored water. The attached payment represents one quarter of the full payment. You will receive the subsequent three payments annually, beginning in January, 2011.

The negotiations to resolve the outstanding issues in the Peace II document took over four years of collaborative effort. As part of that settlement agreement, Non-Agricultural members are allowed to sell water remaining in their storage accounts on an annual basis to Watermaster before December 31 (or whenever Watermaster makes a call to purchase additional stored water). The amount Watermaster will pay is tied to the Metropolitan Water District's published replenishment water price; Watermaster pays 92 percent of this MWD rate. Attached to this letter is a reconciliation of your storage account, which represents your balance as of June 30, 2009 less the initial sale of water as prescribed in the Peace II documents.

Please call if you have any questions regarding this or any other matter.

Sincerely yours,

  
\_\_\_\_\_  
Ken Manning, CEO  
Chino Basin Watermaster

\_\_\_\_\_  
Robert Bowcock, Chairman  
Non-Agricultural Pool



## CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, Ca 91730  
Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

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**KENNETH R. MANNING**  
Chief Executive Officer

November 19, 2009

Dear Appropriative Pool Producer:

Attached to this letter you will find your assessment invoice for the 2009/2010 year which was based on your 2008/2009 production. The enclosed invoice reflects costs that were approved at the October 22, 2009 board meeting. I have included a copy of the assessment package for your reference.

You will note charges under the Previous Year Adjustment column of the Assessment Fee Summary page of the assessment package. Those charges were assessed based on the cumulative unmet replenishment obligation. I have included an explanation of how that cost is passed thru to the agencies, either as 100% producers or as 15% producers.

Included on the invoice but not included in the assessment package, is a charge for the purchase of the (Overlying) Non-Agricultural Pool Water as allowed in the Peace II Agreement. The formula for allocating this cost was unanimously approved by the Appropriative Pool at their November 5, 2009 meeting. Please feel free to contact our office if you have any questions.

Sincerely yours,

Sheri Rojo  
Chief Financial Officer & Assistant General Manager

# Exhibit 16

February 18, 1998

Court Order

1 RICHARDS, WATSON & GERSHON  
A Professional Corporation  
2 JAMES L. MARKMAN, State Bar #43536  
1 Civic Center Circle  
3 Post Office Box 1059  
Brea, California 92822-1059  
4 Telephone: (714) 990-0901  
Fax: (714) 990-6230

FILED - West District  
San Bernardino County Clerk

FEB 24 1998

5 Attorneys for CHINO BASIN WATERMASTER  
6 ADVISORY COMMITTEE

Wanda DeVinney

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF SAN BERNARDINO - WEST DISTRICT  
9

10  
11 CHINO BASIN MUNICIPAL WATER )  
DISTRICT, )

) Case No. RCV 51010

12 Plaintiff, )

) NOTICE OF RULING

13 vs. )

14 CITY OF CHINO, )

15 Defendant. )  
16 )  
17 )  
18 )

19  
20 TO: THE PARTIES HERETO AND THEIR ATTORNEYS OF RECORD:

21 PLEASE TAKE NOTICE that on February 19, 1998, the Court  
22 ruled (a) on the pending motions to appoint a nine member board as  
23 Watermaster herein and to determine whether the cost of an audit  
24 constituted a Watermaster expense, and (b) on related matters. A

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1 true and correct copy of said ruling is attached hereto as Exhibit  
2 "A."

3 Respectfully submitted,

4 RICHARDS, WATSON & GERSHON,  
5 Attorneys for Chino Basin  
6 Watermaster Advisory Committee

7  
8 Dated: February 23, 1999. By James L. Markman  
9 James L. Markman

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FILED - West District  
San Bernardino County Clerk

FEB 19 1998

Wanda DeVinney

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL  
WATER DISTRICT,

Plaintiff,

vs.

CITY OF CHINO, et al.,

Defendants.

CASE NO. RCV 51010

RULING

Introduction

This is an adjudication of groundwater rights in the Chino Basin. For at least five years before the filing of the amended complaint in July 1976, the annual production from the Chino Basin had exceeded the safe yield, resulting in a continuous state of overdraft of the basin. Concern for the future of the basin prompted the filing of the original complaint in 1975. After three years of negotiations, judgment was entered on January 27, 1978. Chino Basin Municipal Water District was appointed "Watermaster" to administer and enforce the provisions of the judgment and any subsequent order of the Court (Judgment ¶ 16.)

Chino Basin Municipal Water District has served as Watermaster for the past twenty years. A motion is presently before the court to relieve the District of its Watermaster duties and substitute in its place a nine-member board. The motion was

1 precipitated, at least in part, by the District's action calling for a special audit of certain  
2 Watermaster administrative matters. The action was taken in contravention of an  
3 asserted "mandate" by the Advisory Committee, which prompted the motion for an order  
4 declaring that the cost of the audit (\$35,000) is not a "Watermaster" expense.

5 On April 29, 1997, the court issued an Order of Special Reference to receive a  
6 report and recommendation on these two motions from Anne J. Schneider, a recognized  
7 water law expert. The court requested Special Referee Schneider to consider and give  
8 an opinion on the meaning of Paragraph 38(b) of the Judgment and its relationship to  
9 Paragraph 41 of the Judgment. The court also requested Special Referee Schneider to  
10 consider the checks and balances contained in the 1978 Judgment and the advantages  
11 or disadvantages of a public entity watermaster versus a private entity watermaster. On  
12 December 12, 1997, Special Referee Schneider issued her Report and  
13 Recommendation. The court has considered the Report and Recommendation and  
14 hereby issues its ruling accepting the Report and adopting the Recommendation of Anne  
15 Schneider. The court hereby incorporates herein by reference the entirety of Special  
16 Referee Schneider's Report and Recommendation.

17 Motion to Appoint Nine-Member Board as Watermaster

18 Unless there are compelling reasons to the contrary, upon noticed motion the  
19 court must grant a request to change the Watermaster if the motion is supported by a  
20 majority of the voting power of the Advisory Committee. (Judgment, ¶16.) In other  
21 words, to deny such a motion, the court must find reasons that "force" or "compel" denial  
22 of the motion.

23 A review of the Judgment reveals that the Watermaster's function is to administer  
24 and enforce the provisions therein and subsequent instructions or orders of the court.  
25 (*Ibid.*) The Watermaster operates on the one hand as an administrator and on the other  
26 hand as an extension of the court. When functioning as an extension of the court the  
27 Watermaster acts as a steward of the groundwater resources in the Chino Basin. The  
28 Watermaster must protect the interests of the public as well as the interests of the



1 producers. Consequently, the Watermaster may find it necessary to take positions  
2 adverse to the Advisory Committee.

3 With respect to replacing the existing Watermaster, automatic rejection of the  
4 proposed change can only be based on one of two assumptions: (1) the status quo is  
5 perfect; or (2) the choice we face is between reform and no action at all; if the proposed  
6 reform is imperfect, we presumably should take no action at all, while we wait for a  
7 perfect proposal. But the real choice is between the nine-member board and the status  
8 quo. The court finds that the status quo Watermaster is imperfect and does not in and of  
9 itself warrant finding of a compelling reason. Absent a compelling reason, the court must  
10 appoint the nine-member board as Watermaster.

11 However, if the appointment of a nine-member board would permit the Advisory  
12 Committee to control the Watermaster; and/or deprive the Watermaster of its ability to  
13 administer the Judgment independently and objectively, surely it would be a compelling  
14 reason to deny the motion. Therefore, it is significant that the proposed nine-member  
15 board would include the following:

- 16 1. Three members selected by the Overlying Pools;
- 17 2. Three members selected by the Appropriative Pool; and
- 18 3. The remaining three members would be nonpumper water districts: (a) Chino  
19 Basin Municipal Water District, (b) Western Municipal Water District, and (c)  
20 Three Valleys Municipal Water District.

21 Thus, the majority of the board members would represent the interests of producers, but  
22 the court finds the proposed nine-member board to be the best of the alternatives  
23 considered by the court, and the court, in considering compelling reasons, did consider  
24 all forms of Watermaster listed on Exhibit "A" attached hereto and herein incorporated by  
25 reference.

26 Although there is no evidence that the pecuniary interests of the board members will  
27 control their voting, to ensure that the board is carrying out the function of the  
28 Watermaster, Special Referee Schneider recommends that the appointment of the nine-

1 member board be of a limited duration to determine whether or not it will function  
2 independently from the Advisory Committee. The court agrees with the recommendation  
3 and chooses to appoint the nine-member board as Interim Watermaster, with the  
4 limitations listed in the order below.

5 At the end of the interim appointment, if it appears to the court that the proposed  
6 nine-member board is unable to function as an independent extension of the court, the  
7 court ~~will~~<sup>may</sup> appoint the Department of Water Resources as Watermaster for a five-year  
8 appointment, as provided in the Judgment. The parties are hereby informed that one of  
9 the measures that will be used by the court in determining whether or not the Nine-  
10 member Board is able to function independently is the progress made on the adoption of  
11 an optimum basin management program, which is discussed *infra*.

#### 12 **Order Appointing Nine-Member Board as Interim Watermaster**

13 The court hereby sets aside its previous order appointing the Department of Water  
14 Resources as Interim Watermaster and instead appoints the Nine-member Board as  
15 Interim Watermaster for a twenty-six-month period commencing March 1, 1998, and  
16 ending June 30, 2000. Thus, commencing March 1, 1998, the position of Chino Basin  
17 Watermaster shall be filled by a nine-member board selected and organized as  
18 follows:

19 The Nine-member Watermaster Board shall consist of (1) two members from the  
20 Overlying (Agricultural) Pool appointed by the Overlying (Agricultural) Pool; (2) one  
21 member from the Overlying (Non- Agricultural) Pool appointed by the Overlying (Non-  
22 Agricultural) Pool; (3) three members from the Appropriative Pool appointed by the  
23 Appropriative Pool; (4) one member appointed by the Board of Three Valleys  
24 Municipal Water District; (5) one member appointed by the Board of Western  
25 Municipal Water District; and (6) one member appointed by the Board of Chino Basin  
26 Municipal Water District. The members of the Watermaster Board will vote on a one-  
27 person, one-vote basis.

