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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SAN BERNARDINO**

13 **CHINO BASIN MUNICIPAL WATER**
14 **DISTRICT,**

15 **Plaintiff,**

16 **v.**

17 **CITY OF CHINO, et al.,**

18 **Defendant.**

Case No. RCV 51010

[Assigned for All Purposes to the
Honorable STANFORD E. REICHERT]

**MOTION FOR APPROVAL OF
WATERMASTER RESOLUTION 2010-04**

Hearing Date: October 28, 2011
Hearing Time: 10:30 a.m.
Dept: C-1

19 **I. INTRODUCTION**

20 One of the most significant aspects of the Optimum Basin Management Program
21 (“OBMP”) is the construction of the Desalters in the southern end of the Chino Basin.
22 Implementation of this element of the OBMP has been, and will continue to be, a costly and
23 complex undertaking. However, the multiple benefits provided to the Basin outweigh the costs
24 by a significant margin. (See *Analysis of Aggregate Costs and Benefits of Hydraulic Control,*
25 *Basin Re-Operation and Desalter Elements of Non-Binding Term Sheet*, Prof. David Sunding
26 November 29, 2006, Attachment “B” to Peace II Agreement.) Progress on the Desalters has been
27 a central concern of the Court since it approved the OBMP in 2000.
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1 On October 28, 2010, the Watermaster Board approved Watermaster Resolution No.
2 2010-04 ("Resolution"). Adoption of this Resolution was necessary in order to confirm the
3 factual and legal assumptions of the parties as they initiate the final required phase of the Desalter
4 project. As discussed below, completion of this final phase is projected to cost approximately
5 \$116,470,000, making it a substantial public undertaking. The Resolution contains commitments
6 by Watermaster and describes commitments made by the members of Chino Desalter Authority
7 ("CDA") that facilitate the initiation of the final phase of the project. A copy of the Resolution,
8 as well as the Exhibits to the Resolution, is attached to this pleading as Exhibit "A."

9 Item 10 of the Watermaster commitments in the Resolution (page 14) states that:
10 "Watermaster will update and inform the Court of the status of implementing the OBMP and
11 request a further order of the Court directing Watermaster to proceed as provided herein." The
12 purpose of this Motion is to provide the Court with the pertinent background of the OBMP
13 Desalter element and other issues related to approval of the Resolution, and to articulate the
14 nature of the action requested of the Court. Declarations are attached hereto in order to provide
15 evidentiary bases for the Court's approval, and Watermaster intends that the brief factual
16 background provided here will be supplemented by live testimony at the October 28 hearing.

17 **II. FACTUAL BACKGROUND**

18 **A. OBMP Desalter Element**

19 The Desalter element is a central feature of the OBMP spanning multiple OBMP Program
20 Elements. (See OBMP Implementation Plan Program Elements 3 & 5 (Peace Agreement Exhibit
21 "B," page 23) and Program Elements 6 & 7 (Peace Agreement Exhibit "B," page 32.) The 2000
22 OBMP Implementation Plan identified the target for Chino Basin Desalter capacity: "... it is
23 expected that at least 40,000 acre-feet/yr of groundwater will need to be Produced in the southern
24 part of the Basin to maintain the safe yield." (OBMP Implementation Plan, Peace Agreement
25 Exhibit "B," page 23.) In 2000, the OBMP Implementation Plan identified multiple purposes that
26 would be served by the Desalters. These included yield preservation through the capture of
27 rising water due to decreased agricultural pumping in the southern end of the Basin, augmentation
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1 of municipal supply sources, and water quality benefits as poor quality, non-potable groundwater
2 was pumped and treated for beneficial use. (Id., page 24.)

3 Satisfaction of the OBMP Desalter goal has been a major concern of the Court since
4 approval of the OBMP in 2000. For example, when reappointing the nine-member Board in
5 2000, the Court stated: “The Court hereby gives notice to the parties that a primary concern of
6 the Court in any future application for reappointment of the nine-member Board will be the
7 parties’ continued commitment to provide for future desalters and preserve safe yield in
8 accordance with the OBMP.” (September 28, 2000 Order Concerning Motion to Extend Nine-
9 Member Board 5:6-10.)