28 //

1 If one of the three municipal water districts elects not to serve on the Nine-  
2 member Watermaster Board, a representative from the State of California will be  
3 seated in its place. Any member of the Appropriative Pool which owns or has a  
4 controlling interest in another member of the Appropriative Pool will not be allowed to  
5 serve concurrently with said other member of the Appropriative Pool on the  
6 Watermaster Board.

7 No individual will be allowed to serve concurrently on the Watermaster Board  
8 while serving as a member of the Advisory Committee and/or the respective Pool  
9 Committee, with the exception of representatives from the Overlying (Non-Agricultural)  
10 Pool. This shall not prevent the same member agency or entity with a representative  
11 on the Chino Basin Advisory Committee from appointing a different representative to  
12 the Watermaster Board. Additionally, participating agencies with governing bodies are  
13 strongly encouraged to have elected officials serve as their representative on the  
14 Watermaster Board.

15 Except as to members of the first Watermaster Board, Watermaster Board  
16 members shall serve staggered three-year terms. The appointments by the Municipal  
17 Water District boards, the Appropriative Pool and the Overlying (Non-Agricultural) Pool  
18 shall be made on a rotating basis with all members afforded an equal opportunity to  
19 serve. Appointments by the Overlying (Agricultural) Pool shall be rotated among  
20 categories of agricultural producers with each category of producers having an equal  
21 opportunity to serve. The State of California shall be included as one of the categories  
22 of producers rotating from the Overlying (Agricultural) Pool, unless the State of  
23 California is currently serving in a vacant municipal water district position.

24 Except as otherwise provided in this paragraph, the first Nine-member  
25 Watermaster Board shall serve until June 30, 2000. Assuming the Nine-member  
26 Board in the future is appointed Watermaster for a full five-year term, then the  
27 following actions shall be performed: At least 60 days prior to June 30, 2000, the  
28 Appropriative Pool shall extend the term of one of its then current Watermaster Board

1 representatives to June 30, 2001, and shall extend the term of another of its then  
2 current Watermaster Board representatives to June 30, 2002. At least 60 days prior to  
3 June 30, 2000, the Overlying (Agricultural) Pool and the Overlying (Non-Agricultural)  
4 Pool shall jointly extend the term of one of the three then-current Watermaster Board  
5 representatives of the two pools to June 30, 2001, and shall extend the term of  
6 another of the three then-current Watermaster Board representatives of the two pools  
7 to June 30, 2002. At least 60 days prior to June 30, 2000, the three Municipal Water  
8 Districts shall jointly extend the term of one of the three then-current Watermaster  
9 Board representatives of those three districts to June 30, 2001, and shall extend the  
10 term of another of the three then-current Watermaster Board representatives of those  
11 three districts to June 30, 2002.

12 The court hereby orders the Chief of Watermaster Services to file the names  
13 of the representatives, including any alternates thereto, with the court and to serve a  
14 copy of the names of the representatives and any such alternates on the active parties  
15 by not later than March 15, 1998. The Chief of Watermaster Services is encouraged  
16 to provide the same information to the public through print and electronic media.  
17 (See discussion *infra* concerning Watermaster's use of the Internet.)

18 Should any member of the Watermaster Board resign therefrom, become  
19 ineligible to serve thereon, or lack the mental or physical capacity to serve thereon, as  
20 determined by the court, the appointing authority shall appoint a replacement member  
21 of the Watermaster Board to serve through the unexpired period of the term of the  
22 replaced member.

23 The current Watermaster, Chino Basin Municipal Water District, is hereby  
24 ordered to take all steps necessary and proper to ensure a smooth and orderly  
25 transition to the new Watermaster Board including, but not limited to, any required  
26 actions, resolutions and/or agreements which will transition all of the present  
27 Watermaster staff members from their status as Chino Basin Municipal Water District  
28 employees to their status as employees of the Watermaster while maintaining all of

1 their employment credits and benefit programs. Not later than March 15, 1998, the  
2 Chief of Watermaster Services shall file with the court a list of the names of all  
3 Watermaster employees and their respective positions.

4 The Watermaster shall notice a hearing to occur on or before October 28, 1999,  
5 to consider all parties' input as to the continuance of the nine-member board as  
6 Watermaster after June 30, 2000. To ensure that the California Department of Water  
7 Resources is in a position to assume the duties of Watermaster at the end of the interim  
8 appointment, the court directs the parties to resume negotiations with the Department  
9 related to its takeover of Watermaster operations, should the nine-member board fail to  
10 operate independently and effectively. The Interim Watermaster shall notice a hearing no  
11 later than September 30, 1999, to report on the status of negotiations. The court further  
12 orders that, without prior court approval, the Interim Watermaster shall not enter into any  
13 agreement that the Department of Water Resources will be obligated to assume, which  
14 means no contracts signed from this day forward wherein payment and/or performance  
15 of any kind whatsoever will be after June 30, 2000. The current Watermaster employees  
16 are hereby advised that if the court appoints the California Department of Water  
17 Resources as Watermaster at the end of the interim appointment, their positions will  
18 terminate on June 30, 2000, without further order of the court. Further, the Department of  
19 Water Resources will not be required to hire current Watermaster employees upon its  
20 appointment; rather, current Watermaster employees may be rehired at the discretion of  
21 the Department and on such terms as the California Department of Water Resources  
22 deems appropriate. Finally, the California Department of Water Resources should be  
23 added to the parties' mailing list to ensure that the Department receives notice of all  
24 proceedings.

25 It should be apparent that timely filing of all reports with the court and  
26 development of an optimum basin management program are of significant interest to the  
27 court in the continuation of the nine-member board as Watermaster. The court is very  
28 aware that the parties hereto desire local control of the Watermaster function, and the

1 court has no desire to transfer control from the nine-member board provided that  
2 Watermaster professionally performs its responsibilities under the judgment.<sup>1</sup>

3 Motion to Determine Audit Expense was not a Watermaster Expense

4 Special Referee Schneider found that the special audit was ordered in response  
5 to (1) substantial increases in Watermaster's annual budget expenditures, (2) allegations  
6 of fraud or theft (even though the audit itself did not address theft), and (3) recognition  
7 that the District had lost control of the Watermaster services staff. In addition, one of the  
8 purposes of the audit was to advise the District board members of the activities occurring  
9 at the Watermaster staff level. Special Referee Schneider further found that the special  
10 audit does not fit within the definition in the Judgment of a discretionary act, nor does it  
11 fall into the category of things subject to Advisory Committee recommendation or  
12 approval. The court hereby adopts the findings of Special Referee Schneider along with  
13 the recommendation that the court determine that the special audit was made in the  
14 general course of Watermaster business; therefore, it is a proper Watermaster expense.

15 Court Monitoring of Optimum Basin Management Program

16 The judgment grants to the Watermaster discretionary powers to develop an  
17 optimum basin management program for Chino Basin, which is to include both water  
18 quantity and water quality considerations. Special Referee Schneider discovered that the  
19 current Watermaster has not completed an optimum basin management program,  
20 despite Judge Turner's recommendation in 1989 that the plan be completed within two

21 //

22 //

23 \_\_\_\_\_  
24 <sup>1</sup> However, one is reminded of the passage in "The tragedy of the commons Revisited" by Beryl Crowe (1969) with  
25 reference to administrators of the commons: ". . . one writer postulated a common life cycle for all attempts to  
26 develop regulatory bodies. The life cycle is launched by an outcry so widespread and demanding that it generates  
27 enough political force to bring about establishment of a regulatory agency to insure the equitable, just, and rational  
28 distribution of the advantages among all holders of interest in the commons. This phase is followed by the symbolic  
reassurance of the offended as the agency goes into operation, developing a period of political quiescence among  
the great majority of those who hold a general but unorganized interest in the commons. Once this political  
quiescence has developed, the highly organized and specifically interested groups who wish to make incursions  
into the commons bring sufficient pressure to bear through other political processes to convert the agency to the  
protection and furthering of their interests. In the last phase even staffing of the regulating agency is accomplished  
by drawing the agency administrators from the ranks, of the regulated." Reprinted in "Managing the Commons" by  
Garrett Hardin and John Baden. W.H. Freeman, 1977.

1 years and despite the fact that the water quality in the basin has deteriorated in recent  
2 years.

3 The Chino Basin Water Resources Management Task Force issued its report in  
4 1995, which has been identified as the initial step in the development of a management  
5 plan for the basin. (Chino Basin Water Resources Management Task Force, Chino Basin  
6 Water Resources Management Study Final Summary Report (September, 1995),  
7 hereinafter "the task force report".) Special Referee Schneider recommends that as part  
8 of the court's continuing jurisdiction and obligation to oversee, control, and direct the  
9 Watermaster, the court appoint an independent person to take a look at the work that's  
10 been done on the program to date, to determine what remains to be accomplished, and  
11 to make a complete report to the court.

12 Anne J. Schneider hereby is appointed as the court's Special Referee to report  
13 and make recommendations to the court concerning the contents, implementation,  
14 effectiveness, and shortcomings of the optimum basin management plan. Further, Joe  
15 Scalmanini hereby is appointed to provide Anne J. Schneider with technical assistance  
16 as required by Ms. Schneider to provide said report and recommendations.

17 **Order Concerning Development of Optimum Basin Management Program**

18 The court hereby makes the following orders related to the development of an  
19 optimum basin management program, which encompasses the implementation plan  
20 elements identified in the task force report and at the recent hearing conducted by  
21 Special Referee Schneider.

22 On or before June 1, 1998, each party to this action desiring to do so shall  
23 submit recommendations to the Watermaster as to the scope and level of detail of the  
24 optimum basin program. On or before June 30, 1998, the Watermaster, having first  
25 provided a copy of the scope and level of detail plan to the Advisory Committee for its  
26 review and/or action, shall file with the court its written recommendation as to the  
27 scope and level of detail of the program, together with a duly noticed motion seeking  
28 court approval of said recommendation. Special Referee Schneider shall review the

1 Watermaster's recommendations for technical and legal sufficiency, using Joe  
2 Scalmanini as a consultant on technical issues, if necessary, and make a progress  
3 report to the court by July 30, 1998. Special Referee Schneider and Mr. Scalmanini  
4 are cautioned not to duplicate the work completed by the task force in making their  
5 report to the court; but instead, supplement and modify the previous work where  
6 appropriate. Hopefully, the aforementioned procedure will enhance and elucidate  
7 work already performed, and, at the same time, save money.

8 The court further orders the Watermaster to develop an optimum basin  
9 management program, which encompasses the elements of the implementation  
10 program recommended by the task force and the implementation elements discussed  
11 at the recent hearing conducted by Special Referee Schneider. The Watermaster, in  
12 consultation with Special Referee Schneider, is to make quarterly progress reports to  
13 the court. The Special Referee is authorized to conduct hearings, if necessary, to  
14 ensure the development of all essential elements of the program. The Watermaster is  
15 to submit the optimum basin management program first to the Advisory Committee for  
16 review and/or action, then to the court no later than September 30, 1999, or show  
17 cause why it cannot do so. Thereafter, the court will hold a hearing on October 28,  
18 1999, at 1:30 p.m. to consider whether to approve and order full implementation of the  
19 program or consider why the program has not been completed.

20 Finally, in order to facilitate greater communication with the public, in addition to  
21 notices required in newspapers of general circulation, Watermaster shall have installed  
22 and maintained a so-called "web site" or such new Internet technologies as may be  
23 equal to or better than the World Wide Web, similar to those established by the Main  
24 San Gabriel Basin Watermaster and the Mojave Basin Area Watermaster, and keep it  
25 up-to-date with notice of meetings, agenda items, minutes of meetings, and such other  
26 items and such other information as Watermaster deems appropriate to inform the

27 //

28 //



1 public of Watermaster's functions.<sup>2</sup> The public has a right to know if, as previously  
2 alleged, some board members are routinely absent from meetings, and a web page  
3 with minutes of the meetings, among other things, seems an appropriate means of  
4 communication with the public in order to keep them informed on Watermaster issues.

5 Guidelines for Watermaster and Advisory Committee

6 To provide guidance to the parties, Special Referee Schneider determined it is  
7 necessary for the court to provide an outline of the roles of the Watermaster and  
8 Advisory Committee. As noted in the Special Referee's Report and Recommendation,  
9 routine administrative functions of the Watermaster are performed independently, without  
10 review by the Advisory Committee. The Watermaster may acquire facilities and  
11 equipment (subject to certain limitations delineated in the Judgment<sup>3</sup>), may employ  
12 administrative, engineering, legal or other specialized personnel and consultants as it  
13 deems appropriate, may borrow money, and may enter into contracts for the  
14 performance of any powers granted in the Judgment. On the other hand, many  
15 Watermaster actions are subject to the approval of the Advisory Committee. For  
16 example, the Watermaster's annual budget is subject to Advisory Committee approval,  
17 the Watermaster's rules and regulations may only be adopted upon recommendation by  
18 the Advisory Committee, and the Watermaster may act jointly or in cooperation with State  
19 or Federal agencies to carry out the physical solution only upon recommendation or  
20 approval of the Advisory Committee. For further guidance as to the respective roles of  
21 the Watermaster and the Advisory Committee, the parties are directed to Part III of  
22 Special Referee Schneider's Report and Recommendation entitled "Watermaster Roles  
23 and Review of Watermaster Actions", found on pages 10 through 22, which is hereby

24 //

25 //

26 <sup>2</sup> Initial installation of a web site cost one local attorney less than five hundred dollars, and maintenance or training  
27 of employees for updates costs approximately thirty-five dollars per hour. It would have been inappropriate for the  
28 court to have contacted any water agencies regarding their costs; hence, the above-listed costs are only  
informational, not limitations, but, clearly a multi-year contract is not warranted under the circumstances of the  
interim appointment discussed herein.

<sup>3</sup> Your attention is called to the special audit's findings regarding facilities and computer service contracts, among  
other things.

1 adopted and approved by the court and incorporated herein by this reference.

2 Conclusion

3 The court does not presage a future intention to replace the nine-member board  
4 with any other form of watermaster. On the contrary, if this court were not confident in  
5 the ability of the Nine-member Board Watermaster to effectuate the intent of the  
6 judgment, other conditions would have been imposed or another form of watermaster  
7 would have been appointed. At the present time, this court is of the opinion that the  
8 conditions of the appointment will insure the success and future five-year appointment  
9 of the Nine-Member Board as Watermaster. However, this court is of the opinion that  
10 some follow-up dates are necessary to vitiate the possibility of repeating the history of  
11 missed filing dates<sup>4</sup> and asserted inadequate management by Watermaster. None of  
12 us wants the past to be prologue.

13 There was a request for benefit and salary increases. The court is of the opinion  
14 that the Nine-member Board Watermaster should examine these requests in its initial  
15 thorough review of the entire Watermaster budget. The court is not opposed to wage  
16 and benefit increases if the Nine-member Watermaster Board deems an increase in  
17 either or both of these categories appropriate, assuming Watermaster first sends its  
18 proposed budget to the Advisory Committee and Advisory Committee has no  
19 objection. Additionally, there was expressed some concern that the employees were  
20 worried about their future employment. As you may recall, at the outset of this court's  
21 handling of this case, all parties were warned not to fire employees out of spite or for  
22 tactical reasons, because the employees were real people with real families to feed,  
23 although the employees could be terminated for legitimate reasons. Additionally,  
24 without voicing it, the court was of the opinion that most, if not all, employees could be  
25 utilized by whatever form the Watermaster became. Some may have misconstrued  
26 this as permanent judicial protection of employees beyond what law and decency

27 //

28 \_\_\_\_\_  
<sup>4</sup> There was a nunc pro tunc order necessary to confirm the activities of Watermaster after its previous appointment expired, and yearly reports have been tardy.

1 require. This was not, nor is it the court's intention.<sup>5</sup> The court does expect  
2 Watermaster to have a social conscience, but most people have no more protection  
3 than law and decency require, and Watermaster employees should be no different.  
4 Watermaster employees should realize that their best efforts are necessary to ensure  
5 the quality and quantity of water in the Chino Basin. If an employee cannot perform  
6 his or her duties, then the people dependent on the quality and quantity of water suffer;  
7 moreover, the continued existence of the Nine-member Board Watermaster is  
8 jeopardized. It should be remembered that June 30, 2000, no-Board, no-job-  
9 expectation. This is meant to be neither a flip statement nor a threat. It is meant to be  
10 fair warning; the same concern, albeit a different vein, that the court had when it  
11 conditioned the appointment of the California Department of Water Resources on  
12 negotiation by the Advisory Board and the CBMWD. At the previous hearing when  
13 asked why the negotiating parties were appointed, the attorneys were informed that  
14 there were employees to consider; and there still are employees to consider, but the  
15 employees interests have to be balanced against the greater good for all the people  
16 affected by the judgment. So far, the employee's interests have prevailed, but at the  
17 end of June 2000, the outcome could be different.

18 It should be mentioned that this court has been impressed with the  
19 professionalism displayed recently by the attorneys involved in this litigation. When  
20 this case initially came to my court, the level of vitriol was far more than was evident in  
21 a reading of the transcript of the hearing held with the Special Referee. Furthermore,  
22 although the attorneys have been very professional throughout these proceedings, it  
23 seems as though the level of vitriol at recent hearings in court has subsided to an  
24 imperceptible level, and the accelerated progress toward resolution of this case is  
25 impressive. Thank you. Also, I want to thank all of the people, Gene Koopman,  
26 among others, whose large presence, concern, and commitment did not go unnoticed  
27 or unappreciated at the hearings in this matter.

28 //

<sup>5</sup> Although the attorneys correctly interpreted my comments to mean err, if at all, on the side of restraint during the period of litigation

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The Special Referee alluded to "the tragedy of the commons." Assuming she meant to allude to Garrett Hardin's 1968 essay, "The Tragedy of the Commons,"<sup>6</sup> it is hoped that the appointment of the new Nine-member Board as Watermaster will result in the triumph of the commons. The people of this area deserve it. Good Luck.

DATED: FEB 19 1998

J. Michael Gunn  

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J. MICHAEL GUNN, Judge

---

<sup>6</sup> The article appeared in Science 162:1243-1248, December 13, 1968. The "commons" refers to the common resources that are owned or controlled by everyone or everyone in a subset having control of the common resource. The tragedy occurs when everyone has the freedom to exploit the commons, resulting in the destruction of the commons. The intent of the exploiter is irrelevant. A political solution, although problematical, is the only way to potentially save the commons, all must agree to conserve the commons.

# EXHIBIT "A"

## Adjudicated Basins and Watermasters in California

Court Name	Final Decision	Watermaster	Location
Central Basin	1965	Dept. of Water Resources -- Southern District	Los Angeles County
Chino Basin	1978	Five people, Chino Basin Municipal Water District	San Bernardino County
Cucamonga Basin	--	Not yet appointed; operated as part of Chino Basin	San Bernardino County
Cummings Basin	1972	Tehachapi-Cummings County Water District	Kern County
Main San Gabriel Basin	1973	Nine-member board nominated by water purveyors and water districts, appointed by Superior Court.	Los Angeles County
Mojave Water Agency	1996	Mojave Water Agency	San Bernardino County
Puente	1985	Three consultants	Los Angeles County
Raymond Basin	1944	Raymond Basin Management Board	Los Angeles County
San Bernardino Basin Area	1969	One representative each from Western Municipal Water District and San Bernardino Valley Municipal Water District	San Bernardino and Riverside Counties
Santa Margarita River Watershed	1966	U.S. District Court appointee	San Diego and Riverside Counties
Santa Paula Basin	1996	Three-person Technical Advisory Committee from United Water CD, City of Ventura, and Santa Paula Basin Pumpers Association	Ventura County
Scott River Stream System	1980	Two local irrigation districts	Siskiyou County
Upper Los Angeles River Area	1979	An individual hydrologist appointed by the Superior Court	Los Angeles County
Warren Valley Basin	1977	Hi-Desert Water District	San Bernardino County
West Coast Basin	1961	Dept. of Water Resources -- Southern District	Los Angeles County

Source: Calif. Dept. of Water Resources *Water Facts*, Number 3, Jan. 1996.