10 **B. Basin Plan Amendment and Hydraulic Control**

11 In 2004, the Regional Water Quality Control Board (“RWQCB”) adopted an amended
12 Basin Plan for the Santa Ana Watershed. (California RWQCB, Santa Ana Region, Resolution No.
13 R8-2004-0001.) These Basin Plan amendments allowed for increased use of recycled water in the
14 Chino Basin by raising the water quality objectives for nitrate and total dissolved solids. In order
15 to mitigate these raised standards, the RWQCB required the Watermaster and the Inland Empire
16 Utilities Agency (“IEUA”) to fulfill certain conditions. Attached to this pleading as Exhibit “B”
17 is Table 5-8a from Resolution R8-2004-0001 which lists the commitments made by Watermaster
18 and IEUA. To date the only condition that has not been satisfied is the requirement to achieve
19 Hydraulic Control of the Chino Basin.

20 Hydraulic Control is defined as the reduction to de minimus levels of outflow from the
21 Chino North Management Zone. (Resolution R8-2004-0001, page 59.) Attached to this pleading
22 as Exhibit “C” is figure 3-5a from Resolution R8-2004-0001 showing the Chino North
23 Management Zone. The purpose of Hydraulic Control is to isolate the Chino Basin from the
24 Santa Ana River and downstream water users. The RWQCB required the attainment of Hydraulic
25 Control based on its conclusion that water quality impacts from the increased water quality
26 objectives would not cause harm to downstream users if the Basin was hydraulically isolated
27 from these users.

28 Attached to this pleading as Exhibit “D” is a declaration dated September 15, 2011, from

1 Mr. Kurt Berchtold ("Berchtold Decl."), Executive Officer of the RWQCB, Santa Ana Region,
2 confirming that the Desalter expansion project as designed will meet the objectives set forth by
3 the RWQCB for achieving Hydraulic Control of the Chino Basin.

4 **C. Peace II Proposed Plan to Achieve Hydraulic Control**

5 The Peace II Measures proposed to achieve Hydraulic Control through two means:
6 expansion of the Desalters to be fed from the Chino Creek Well Field ("CCWF") and Basin Re-
7 operation.

8 1. Chino Creek Well Field

9 The first two phases of the OBMP Desalter project have resulted in a Desalter well field
10 that creates a barrier in the southern part of the Basin. There is only one area where this barrier is
11 incomplete, and it is in this area that Hydraulic Control has not yet been achieved. This area is at
12 the western side of the Basin and the well field that has been proposed for this area is the CCWF.
13 Operation of this well field is anticipated to complete the barrier that will result in Hydraulic
14 Control.

15 2. Basin Re-operation

16 While the hydraulic barrier that will be completed by the CCWF is the basic means to
17 achieve Hydraulic Control, the hydraulic isolation created by this barrier will not be sufficiently
18 robust if the gradient of the Basin remains in its current condition. In other words, there is too
19 much water flowing from the North to be consistently captured by the Desalter well field.

20 In response, during negotiation of the Peace II Measures, Watermaster proposed to change
21 the gradient of the Basin through a process of controlled overdraft in the amount of approximately
22 400,000 acre-feet. This project is known as Basin Re-operation.

23 **D. Impacts**

24 A primary focus of the Resolution is an attempt to anticipate and address impacts from the
25 construction of the CCWF and to address related issues associated with Basin Re-Operation.
26 While the Chino Basin Desalter Authority ("CDA") will be the entity to construct and operate the
27 CCWF, the need to construct the well field in the specific place where it is to be constructed is a
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1 result of Watermaster's OBMP objectives and need to comply with the requirement to achieve
2 Hydraulic Control. Because of this, the CDA parties have sought certain assurances from
3 Watermaster in order to mitigate the potential liabilities they may face for implementing this
4 OBMP project.

5 1. Decline in Water Table

6 Principally, the operation of the CCWF will lower the water table in the southwest portion
7 of the Basin. This, in fact, is the OBMP objective of operating the well field, and it is a part of
8 the broader Re-Operation plan to lower water levels Basin-wide. This lowering of the water table
9 will result in numerous potential impacts both in the area immediately adjacent to the CCWF as
10 well as regionally across the Basin. With respect to regional impacts of concern to parties to the
11 Judgment, the Resolution makes findings of fact that such impacts are fully mitigated by the
12 benefits analyzed in the 2006 report by Prof. Sunding. The CDA parties are thus given the
13 assurance that they will not be faced with further mitigation costs as a result of these potential
14 impacts.

15 2. Subsidence

16 With regard to land subsidence, Watermaster has determined that if pumping is limited to
17 the shallow aquifer and if monitoring continues, it is highly unlikely that there will be any
18 inelastic subsidence that causes physical damage to the aquifer, roads or structures.

19 3. Localized Impacts on Agricultural Pool Member Wells

20 With respect to impacts on individual well owners, the Resolution has identified an
21 anticipated zone of influence of the CCWF and identified the universe of well owners within this
22 zone. There are 13 such active wells, and another 12 that are either inactive or abandoned. A list
23 of such wells and their owners is attached hereto as Exhibit "E." These parties are members of
24 the Agricultural Pool either named in the original Judgment or successors in interest to such
25 parties. Watermaster will provide special individualized notice of this Motion to these parties and
26 will provide a separate declaration to the Court in advance of the October 28 hearing detailing the
27 steps that were taken to ensure that these parties were notified of and understand the current
28 proceedings.

1 As successors in interest to parties in a prior action determining water rights, these
2 successor parties are parties to the Judgment. (*Adams v. Barber* (1913) 21 Cal.App. 503, 513-14;
3 *Gale v. Tuolumne County Water Co.* (1914) 169 Cal. 46, 49-53 (the successor in interest of the
4 original defendant in an action to enjoin diversions from the waters of a creek is bound by a
5 judgment to the same extent as was the original defendant); see also, *McKinley Bros. v. McCauley*
6 (1932) 215 Cal. 229, 235 (judgment in an action to quiet title to a quantity of water in a creek is
7 binding on successors in interest).) This rule applies to judgments affecting either real or
8 personal property, regardless of how the title was acquired, whether by purchase, inheritance,
9 devise, or otherwise. (*Rauer v. Rynd* (1915) 27 Cal. App. 556, 559-63.) Under Paragraphs 15
10 and 63 of the Judgment, successors in interest fall within the Court's continuing jurisdiction.

11 CDA's Mitigated Negative Declaration for the project proposed a mitigation plan with
12 respect to these well owners, and this plan will be the procedure that CDA will follow for these
13 landowners in the event that they are adversely impacted by the operation of the CCWF.

14 **III. REQUESTED COURT FINDINGS AND ORDERS**

15 The Resolution includes an exhaustive set of factual findings by the Watermaster Board
16 concerning the background and initial implementation activities for the Desalter expansion
17 project. Based on these factual assumptions, the Resolution articulates several commitments by
18 Watermaster concerning Watermaster actions and the understandings of the Watermaster parties
19 concerning questions about impacts associated with the Desalter expansion, including subsidence,
20 impacts on water levels, and replenishment commitments. The CDA parties have each
21 individually expressed support for these commitments through adoption of their own resolutions
22 of support. These resolutions are attached hereto as Exhibit "F."

23 The commitments made by Watermaster in the Resolution were approved by the
24 Watermaster Board after having been approved by the three Pools and the Advisory Committee.
25 However, because of the magnitude of the undertaking of the Desalter expansion, it is appropriate
26 that these findings and commitments should be confirmed as specific findings and orders of the
27 Court. This will provide additional security for the members of CDA who are undertaking this
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1 project. The findings and orders below are adopted from the Resolution and are substantially the
2 same findings and commitments approved by Watermaster and by the individual CDA members
3 through their individual resolutions. Minor modifications to the findings and commitments of the
4 Resolution have been made only to account for developments that have occurred between the
5 time of approval of the Resolution and the present.