[http://www.agwa.org/adjud\\_basins.html](http://www.agwa.org/adjud_basins.html)

# TIMELINE

MAR. 1, 1998	Interim Appointment Begins (Nine- member Board begins)							
MAR. 15, 1998	Names of Board Members and Employees filed with court							
JUNE 1, 1998	Scoping Rec- ommendation filed with Watermaster.							
JUNE 30, 1998	Scoping Rec- ommendation filed with court							
JULY 30, 1998	Referee's Recom- mendation filed with court							
SEPT. 30, 1999	OMBP filed with court							
SEPT. 30, 1999 1:30 P.M.	OSC Re: Status of Negotiations with Department of Water Resources.							
OCT. 28, 1999 1:30 P.M.	OSC Re: Adoption and Implemen- tation of OMBP & Continuance of Nine- member board							
JUNE 30, 2000	End of Interim Appoint- ment (End of Nine- member Interim Water- master Board)							

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FILED - West District  
San Bernardino County Clerk

FEB 24 1998

Wanda DeVinney

5 Attorneys for CHINO BASIN WATERMASTER  
6 ADVISORY COMMITTEE

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF SAN BERNARDINO - WEST DISTRICT  
9

10  
11 CHINO BASIN MUNICIPAL WATER )  
DISTRICT, )

Case No. RCV 51010

12 Plaintiff, )

NOTICE OF REPRESENTATIVES  
APPOINTED TO NINE MEMBER  
WATERMASTER BOARD

13 vs. )

14 CITY OF CHINO, )

15 Defendant. )  
16 )  
17 )

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19  
20 TO: THE PARTIES HERETO AND THEIR ATTORNEYS OF RECORD:

21 PLEASE TAKE NOTICE that in accordance with the Court's  
22 ruling entered on February 19, 1998, following are the names of  
23 the representatives, including alternates, who have been appointed  
24 to serve on the Nine Member Watermaster Board commencing on  
25 March 1, 1998:

26 / / / / /

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1	<u>REPRESENTATIVES</u>	<u>ENTITIES</u>	<u>PERSONS</u>
2	Over-lying (Non-	CSI	Steve Arbelbide
3	Agricultural) Pool		
4	Overlying (Agricultural) Vineyards		Paul Hofer
5	Pool		
6		Dairies	Geoffrey Vanden Heuvel
7	Appropriative Pool	Cucamonga County	Robert Neufeld
8		Water District	(Regular)
9			Jerome Wilson
10			(Alternate)
11		Monte Vista Water	Josephine Johnson
12		District	(Regular)
13			William C. Walker
14			(Alternate)
15		City of Ontario	Gus James Skropos
16			(Regular)
17			Gerald A. DuBois
18			(Alternate)
19	Municipal Water	Chino Basin	John L. Anderson
20	Districts	Municipal Water	(Regular)
21		District	Terry Catlin
22			(Alternate)
23		Three Valleys	A. A. Krueger
24		Municipal Water	(Regular)
25		District	
26		Western Municipal	Donald Schroeder
27		Water District	(Regular)
28			Donald Harriger
			(Alternate)
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Respectfully submitted,

RICHARDS, WATSON & GERSHON,  
Attorneys for Chino Basin  
Watermaster Advisory Committee

Dated: February 23, 1996

By James L. Markman  
James L. Markman

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FILED - West District  
San Bernardino County Clerk

FEB 24 1998

Wanda DeVinney

5 Attorneys for CHINO BASIN WATERMASTER  
6 ADVISORY COMMITTEE

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF SAN BERNARDINO - WEST DISTRICT  
9

10 CHINO BASIN MUNICIPAL WATER )  
11 DISTRICT, )

) Case No. RCV 51010

12 Plaintiff,

) NOTICE OF NAMES AND POSITIONS  
) OF WATERMASTER SERVICES STAFF

13 vs.

14 CITY OF CHINO,

15 Defendant.  
16  
17

18  
19 TO: THE PARTIES HERETO AND THEIR ATTORNEYS OF RECORD:

20 PLEASE TAKE NOTICE that in accordance with the Court's  
21 ruling entered on February 19, 1998, following are the names and  
22 positions of the Watermaster Services staff:

23	<u>NAME</u>	<u>POSITION</u>
24	Traci Stewart	Chief of Watermaster Services
25	Michelle Lauffer	Water Resources Specialist

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NAME

POSITION

Mary Staula

Administrative Assistant

Jim Theirl

Engineering Associate I


Dora Chavarin

Secretary II

Respectfully submitted,

RICHARDS, WATSON & GERSHON,  
Attorneys for Chino Basin  
Watermaster Advisory Committee

Dated: February 24, 1998

By   
James L. Markman

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FILED - West District  
San Bernardino County Clerk

FEB 24 1998

Wanda DeVinney

5 Attorneys for Chino Basin Watermaster  
6 Advisory Committee

7  
8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF SAN BERNARDINO - WEST DISTRICT

11 CHINO BASIN MUNICIPAL WATER )  
DISTRICT )

12 Plaintiff, )

13 Vs. )

14 CITY OF CHINO et al., )

15 Defendant. )  
16 )  
17 )  
18 )  
19 )  
20 )

Case No. RCV 51010  
(Formerly Case No. 164327)

PROOF OF SERVICE

- 1) NOTICE OF RULING
- 2) NOTICE OF REPRESENTATIVES APPOINTED TO NINE MEMBER WATERMASTER BOARD
- 3) NOTICE OF NAMES AND POSITIONS OF WATERMASTER SERVICES STAFF

21 I, Mary L. Staula, declare:

22 1. I am over the age of 18 and not a party to this action. My  
23 business address is Chino Basin Watermaster, 8632 Archibald Avenue,  
24 Suite 109, Rancho Cucamonga, California 91730.  
25

26 / / / / /

27 / / / / /

1           2.    On today's date, I served the document identified below by  
2 placing a true and correct copy of same in sealed envelopes addressed  
3 to each of the addresses shown on the attached mailing List 1.

4                   1)  NOTICE OF RULING.

5                   2)  NOTICE OF REPRESENTATIVES APPOINTED TO NINE-  
6                   MEMBER WATERMASTER BOARD.

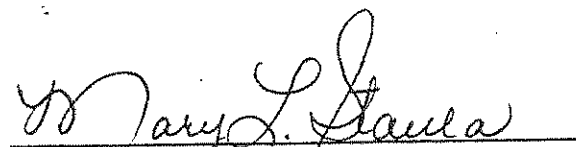
7                   3)  NOTICE OF NAMES AND POSITIONS OF WATERMASTER  
8                   SERVICES STAFF.

9           3.    On today's date I served notice of matters identified above  
10 on all other active parties by mailing a postcard containing the  
11 information set forth on the attached page, in accordance with the  
12 Court's order of December 13, 1978, addressed to each of the addresses  
13 listed on the attached mailing List 2.

14           4.    I then placed said envelopes and postcards for collection,  
15 processing and mailing by Chino Basin Watermaster personnel with the  
16 United States Postal Service on today's date, following Chino Basin  
17 Watermaster's ordinary business practices. Pursuant to these  
18 practices, with which I am familiar, addressed post cards are  
19 deposited in the ordinary course of business with the United States  
20 Postal Service on the same date they are collected and processed, with  
21 postage thereon fully prepaid.

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

24                   Executed on February 24, 1998, at Rancho Cucamonga,  
25 California.

26  
27                     
28                   Mary L. Staula  
                  Chino Basin Watermaster

# Exhibit 17

Watermaster Compliance  
with December 21, 2007  
Order Condition One and  
Two, dated January 31, 2008

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
21 East Carrillo Street  
Santa Barbara, CA 93101

1 SCOTT S. SLATER (State Bar No. 117317)  
MICHAEL T. FIFE (State Bar No. 203025)  
2 AMY M. STEINFELD (State Bar No. 240175)  
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5 Attorneys For  
6 CHINO BASIN WATERMASTER

7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF SAN BERNARDINO

10 CHINO BASIN MUNICIPAL WATER  
11 DISTRICT

12 Plaintiff,

13 vs.

14 CITY OF CHINO, ET AL.

15 Defendant.

Case No. RCV 51010

[Assigned for All Purposes to the  
Honorable MICHAEL GUNN]

WATERMASTER COMPLIANCE WITH  
DECEMBER 21, 2007 ORDER  
CONDITIONS ONE AND TWO

Date: May 1, 2008  
Time: 2:00 pm  
Dept: R8

18 I. INTRODUCTION

19  
20 In its Order approving the Peace II Measures and directing Watermaster to proceed in  
21 accordance with Watermaster Resolution 07-05, the Court set forth several conditions subsequent,  
22 the first two of which are relevant to this pleading. The first condition was that Watermaster,  
23 "prepare and submit a brief to explain the amendments to Judgment Paragraph 8 and Exhibit 'G.'"  
24 This request arises out of concerns expressed by the Special Referee regarding interpretation of the  
25 amendments in the event of future conflicts regarding their intended meaning.