6 Watermaster knows of no opposition to Court adoption of these findings and orders.

7 **A. Findings**

8 Watermaster requests that the Court make the following findings:¹

- 9 1. *Western Municipal Water District ("WMWD") has elected to proceed to construct the*
10 *Future Desalters jointly with Jurupa Community Services District ("Jurupa") and the*
11 *City of Ontario ("Ontario") (collectively "Expansion Parties") by and through the*
12 *Chino Basin Desalter Authority ("CDA") as provided in agreements between and*
13 *among CDA and its members.*

14 This finding is supported by the Declaration of Jack Safely, September 30, 2011, ¶ 5,
15 attached hereto as Exhibit "G" ("Safely Decl."), as well as the Declaration of Eldon Horst,
16 September 27, 2011, ¶¶ 5-6, attached hereto as Exhibit "H" ("Horst Decl.").

- 17 2. *It is reasonably anticipated that all members of CDA as Parties to the Judgment will*
18 *agree to exercise good faith and reasonable best efforts towards the timely completion*
19 *of the Expansion Project as it is described in the approved Pre-Design Report*
20 *("PDR").*

21 This finding is supported by Safely Decl., ¶ 6. Each of the CDA members have
22 demonstrated their commitment to exercise such good faith and reasonable best efforts through
23 their adoption of resolutions of support attached hereto as Exhibit "F."

- 24 3. *The Metropolitan Water District of Southern California ("MWD") has approved the*
25 *requested \$139 subsidy for the Desalters and WMWD has considered the applicable*
26 *costs as provided in Section 5.7 of the Peace II Agreement and it has committed to*

27 ¹ The full text of each requested finding is in italics. References to supporting evidence contained
28 in declarations and an accompanying explanation are included after the full text of each requested
finding.

1 *proceed jointly with Jurupa and Ontario through CDA to cause the completion of the*
2 *Future Desalters.*

3 This finding is supported by Safely Decl., ¶ 7. At the time the Watermaster Board
4 adopted the Resolution this contingency had not been satisfied. The parties had requested a
5 subsidy of \$139 per acre-foot for the Desalter expansion, but it had not yet been approved. This
6 was a significant cost component and without the subsidy, water produced from the expansion
7 may not have been cost-effective for WMWD. Since that time, MWD has approved the requested
8 subsidy. A copy of MWD's approval of the requested subsidy is attached hereto as Exhibit "I."
9 As demonstrated by the Declaration of Mr. Safely, WMWD has made the determination that the
10 costs associated with the project are acceptable, and it has therefore committed to move forward
11 with the project.

12 4. *For the avoidance of doubt, the allocation of the cost of Replenishment Water for the*
13 *Desalters under the Peace Agreement and its progeny is set forth in Exhibit "D" of*
14 *Watermaster's Resolution 2010-04, with acknowledgement that the provisions of*
15 *Peace Agreement II Section 6.2(b)(ii) which excludes Desalter production in the*
16 *calculation of an Appropriator's proportionate responsibility for Desalter*
17 *Replenishment as subject to being revisited if the net cost of Desalter Water is*
18 *materially reduced.*

19 This finding is supported by Safely Decl., ¶ 8. Resolution Exhibit "D" merely restates the
20 provisions of Peace Agreement II Section 6.2(b)(ii) and explains contextually how these
21 provisions will be applied.

22 5. *The Expansion Parties' Future Desalter facilities are reasonably calculated to*
23 *achieve the stated OBMP objectives of Future Desalters: (a) yield preservation; (b)*
24 *water supply; (c) salt management; (d) expanded use of recycled water; and (e)*
25 *hydraulic control.*

26 This finding is supported by the Declaration of Andy Malone, September 30, 2011, ¶ 6,
27 attached hereto as Exhibit "J" ("Malone Decl.") and by Berchtold Decl., ¶ 5. This is a key
28 finding in the Resolution. The Declarations represent the analysis by Watermaster that the project

1 will accomplish the OBMP goals and that the RWQCB will accept the project as satisfaction of
2 the final commitment by Watermaster under the Basin Plan amendments.