26 The second condition subsequent arises from a request that Watermaster substitute an Initial  
27 Schedule that comports with the parameters of the Judgment Amendment to Exhibit "I" with the  
28

1 quantity of controlled overdraft being limited to a cumulative maximum of 400,000 acre-feet. This  
2 filing is more ministerial in character in that the November 15, 2007 Final Report prepared by Mr.  
3 Wildermuth analyzed the proposed "Initial Schedule" within the Project Description offered under  
4 the Paragraph 7.2(a) of the Peace II Agreement and simply predicted results differing from those  
5 authorized under the Amendment to Exhibit "I." Accordingly, Watermaster has attached a revised  
6 Initial Schedule described by Mr. Wildermuth in his testimony on November 29, 2007 to comport  
7 with: (a) the limitations of the Exhibit I (400,000 maximum); and (b) the model predictions  
8 generated by Mr. Wildermuth in his supplemental technical evaluations when capping the quantity  
9 of controlled overdraft at 400,000 acre-feet.

## 10 II. BACKGROUND HISTORY

11  
12 On October 25, 2007, Chino Basin Watermaster ("Watermaster") filed a *Motion for Approval*  
13 *of Peace II Documents* ("Motion"). The Peace II Documents are a suite of agreements, reports, and  
14 amendments to previous documents, including the 1978 Judgment, that implement a series of actions  
15 to continue the implementation of the physical solution for the Chino Basin which is known as the  
16 Optimum Basin Management Program ("OBMP"). Watermaster noticed a hearing on this Motion for  
17 November 29, 2007.

18 On November 15, 2007, the Court issued an *Order to Show Cause Why Court Should Not*  
19 *Continue Hearing on Motion for Approval of Peace II Documents*.

20 The Special Referee Anne Schneider performed an exhaustive review of the Peace II Documents.  
21 On November 27, 2007, the Special Referee filed the *Special Referee's Preliminary Comments and*  
22 *Recommendations on Motion for Approval of Peace II Documents* ("Preliminary Comments").

23 On November 29, 2007, Watermaster appeared in Court and presented evidence in response  
24 to the Preliminary Comments and in support of its Motion. In addition, on December 14, 2007,  
25 Watermaster filed a *Watermaster Response to Special Referee's Preliminary Comments and*  
26 *Recommendations on Motion for Approval of Peace II Documents* ("Watermaster Response").

27 On December 20, 2007, the Special Referee filed the *Special Referee's Final Report and*  
28 *Recommendations on Motion for Approval of Peace II Documents* ("Final Report"). On December



1 21, 2007, the Court issued its *Order Concerning Motion for Approval of Peace II Documents*  
2 (“Order”). The Order granted the various items requested for approval in Watermaster’s Motion, but  
3 included a list of nine conditions subsequent. The first two of these conditions subsequent and the  
4 ones relevant to this pleading are:

- 5 1. By February 1, 2008, Watermaster shall prepare and submit to the Court a  
6 brief to explain the amendments to Judgment Paragraph 8 and Judgment  
7 Exhibit “G.”
- 8
- 9 2. By February 1, 2008, Watermaster shall prepare and submit to the Court for  
10 approval a corrected initial schedule to replace Resolution No. 07-05  
11 Attachment “E,” together with an explanation of the corrections made.
- 12

### 13 III. FIRST CONDITION SUBSEQUENT

#### 14 A. The Pleading Responds to the Special Referee’s Explanation of the Proposed 15 Amendments to Aid the Court in Interpretation of the Amendments.

16  
17 The Special Referee’s Preliminary Comments initially raised several issues regarding the  
18 proposed Judgment Amendments to Paragraph 8 and Exhibit G and requested Watermaster to  
19 provide further responses. Watermaster responded by providing testimony, argument and further  
20 briefing on the identified subjects.

21 Following hearing and subsequent briefing, the Special Referee’s Final Report characterized  
22 her earlier Preliminary Comments as raising three general issues: (1) the submittal of evidence and  
23 explanation as to why the additional amendment was required seven years following the previous  
24 amendment; (2) legal questions that required further explanation to assist the Court in interpretation  
25 of the amendments; and (3) the need for a thorough explanation of the apparent complete removal of  
26 the appurtenance requirement related to the Overlying (Non-Agricultural) Rights.<sup>1</sup>

27 <sup>1</sup> As is the case with the Agricultural Pool, the Overlying (Non-Agricultural) Pool is often referenced  
28 simply as the “Non-Agricultural Pool.” This form of reference is not intended as a commentary on  
the overlying status of the pool.

1 The Final Report characterized the evidence and argument provided by Watermaster as  
2 largely responsive to the questions previously identified by the Special Referee. In providing a  
3 context for the recommendation for further briefing the Final Report states: "Watermaster addresses  
4 most of the specific questions related to the proposed Judgment Amendments." (Final Report at p.  
5 12:11-12) Moreover, as to the need for the amendment, the Final Report acknowledges that:

6  
7 "Given that more than 52,000 acre-feet of water is being held in storage by the  
8 members of the Non-Agricultural Pool, it is clear that previous efforts to  
9 encourage and facilitate water transfers to Watermaster from the Overlying  
10 (Non-Agricultural) Pool have not worked to alleviate the build-up in storage."  
11 (Final Report at p. 14.)  
12

13 Watermaster contends that the plain meaning of the instruments should be the primary  
14 consideration in interpretation of the instruments. However, to the extent there is unintended  
15 ambiguity or the Court desires a greater appreciation for the context of the amendments, this  
16 pleading provides an explanation of the mechanics of how the proposed amendments are to be  
17 construed and implemented below in Section IIB. For convenience of the Court, a brief summary of  
18 Watermaster's earlier responses to the specific subjects initially identified for further explanation in  
19 the Preliminary Comments are also set forth in Section IIC below.  
20

21 **B. The Proposed Amendments Provide an Integrated and Equitable Approach to**  
22 **Provide Local Water to Watermaster and Members of the Appropriative Pool to**  
23 **Offset Potential Replenishment Obligations.**

24  
25 **1. The Peace II Measures Seek to Augment Opportunities for Maximizing**  
26 **Reasonable and Beneficial Use While Fairly Balancing Competing**  
27 **Considerations.**  
28

1 The amendment to Judgment Paragraph 8 (attachment H to Watermaster Resolution 07-05)  
2 adds a third option for the potential transfer and conveyance of water from the Non-Agricultural  
3 Pool to maximize prospects for reasonable and beneficial use. Specifically, the amendment provides  
4 in relevant part:

5  
6 “All overlying rights are appurtenant to the land and cannot be assigned or conveyed  
7 separate or apart there from for the term of the Peace Agreement except that the  
8 members of the Overlying (Non-Agricultural) Pool shall have the right to Transfer or  
9 lease their quantified Production rights: (i) within the Overlying (Non-Agricultural)  
10 Pool; (ii) to Watermaster in conformance with the procedures described in the Peace  
11 Agreement between the Parties therein, dated June 29, 2000; or (iii) in accordance  
12 with the Overlying-(Non-Agricultural) Pool Pooling Plan set forth in Exhibit  
13 “G”(emphasis added).  
14

15 The first option of assigning water rights within the Non-Agricultural Pool was permitted  
16 under the original Judgment. The alternative of transferring water to Watermaster in connection  
17 with a storage and recovery project or for desalter replenishment was made possible in 2000 with the  
18 Court’s approval of the Peace Agreement and related instruments, including an amendment to  
19 Paragraph 8.

20 This alternative (ii) was added in 2000 to provide a controlled outlet for Non-Agricultural  
21 Pool members in an effort to provide additional flexibility to Watermaster and the parties. The  
22 change was necessary to avoid un-pumped groundwater accumulating in individual storage accounts.  
23 Unlike un-pumped Agricultural Pool water rights, under the Judgment, there was no provision for  
24 un-pumped water to automatically revert to the Appropriative Pool, other than through an agreement  
25 with an appurtenant appropriator that assumed water service responsibility to the designated  
26 overlying property, Non-Agricultural Pool water had to be used by members of the Non-Agricultural  
27 Pool.  
28

1           However, the 2000 amendment did not completely liberate the Overlying Right for transfer.  
2           The parties to the Judgment were divided as to the extent that transfers should be permitted.  
3           Competing management concerns were raised regarding the implications of expanded transferability,  
4           including but not limited to, the accumulation of stored water, reliance of the parties on historical  
5           assignments, equitable access to the supply, discrepancies in historical treatment, economics, and  
6           legal barriers. Ultimately a compromise position was reached that created an outlet that did not  
7           favor any specific group of potential users. By limiting the eligible purchaser to Watermaster and  
8           for a limited purpose (storage and recovery and/or desalter replenishment), the 2000 Amendment  
9           secured unanimous support by the parties. This followed from the view that not only would the  
10          members of the Non-Agricultural Pool obtain an outlet, the Watermaster, on behalf of the parties to  
11          the Judgment, would ensure that the obtained water would be for the common benefit of the  
12          Appropriative Pool. Use of the water to avoid a desalter replenishment obligation was deemed a  
13          general Watermaster obligation (the apportionment of which remained a contentious issue until the  
14          Court's approval of the Peace II Measures). Likewise use of the stored water in connection with a  
15          storage and recovery program triggered a broad regional benefit requirement.

16                 In this way, under the 2000 Amendment, regardless of whether water acquired by  
17          Watermaster was used in connection with a storage and recovery program or for desalter  
18          replenishment, equitable access to the benefits created by the liberated water could be reasonably  
19          assured. Thus, the 2000 Amendment enhanced the potential for beneficial use but did not unfairly  
20          prejudice any party's ability to enjoy the benefits of increased transferability. Watermaster returned  
21          to these considerations in crafting the Peace II Measures. It is important to restate that the option of  
22          providing water to Watermaster under the 2000 amendment to Exhibit "G" is preserved. As written,  
23          the Peace II Measures and the amendment to Exhibit "G" augment the earlier options; it does not  
24          replace them.

25                         **2.        The Peace II Amendments to Exhibit "G" Set Forth Rules and**  
26                                 **Procedures that Prioritize and Control the Use of Water Made Available**  
27                                 **from the Non-Agricultural Pool.**

1 In its initial form, Exhibit "G" to the Judgment set forth organizational arrangements among  
2 the members of the Non-Agricultural Pool. As amended, Exhibit "G" provides an elaborate set of  
3 rules and procedures pursuant to which stored water will be made available consistent with the  
4 purposes of maximizing beneficial use through equitable access to the water made available.  
5 Facilitating beneficial use and enhancing Watermaster flexibility in managing stored water looms as  
6 an even more important goal than originally articulated when Watermaster sought approval of the  
7 2000 Amendment, largely because of Watermaster's desire to efficiently implement its objective of  
8 securing Hydraulic Control.