3 6. *The Future Desalters have been designed and will be constructed and operated to*
4 *Produce water with high total dissolved solids ("TDS").*

5 This finding is supported by Malone Decl., ¶ 7.

6 7. *Peace Agreement and Peace II Measures' (as that term is defined in Watermaster*
7 *Resolution 2010-04 recital number ten) obligations regarding the requirement of*
8 *providing hydrologic balance in each Management Zone, including Management Zone*
9 *Number 3 remain in full force and effect.*

10 This finding is supported by the Declaration of Desi Alvarez, October 3, 2011, ¶ 4,
11 attached hereto as Exhibit K ("Alvarez Decl."). While the Desalter project is a key component of
12 the OBMP, it is still just one aspect of the overall program. The various pieces of the overall
13 OBMP are related and form an interlocking set of management measures for the Basin as a
14 whole. In order to make the commitments necessary to proceed with the project, parties sought
15 assurances that other related components of the OBMP would not be neglected. In this instance,
16 Jurupa has sought assurances that issues associated with the lowering of water levels in
17 Management Zone 3 would continue to be a priority for Watermaster. See generally, Horst Decl.

18 8. *The Chino Creek Well Field ("CCWF") will be located in an area that is consistent*
19 *with the designations in the Supplement to the Optimum Basin Management Program*
20 *("OBMP") and the purposes of the OBMP Implementation Plan. (Peace Agreement*
21 *7.3(e).)*

22 This finding is supported by Malone Decl., ¶ 10. The location of the Desalter expansion
23 wells has been a major concern of Watermaster in order to ensure that the expansion
24 accomplished Watermaster's goal of achieving Hydraulic Control. Because the location of these
25 wells to accomplish Hydraulic Control may not be the optimal location to place the wells solely
26 from a water supply perspective, Watermaster incentivized proper placement of the wells through
27 dedication of a portion of the 400,000 acre-feet of controlled overdraft specifically to the
28

1 expansion project. The expansion parties therefore sought assurances from Watermaster that the
2 ultimate placement of the wells was satisfactory to Watermaster.

3 9. *The location and the proposed operation of the Future Desalter wells are highly*
4 *unlikely to result in inelastic subsidence that causes any physical damage to the*
5 *aquifer, roads or structures.*

6 This finding is supported by Malone Decl., ¶ 9. Watermaster consultants have been
7 intimately involved with the subsidence issues in the Basin and have conducted extensive
8 modeling of the operation of the CCWF. They have reviewed the location of the wells and taken
9 into account the commitment that the wells will pump only from the shallow aquifer, and on this
10 basis have been able to provide this technical opinion.

11 10. *Watermaster has proposed measures set forth in the Supplemental Environmental*
12 *Impact Report ("SEIR") attached to Resolution 2010-04 as Exhibit "F" and will*
13 *establish measurement and monitoring protocols that if followed, will minimize the*
14 *long-term risk of inelastic subsidence that might cause physical damage to de minimus*
15 *levels and report on these protocols to Watermaster and to the parties.*

16 This finding is supported by Alvarez Decl., ¶¶ 8, 10. Measurement and monitoring will
17 be important functions in order to ensure that the modeling analysis of the effect and impacts of
18 the expansion pumping will be as predicted. Robust and consistent monitoring will ensure that
19 unexpected impacts will be detected at the earliest possible opportunity.

20 11. *Prudent well operators will design, construct and operate groundwater production*
21 *facilities that withstand seasonal fluctuations in water levels.*

22 This finding is supported by Malone Decl., ¶ 11. One of the impediments to moving
23 forward with the expansion project was concern by the members of CDA regarding liabilities
24 associated with impacts on other wells in the vicinity of the CCWF. Based on technical input
25 from its consultants, Watermaster was able to provide resolution to these concerns by defining the
26 factual background for well design and operations in the Basin. This finding clarifies an element
27 of a test of reasonableness concerning well design and operation.
28

1 12. *Water levels that fluctuate more than 35 feet from present levels and that are 20 feet*
2 *lower than the groundwater level conditions that would occur in the absence of the*
3 *Phase II Desalter Expansion can be addressed through the proposed SEIR mitigation*
4 *plan.*

5 This finding is supported by Malone Decl., ¶ 12.

6 13. *Watermaster has timely filed its Recharge Master Plan and intends to implement the*
7 *Plan in a manner that creates hydrologic balance with Management Zone 3 and*
8 *minimizes adverse impacts of pumping within the Management Zones as required by*
9 *the Peace Agreement.*

10 This finding is supported by Alvarez Decl., ¶ 11. As with finding number seven, above,
11 this finding provides assurance that the Recharge Master Plan will continue to be implemented in
12 order to resolve water level issues in Management Zone 3. This issue is a major concern for
13 Jurupa as explained in the Declaration of Jurupa’s General Manager Eldon Horst attached hereto
14 as Exhibit “H.”

15 14. *The WMWD, Jurupa and Ontario have spent \$15 million in pursuit of the planning,*
16 *design and construction costs for the Expansion Project (up to \$5 million of which*
17 *may be reimbursed from third-party grants that will be used for purposes consistent*
18 *with the grant authorizations) in consideration of and in reliance upon Watermaster’s*
19 *timely and successful implementation of the Recharge Master Plan. The total cost for*
20 *the Expansion Project has been projected to be \$116,470,000.*

21 This finding is supported by Safely Decl., ¶ 9. See the comments regarding finding
22 number 7, above, to provide context for this finding. Similar to finding number 7, the parties’
23 commitments regarding this project are dependent on expectations concerning fulfillment of other
24 Watermaster OBMP commitments.

25 15. *Within 24 months from the adoption of the Resolution, WMWD can reasonably*
26 *negotiate terms for intervention into the Appropriative Pool or request Watermaster to*
27 *designate a member of CDA that is also a member of the Appropriative Pool for*
28 *purposes of accounting for the Desalter Production.*

1 This finding is supported by Alvarez Decl., ¶ 12. Because CDA is not a party to the
2 Judgment, Watermaster's ability to ensure that Desalter pumping conforms to the requirements
3 set forth in the Judgment, Orders of the Court, and the many agreements that govern operation of
4 the Basin, is dependent on each of the individual CDA members participation in the Judgment.
5 WMWD is identified as a "Non-Producer Water District" in Judgment Exhibit "C." In order to
6 ensure that Watermaster has full authority to administer the Judgment with reference to any
7 Desalter pumping by CDA on behalf of WMWD, the Resolution requires WMWD to either
8 intervene into the Appropriative Pool or to assign the production of the desalted water attributable
9 to WMWD to an Appropriative Pool member that is also a member of CDA. (See below
10 requested Order number 22.

11 16. *The designation by Watermaster must not increase the assignee Appropriator's*
12 *obligations or benefits to Watermaster or under the Judgment, Peace Agreement and*
13 *the Peace II Measures.*

14 This finding is supported by Alvarez Decl., ¶ 13. The designation referenced in this
15 finding refers to the designation in finding number 15 and only becomes relevant if WMWD
16 elects not to intervene as a member of the Appropriative Pool. In that event, the designation of
17 another member of the Pool must be made in such a way as to not increase the burdens or benefits
18 of that member.

19 17. *The requirements set forth in Section 5.5(e) of the Peace II Agreement have been*
20 *satisfied by WMWD's assumption of project risk, out of pocket costs presently in*
21 *excess of \$5 million (\$15 million for the Expansion Parties) and the further*
22 *assumption of capital and operations and maintenance costs in excess of expectations*
23 *(the cost-cap as for WMWD's portion of expenses). However, this finding is made*
24 *only with regard to WMWD's obligation under Section 5.5 to complete final binding*
25 *agreement(s) regarding Future Desalters. This finding is not intended to have any*
26 *bearing or impact on the sufficiency of WMWD's assumption of risk and costs for any*
27 *other purpose, including the availability of a reduced uniform loss percentage under*
28 *Peace II Agreement Section 7.4. This finding also does not affect WMWD's rights or*

1 *obligations to intervene into the Appropriative Pool on the terms and conditions that*
2 *may be fairly agreed among the Appropriative Pool and WMWD.*

3 This finding is supported by Safely Decl., ¶ 10. The OBMP has been a very costly
4 undertaking during the last 11 years of implementation and has resulted in significant benefits to
5 the region. Recognizing the high value of these benefits, the parties sought through the Peace II
6 Agreement to protect those who invested in the OBMP by requiring parties who have not made a
7 similar investment to reimburse the Parties to the Judgment before enjoying the benefits of the
8 OBMP. Section 5.5(e) of the Peace II Agreement required WMWD to make such reimbursement
9 in order to participate in the Desalter project, and this finding provides an assurance to WMWD
10 that its investment in the project will serve as such reimbursement.