9 The suite of changes included within Exhibit "G" can be grouped into three subjects: (a)  
10 those that address water already held in storage as of identified dates; (b) those that address water  
11 that is annually made available by the members of the Non-Agricultural Pool; and (c) those that  
12 established conditions that provide economic and policy conditions to the enjoyment of the financial  
13 benefits created by the amendment and the expanded rights of transferability.

14  
15 (a) **Physical Solution Transfers from Storage as of June 30, 2007.**

16 Under Paragraph 9, each member of the Non-Agricultural Pool obtains the *discretionary*  
17 *right* and not the obligation to make water available for a Physical Solution transfer consistent with  
18 the three options authorized under Paragraph 8 discussed above. As for the quantities held in storage  
19 as of June 30, 2007 (less the special transfer quantity), the members of the Non-Agricultural Pool  
20 have exercised their discretion to option the water to Watermaster under the defined terms of the  
21 *Purchase and Sale Agreement for the Purchase and Sale of Water by Watermaster from the*  
22 *Overlying (Non-Agricultural) Pool* ("Purchase and Sale Agreement"). Accordingly, the members of  
23 the Non-Agricultural Pool have exercised their discretion to make the water available to  
24 Watermaster, and Watermaster now has discretion under the defined terms of the option to obtain the  
25 water for use either in connection with a storage and recovery project or for desalter replenishment.  
26

27 The option gives Watermaster two years from the date of the Court's approval of the Peace II  
28 Measures (December 21, 2009) to evaluate whether it requires the water for the potential purposes.

1 Both Watermaster and the members of the Non-Agricultural Pool are provided certainty of financial  
2 terms with a negotiated incremental increase in the price for water and further adjusted by CPI as a  
3 hedge against inflation.

4 In the event that Watermaster *does not* exercise its option to purchase the water held in  
5 storage and Watermaster and the members of the Non-Agricultural Pool do not mutually agree to  
6 otherwise extend the date of the option, then the stored water will be made available for purchase by  
7 the members of the Appropriative Pool under the procedures set forth in the Judgment Amendment  
8 Paragraph 9(iv) (*Purchase and Sale Agreement Paragraph 8*) that is applicable to annual quantities  
9 made available for purchase by the members of the Non-Agricultural Pool. In this way, the total  
10 quantity held in storage as of June 30, 2007 will be purchased by Watermaster at its discretion or  
11 acquired by the members of the Appropriative Pool under the process described in Paragraph (b)  
12 below.

13 The special transfer quantity creates an earmark for the purchase of 8,530 acre feet by San  
14 Antonio Water Company ("SAWCO") from Vulcan Materials that is expressly deducted from the  
15 quantity available for Watermaster, or in the event Watermaster does not exercise the option to the  
16 members of the Appropriative Pool. As noted in the Final Report, this earmark of a specific quantity  
17 results in a deduction from the June 30, 2007 storage quantity. However, it is also adjusted for a ten  
18 percent dedication to desalter replenishment as is the case for the transfer of all water from storage  
19 under the Purchase and Sale Agreement. (Purchase and Sale Agreement Paragraph B.)

20 The earmark and the dedication were a component of the overall financial equity that was  
21 deemed necessary to authorize the transfer of stored water and the amendments to Paragraph 8 and  
22 Exhibit "G" specifically and to secure support for the Peace II Measures. The earmark helped to  
23 address concerns expressed over the delays between the time the original financial terms were  
24 negotiated for the Purchase and Sale Agreement and the time at which the option may be finally  
25 exercised by Watermaster or the water is acquired by members of the Appropriative Pool.

1 (b) Physical Solution Transfers of Water Stored After June 30, 2007.

2  
3 With regard to water that the members of the Non-Agricultural Pool may make available  
4 from time to time, Exhibit "G" set forth a set of rules and procedures for how Watermaster will  
5 acquire the water made available by the members of the Non-Agricultural Pool and then make it  
6 available on an equitable basis to the members of the Appropriative Pool. (Judgment Amendment  
7 Exhibit "G" 9(a)-(g).) The conditions establish the time at which the water is made available, the  
8 process of distributing the water among the members of the Pool and the price for the water.

9 However, it should be noted that there is no requirement that Watermaster purchase the water  
10 made available and any unsubscribed quantities will be apportioned back among the members of the  
11 Non-Agricultural Pool in proportion to the amount each member made available (Paragraph 9(e).)  
12 Consequently, the un-purchased water may subsequently be made available in accordance with the  
13 processes authorized by Paragraph 8, including the purchase by Watermaster in connection with a  
14 storage and recovery project or desalter replenishment.

15 Through these procedures the future avoidance of large accumulations of unused water  
16 accruing to the members of the Non-Agricultural Pool can likely be avoided under terms that are  
17 considered fair to the members of the Non-Agricultural Pool and the Appropriative Pool and  
18 consistent with the policy objectives of Watermaster.

19  
20 (c) Conditions on Transfer that Facilitate the Policy Objectives of the  
21 Peace II Measures and Redress Concerns Regarding Historic  
22 Inequities and Party Reliance on Assignments.

23 Exhibit "G" establishes conditions on the transferability that will operate to advance broader  
24 Watermaster objectives. These include conditions on the ability of members of the Appropriative  
25 Pool to purchase their proportionate share of water made available by members of the Non-  
26 Agricultural Pool. (Amendment to Exhibit "G" paragraph 9(f).)

27 Namely, this includes the requirement that the respective appropriator purchaser is current in  
28 the applicable assessments and in compliance with the OBMP. As for participation by members in

1 the Non-Agricultural Pool, Watermaster must make a finding that they are making use of recycled  
2 water where it is “physically available and appropriate.” Collectively, this means that both the seller  
3 and buyer must be working together to support the implementation of the OBMP generally and the  
4 beneficial use of recycled water.

5 As a condition of the Non-Agricultural Pool obtaining more extended rights of  
6 transferability, Section 5 of Exhibit “G” establishes an annual dedication of water from the members  
7 of the Non-Agricultural Pool to be used by Watermaster to offset the annual replenishment  
8 obligation for desalter production. Each member of the Non-Agricultural Pool will dedicate ten  
9 percent of its respective annual share of Safe Yield to Watermaster. (Exhibit “G” paragraph 5(c)(1).)  
10 In the event that the party does not dedicate the supply, Watermaster may levy an assessment against  
11 the member equal to the Metropolitan Water District replenishment rate for ten percent of the party’s  
12 respective right to Safe Yield.

13 To the extent Watermaster does not require the water to offset desalter production, then  
14 Watermaster will make the dedicated water available to members of the Appropriative Pool.  
15 Accordingly, the dedication by Non-Agricultural Pool is complete as there is no possibility that the  
16 dedicated water will be unused.

17 It must be underscored that this dedication is not imposed in a vacuum divorced from the  
18 substantial economic benefits that are received by the Non-Agricultural Pool Sellers through more  
19 liberal transfer rules, the water supply and economic benefits enjoyed by the members of the  
20 Appropriative Pool that will receive the right to purchase stored water (pre and post-June 30, 2007),  
21 and the significant projected burdens associated with meeting desalter replenishment obligations  
22 over the useful life of those facilities.

23 The members of the Appropriative Pool may be required to fund substantial recharge  
24 improvements in the decades ahead as Watermaster effectuates the Basin Re-Operation strategy and  
25 secures Hydraulic Control. There will also be a responsibility for meeting any replenishment  
26 obligations attributable to the Desalters. Through the dedication, Non-Agricultural Pool members  
27 will be directly contributing towards that obligation.

28



1                   3.     **Summary Responses to the Questions Raised by the Referee in the**  
2                                   **Preliminary Comments.**

3  
4                   (a)     **Why are the amendments necessary?**

5                   The preceding discussion addresses the larger perspectives as to the rationale for the  
6 Amendments and why they will operate in furtherance of Watermaster objectives. The Final Report  
7 notes that: "Given that more than 52,000 acre-feet of water is being held in storage by the members  
8 of the Non-Agricultural Pool, it is clear that previous efforts to encourage and facilitate transfers to  
9 Watermaster from the Overlying (Non-Agricultural) Pool have not worked to alleviate the build-up  
10 in storage." (Final Report 14:5-8.)

11                  The build-up is probably the reflection of two external conditions. As acknowledged by the  
12 Final Report, to date, Watermaster has had adequate sources of water to meet the replenishment  
13 needs of the Desalters. Consequently, there has not been a need by Watermaster for the Non-  
14 Agricultural Pool water in storage for Desalter replenishment purposes. How Watermaster and the  
15 parties to the Judgment consider proposed modifications to the initial schedule for use of Controlled  
16 Overdraft pursuant to Exhibit "I" as well as the Recharge Master Plan may have some impact on  
17 whether Watermaster exercises its option to purchase the stored water under the Purchase and Sale  
18 Agreement. However, until the Court authorized the Peace II Measures, uncertainty clouded  
19 whether Watermaster should attempt to purchase the water.

20                  Second, Watermaster has been in the process of seeking partners for a Storage and Recovery  
21 Program to make use of the water, but no such projects have yet moved toward implementation. It is  
22 noted that under the Purchase and Sale Agreement, the first priority for disposition of the water will  
23 continue to be for use in a Storage and Recovery Program, and it is likely that it is only if such a  
24 project does not materialize that the water will be allocated to the members of the Appropriate  
25 Pool. (Purchase and Sale Agreement paragraph C and H.)

1 (b) What are the total quantities of water involved in the proposed  
2 transfers?

3  
4 The total quantities of Non-Agricultural Pool water held in storage as of June 30, 2007 is  
5 51,476.147 acre-feet. The quantity provided for the Special Transfer between Vulcan and SAWCO  
6 is 8,530 acre-feet.

7 (c) Do the proposed amendments remove the appurtenance  
8 requirement and what are the consequences of elimination?

9 The Judgment amendments to Paragraph 8 and Exhibit "G" will relax the restrictions upon  
10 the use of Non-Agricultural Pool water and will therefore hopefully allow the water to be put to  
11 beneficial use consistent with Article X, section 2 of the California Constitution. The Special  
12 Referee opines that, "these amendments will essentially complete the transformation of the  
13 Overlying (Non-Agricultural) Pool rights from overlying to transferable rights." (Final Report 11:15-  
14 17.) However, for the reasons noted above, Watermaster respectfully disagrees.

15 While the Non-Agricultural Pool water may be made available to the members of the  
16 Appropriative Pool, the terms of such a transfer are dictated by the Judgment amendments both as to  
17 process and as to price. There is a substantial difference between this and the free transferability that  
18 the members of the Appropriative Pool enjoy among themselves where market transfers can be  
19 consummated under terms and conditions freely dictated by the parties to the transfer.

20 (d) Is intervention into the Non-Agricultural Pool as allowed by the  
21 Peace II Agreement section 4.4 inconsistent with Exhibit "G"  
22 paragraph 6?

23  
24 Exhibit "G" paragraph 6 of the Judgment states that, "... any appropriator who may,  
25 directly or indirectly, undertake to provide water service to such overlying lands may, by an  
26 appropriate agency agreement on a form approved by Watermaster, exercise said overlying right to  
27 the extent, but only to the extent necessary to provide water service to said overlying lands ..." This  
28 provision of the Judgment is designed to allow flexibility as between an Appropriator and Non-

1 Agricultural Pool member when, for whatever reason, it would be more convenient for the Non-  
2 Agricultural Pool member to receive its water from the appropriator rather than by pumping it  
3 directly from the Basin. In this regard, the terms of the Judgment provision relate solely to ensuring  
4 that no more water is pumped than would be pumped if the Non-Agricultural Pool member was  
5 pumping the water itself.

6 The Peace II Agreement section 4 addresses a different situation. This provision is intended  
7 for the situation where an appropriator such as a city itself meets the legal requirements as an  
8 overlying landowner. As a matter of general law, by acquisition, succession and assignment,  
9 persons may enjoy a number of water rights. Indeed there are instances where a person may hold  
10 appropriative, riparian, overlying and prescriptive water rights and multiple rights to a single source  
11 of supply. Evidence of this general condition can already be found in the Judgment. That is, a party  
12 to the Judgment already enjoys status in two Pools. The County of San Bernardino is a member of  
13 the Non-Agricultural Pool with reference to its water use at the Chino Airport, and it is also a  
14 member of the Appropriative Pool with reference to its water use at the Prado Shooting Park.

15 Moreover, in the instant case, to the extent a party meets the qualifications for intervention  
16 into the Non-Agricultural Pool, they should be allowed to intervene. It is of no legal significance  
17 that they may occupy or enjoy rights derived from another Pool as well.

18 The integrity of the Safe Yield allocation to the Non-Agricultural Pool is not threatened by  
19 the intervention per se. This follows from the fact that the total availability of water allocated to the  
20 Non-Agricultural Pool is established by the Judgment. No amount of interventions can expand the  
21 quantity that may be cumulatively produced by the group of eligible users. Intervention per se, does  
22 not vest the intervening party with water rights. They must acquire them.

23 It is true that since the Peace Agreement, intervention into the Non-Agricultural Pool creates  
24 the opportunity to acquire Non-Agricultural Pool rights. Given that the appurtenance of Non-  
25 Agricultural Pool rights was modified to allow those rights to be transferred between parcels of  
26 overlying land, there is no apparent reason why a party that owns overlying land and beneficially  
27 uses water on that property for overlying purposes should not be able to intervene into the Pool and  
28 be an available transferee for previously perfected rights.

1 The Preliminary Report notes that intervention into the Non-Agricultural Pool has been  
2 allowed in the past. (Preliminary Comments 20:25.) Indeed, two current members of the Non-  
3 Agricultural Pool (General Electric Corporation and Loving Savior of the Hills Lutheran Church)  
4 intervened into the Pool with no water rights. Moreover, while it true that as the Special Referee  
5 indicates that intervention into the Non-Agricultural Pool has never been allowed for members of  
6 other Pools, it is important to also note that neither has such intervention ever been prohibited, and  
7 Paragraph 60 of the Judgment does not preclude it.

8 Paragraph 60 provides that a non-party assignee of an appropriative rights may intervene into  
9 the Appropriative Pool, and then indicates that any other party proposing to “newly” produce water  
10 from the Basin may intervene into other pools. An appropriator that seeks to produce water as a  
11 member of the Non-Agricultural Pool would be required to produce that water under a right acquired  
12 from another party. In other words, the water is not being “newly produced.”

13 Perhaps there may be ancillary governance considerations that arise for the Nine-Member  
14 Board if an intervening appropriator assumed a position of simultaneous dominance in both the  
15 Appropriative Pool and the Non-Overlying Pool. However, such a situation is not presented by the  
16 prospect of intervention alone and is more properly addressed as a question of governance.

17  
18 (e) **Do the proposed Judgment amendments allow the one-time**  
19 **transfer?**

20 This issue is addressed by Watermaster at length in its Response (Watermaster Response to  
21 Preliminary Comments of Referee at page 38), and again above in Section B of this pleading. The  
22 Judgment amendments do provide approval of the one-time transfer as a component of the overall  
23 package of approvals that are believed to provide balanced and fair terms for liberating the water  
24 stored within the Non-Agricultural Pool as of June 30, 2007.  
25  
26  
27  
28

1 (f) What is the MWD Replenishment rate?

2  
3 The MWD Replenishment rate is the rate that is charged by the Metropolitan Water District  
4 for replenishment water. The MWD Replenishment Rate is a published rate that has evolved  
5 historically in reflection of overall conditions of supply availability.

6 There is no present ambiguity as to this specific term. For 2008, the MWD Replenishment rate is  
7 \$258 an acre-foot not inclusive of any MWD member agency (IEUA, TVMWD or WMWD)  
8 surcharges. In the event MWD should eliminate the rate, replace it or engage in substantial  
9 restructuring of its rate-structure, the parties would need to develop a substitute definition of the  
10 benchmark for the price term.

11 (g) What is the explanation for the special earmark transfer between  
12 Vulcan Materials and San Antonio Water Company?

13  
14 This subject is addressed at length above in Section B of this pleading. In summary, the  
15 Purchase and Sale Agreement addresses the total quantity of water held in storage by the members of  
16 the Non-Agricultural Pool as of June 30, 2007. (Purchase and Sale Agreement paragraph B.)  
17 Generally, the stored water is to be used first for either Desalter Replenishment or for use in a  
18 Storage and Recovery Program. (*Id.* at paragraph C.) The amount of water so used shall be the  
19 amount held in storage as of June 30, 2007, less the ten percent dedication to be used for Desalter  
20 replenishment, less the quantity of water transferred pursuant to paragraph I of the agreement.

21 Paragraph I of the Purchase and Sale Agreement describes a negotiated agreement between  
22 Vulcan Materials Company and its retail water provider San Antonio Water Company relating to  
23 Exhibit "G" paragraph 6 of the Judgment, which permits the assignment of rights by a member of  
24 the Non-Agricultural Pool to the appropriator which serves that member. As part of the negotiation  
25 of the Peace II measures, the parties unanimously consented to this earmark as a carve-out from the  
26 overall quantity of water to be transferred from the Non-Agricultural Pool to Watermaster.

1 (h) Where does the "Special Project OBMP Assessment" that is paid  
2 by a pool member in money rather than water go for the first ten  
3 years?

4  
5 The distribution of the Special Project OBMP Assessment for the first ten years is governed  
6 by section 9.2 of the Peace II Agreement. This section specifies that the allocation of any water "or  
7 financial equivalent" shall be distributed according to the formula contained in that section.

8  
9 (i) Can the OBMP Special Project Assessment be construed as a  
10 reallocation of Safe Yield in contravention to the Judgment?

11 As Watermaster explained in its December 14, 2007 Reply, this assessment is first a  
12 voluntary dedication in exchange for alienability. However, there is no requirement that the party  
13 dedicate the supply. For every member of the Non-Agricultural Pool that does not make the  
14 dedication, Watermaster may levy a monetary assessment based on the party's share of Safe Yield,  
15 just as are many Watermaster assessments. Moreover, the rights of the Appropriative Pool do not  
16 swell commensurately with the dedication.

17 The dedication must be used for desalter replenishment to offset a specific obligation. If  
18 there is no desalter replenishment obligation the water will be made available to the identified parties  
19 in the quantities set forth in the Peace II Agreement section 9.2. The Non-Agricultural Pool member  
20 is given the option in any given year to pay the assessment in water rather than money, and for the  
21 first ten years at least, the members of the Appropriative Pool do not realize benefits in direct  
22 proportion to their respective shares of Operating Safe Yield. Accordingly, the amendment cannot  
23 be construed as a reallocation of rights to Safe Yield.

24  
25 (j) How are the proposed transfers reconciled with the fact that  
26 Watermaster's powers do not seem to include the power to acquire  
27 or dispose of water rights?  
28

1 Watermaster has the power to administer the Judgment and to purchase water. It is this  
2 power which allows Watermaster to perform its fundamental function of purchasing water for the  
3 purpose of replenishment of the Basin. Similarly, as described above, the transfers at issue here,  
4 though sometimes colloquially referenced as a transfer of rights, really involve the transfer of water  
5 (or its financial equivalent) for the benefit of the parties, and not of the rights themselves. Nowhere  
6 does Watermaster propose to unilaterally beneficially use any of the water acquired. In every case, it  
7 must make the water available for use in the manner specified.

8 With respect to each of the Non-Agricultural Pool transfers described in the Peace II  
9 Documents, the Non-Agricultural Pool member retains the actual adjudicated rights to the water with  
10 Watermaster acting in the nature of an escrow agent following the prescribed procedures for  
11 distribution of the water among the members of the Appropriative Pool or to offset desalter  
12 replenishment.

13 Where Watermaster is involved in a transfer it acts in the role of an intermediary, either to  
14 arrange for the allocation of the water to the members of the Appropriative Pool, or to dedicate the  
15 water as Desalter replenishment where it will serve to replenish the supply of the Basin to be  
16 available to all parties. In other words, it is acting in a capacity that has been a traditional function of  
17 Watermaster and essential to the maintenance of the Physical Solution..

#### 18 19 IV. SECOND CONDITION SUBSEQUENT

20  
21 Section 7.2(e)(i) of the Peace II Agreement required Watermaster to file a proposed initial  
22 schedule for use of the Controlled Overdraft authorized under Exhibit "I" to the Judgment  
23 concurrent with the adoption of Resolution 07-05. Watermaster adopted an initial schedule and filed  
24 it with the Court on October 25, 2007. When modeling the impacts of the Project Description that  
25 used the initial schedule, Mr. Wildermuth's analysis in his Final Report predicted that more than  
26 400,000 acre-feet would be withdrawn as Controlled Overdraft. This analysis, while useful to  
27 examining whether Basin Re-Operation would cause Material Physical Injury, demonstrated that the  
28

1 initial schedule was too aggressive in its assumptions regarding the availability of New Yield in the  
2 earlier years of Basin Re-Operation.

3 At the November 29, 2007 Hearing, Mr. Wildermuth testified to changes to the initial  
4 schedule regarding use of the 400,000 acre-feet of controlled overdraft pursuant to Basin Re-  
5 Operation. Mr. Wildermuth testified that model results suggested that the previous estimates of New  
6 Yield due to inflow from the Santa Ana River had been underestimated and that the new estimates  
7 require an alteration of the initial schedule. The previous initial schedules for Alternatives 1A and  
8 1B used a New Yield of 30% of desalter pumping. This assumption was based upon calculations  
9 made for the 2005/2006 Watermaster assessment package. For Alternative 1C, the New Yield was  
10 determined based on the updated model. Using the updated model, iterations were completed to  
11 solve for New Yield from the Santa Ana River.

12 Mr. Wildermuth included the revised schedule as Table 1 in his December 18, 2007 Report  
13 (filed with the Court on December 19, 2007). A copy of this revised initial schedule is attached here  
14 as Exhibit "A." This substitution is not offered in lieu of the requirement that Watermaster provide a  
15 revised initial schedule, if required following the completion of negotiations between WMWD and  
16 the members of the Appropriative Pool.

## 17 V. CONCLUSION

18  
19 The provisions of the Peace II Documents relating to the Non-Agricultural Pool are designed  
20 to maximize the use of water available to the Basin consistent with Article X, section 2 of the  
21 California Constitution. Collectively, these provisions were developed through negotiation of the  
22 parties and have the unanimous support of the parties to the Judgment.

23 There are strong management and policy considerations that are reflected in the  
24 conditionality associated with more liberal transfer rules that fairly balance a host of competing  
25 considerations. While the weight given to each of the numerous considerations may vary based  
26 upon interest and point of view, from the perspective of Watermaster, the amendments provide  
27 Watermaster with a two-year option of acquiring water from storage at a fixed price for designated  
28 purposes of desalter replenishment and storage recovery through a period of transition.

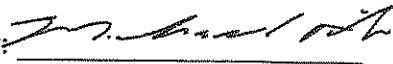


1 If these larger opportunities cannot be realized, the purchased water can nevertheless be  
2 made available as a local supply to all appropriators in lieu of replenishment under terms deemed  
3 fair by the members of the Appropriative Pool. It is true that the amendments will provide for some  
4 opportunities for isolated economic gain along with the increased beneficial use.

5 However, this is traditionally the case with the beneficial use of water. More importantly,  
6 given the Herculean commitments undertaken by Watermaster and the parties in implementing Basin  
7 Re-Operation and Hydraulic Control efforts, the amendments add to the foundation of broad, indeed  
8 unanimous support without posing any specific threat of harm to any party or the Basin.

9  
10  
11 Dated: January 31, 2008

BROWNSTEIN HYATT FARBER  
SCHRECK, LLP

12  
13 By:   
14 Michael T. Fife  
15 Scott S. Slater  
16 Attorney For Chino Basin Watermaster  
17  
18  
19  
20  
21  
22  
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24  
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27  
28

# Exhibit A

**Table 1**  
**Alternative 1C - Desalter Replenishment with the**  
**Most Rapid Depletion of the Re-Operation Account**  
(accre-ft/yr)

Fiscal Year	Desalter Pumping	New Yield	Re-Operation			Residual Replenishment Obligation
			Replenishment Allocation for Desalter III	Replenishment Allocation to CDA	Balance	
					400,000	0
2006 / 2007	26,350	0	0	26,350	373,650	0
2007 / 2008	26,350	0	0	26,350	347,300	0
2008 / 2009	26,356	0	0	26,356	320,944	0
2009 / 2010	26,356	0	0	26,356	294,588	0
2010 / 2011	28,965	0	0	28,965	265,622	0
2011 / 2012	31,574	75	0	31,500	234,123	0
2012 / 2013	34,182	442	5,000	28,740	200,383	0
2013 / 2014	36,791	962	10,000	25,829	164,554	0
2014 / 2015	39,320	1,629	10,000	4,554	150,000	23,137
2015 / 2016	39,320	2,255	10,000		140,000	27,065
2016 / 2017	39,320	2,771	10,000		130,000	26,549
2017 / 2018	39,320	3,275	10,000		120,000	26,045
2018 / 2019	39,320	3,767	10,000		110,000	25,553
2019 / 2020	39,320	4,283	10,000		100,000	25,037
2020 / 2021	39,320	4,764	10,000		90,000	24,556
2021 / 2022	39,320	5,198	10,000		80,000	24,122
2022 / 2023	39,320	5,570	10,000		70,000	23,750
2023 / 2024	39,320	5,854	10,000		60,000	23,466
2024 / 2025	39,320	5,959	10,000		50,000	23,361
2025 / 2026	39,320	5,834	10,000		40,000	23,486
2026 / 2027	39,320	5,698	10,000		30,000	23,622
2027 / 2028	39,320	5,546	10,000		20,000	23,774
2028 / 2029	39,320	5,479	10,000		10,000	23,841
2029 / 2030	39,320	5,594	10,000		0	23,726
Totals	866,045	74,953	175,000	225,000		391,091

CHINO BASIN WATERMASTER

Case No. RCV 51010

Chino Basin Municipal Water District v. The City of Chino

PROOF OF SERVICE

I declare that:

I am employed in the County of San Bernardino, California. I am over the age of 18 years and not a party to the within action. My business address is Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On February 1, 2008, I served the following:

**1) WATERMASTER COMPLIANCE WITH DECEMBER 21, 2007 ORDER CONDITIONS ONE AND TWO**

BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:

*See attached service list: Mailing List 1*

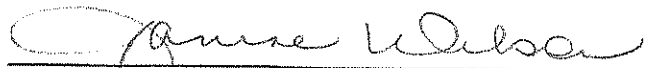
BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

BY FACSIMILE: I transmitted said document by fax transmission from (909) 484-3890 to the fax number(s) indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting fax machine.

BY ELECTRONIC MAIL: I transmitted notice of availability of electronic documents by electronic transmission to the email address indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting electronic mail device.

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

Executed on February 1, 2008 in Rancho Cucamonga, California.



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# Exhibit 18

Reporter's Transcripts of  
Proceedings,  
February 2, 2009  
pp. 69-70

1 you're hearing about, coming up with the assessments, how we  
2 bill all the parties to get the money we need to fund the  
3 projects and then putting together an annual report.

4 Q And over the years that you have been involved with  
5 the Watermaster, how has the process of notice to the  
6 parties evolved?

7 A It used to be about 800 notices were sent out  
8 whenever there was any type of Court filing or meeting  
9 agenda. Over the years, that's whittled down. I think  
10 seven years ago, when I first started at Watermaster, we  
11 sent out about 200 notices every time there was a meeting or  
12 a Court filing.

13 What we started doing about five or six years ago was  
14 sending out the notices electronically so we would --  
15 instead of sending by mail the whole package of information,  
16 we would send a PDF document through e-mail to all of the  
17 affected parties. And then that was pretty large files  
18 people had a hard time opening, so then what we did is we  
19 started E-mailing out a link, which is in our website, where  
20 people could find those documents.

21 Q And could you turn around. Is that website on the  
22 screen?

23 A Yeah, there it is. Right here is the Watermaster  
24 website. We have a lot of information on the website. If  
25 you click on the FTP button over here on the left side and  
26 here is all of the different directories and all of the

1 different filings that we have since -- you know, most  
2 recently. We keep them up there.

3 These ones are almost a years worth of different  
4 types of data that people are still asking to see. So all  
5 of our notices, when we send out a notice to the parties, we  
6 have a link that goes right into this folder.

7 Q And over the years, how has the management of the  
8 parties to the judgment evolved?

9 A What used to be -- Before computers, managing all of  
10 their information, I guess, manually, and since then we've  
11 created different data bases that we're able to pull the  
12 different interested parties from. So whether it's just an  
13 attorney group or whether it's all Watermaster interested  
14 parties that we're going to serve a notice on, so we have a  
15 contact data base that we maintain and keep updated so  
16 whenever we get updated information, we're able to keep that  
17 posted.

18 Q Can you tell us what is the Watermaster assessment  
19 package?

20 A The assessment package is a way -- is the document  
21 that divides up the costs among the parties based on agreed  
22 upon methodology, based on the different costs and based on  
23 the Watermaster budget.

24 Q And what is the approval process for the assessment  
25 package?

26 A The assessment package, just like the budget package,