11 18. *The MWD has approved the award of \$139 per acre-foot to WMWD for the benefit of*
12 *the Expansion Project.*

13 This finding is supported by Safely Decl., ¶ 7. See comments to finding number 3, above.

14 19. *CDA has adopted a Mitigated Negative Declaration for the Expansion Project and it*
15 *has executed binding water purchase agreements with each of its*
16 *members and it will timely proceed to implement the Expansion Project in accordance*
17 *with the PDR.*

18 This finding is supported by Safely Decl., ¶ 11.

19
20 **B. Orders**

21 Watermaster requests that the Court make the following Orders:

22 1. *The above-referenced actions in whole and in part are consistent with the Judgment,*
23 *the Peace Agreement, the Peace II Measures and the December 21, 2007 Order of the*
24 *Court (collectively "Prior Directives") and in the event of any inconsistencies*
25 *between this Order and the language of these Prior Directives, the Prior Directives*
26 *shall control.*

27 Watermaster has been intimately involved in the development of the Resolution and has
28 taken care to ensure that all of the actions to which the parties have committed as part of the

1 implementation of the Desalter expansion project are consistent with the Judgment, other
2 agreements, and prior Orders of the Court. Watermaster knows of no inconsistencies between the
3 Resolution and the actions it describes and any of the Prior Directives. Watermaster knows of no
4 party that alleges any such inconsistencies.

5 2. *As approved and conditioned as set forth above, including but not limited to the*
6 *location and screening of the proposed wells, the CDA Emergency Response Plan, the*
7 *SEIR mitigation plans applicable for subsidence, water level fluctuations and the*
8 *improvements identified in the Recharge Master Plan, the above-referenced actions*
9 *present no threat of Material Physical Injury (Peace Agreement Section 7.3(d).)*

10 Mr. Malone's Declaration provides the evidentiary support for the findings concerning
11 location of the Desalter expansion wells, the operation of the wells as pumping only from the
12 shallow aquifer system, the measures proposed to monitor for and respond to any impacts, and the
13 general approach to water level declines as articulated in the Recharge Master Plan. Collectively
14 all of these measures serve to mitigate any potential physical impacts. Under the Peace
15 Agreement definition of Material Physical Injury, "Once fully mitigated, physical injury shall no
16 longer be considered to be material." (Peace Agreement § 1.1(y))

17 3. *Unless authorized in advance by Watermaster for good cause arising from the need*
18 *for testing, monitoring, or mitigation, the Parties to the Judgment comprising CDA*
19 *will not produce groundwater from the deep aquifer system among Desalter wells*
20 *Nos. 1 through 4 as set forth in Peace Agreement II Section 5.8(a)(i)(ii). Watermaster*
21 *shall have all rights and remedies to redress a violation of this condition, including*
22 *but not limited to the right to make application to the Court to revisit the allocation of*
23 *some or all of the 400,000 acre-feet of controlled overdraft, taking into account the*
24 *specific causes associated with the failure. However, such an application will not*
25 *require a discontinuance of Desalter operations. (See Judgment Exhibit I; Peace*
26 *Agreement II, Section 5.8(a)(i)(ii).)*

27 Mr. Malone's Declaration is clear that his analysis of the potential for Material Physical
28 Injury, and in particular his analysis concerning the potential for subsidence due to pumping from

1 the CCWF, is dependent on the assumption that the wells that comprise the CCWF will pump
2 only from the shallow aquifer system. CDA has committed to this important condition and thus it
3 is appropriate for the Court to adopt such a condition as an Order and to provide Watermaster
4 with the means of enforcement as described.

5 4. *Watermaster will not otherwise suspend availability of any portion of the 400,000*
6 *acre-feet of controlled overdraft unless there is a failure to comply with the*
7 *requirements to complete and implement a Recharge Master Plan as provided in*
8 *Peace II Agreement Section 7.3.*²

9 This paragraph is a paraphrase of Watermaster's commitment made in the Peace II
10 Agreement Section 7.3. Because of the importance of the replenishment forgiveness to the
11 financing for the Desalter expansion, it is appropriate to restate this commitment as a specific
12 Order of the Court.

13 5. *Watermaster shall uphold its commitment to the funding for and the timely and*
14 *successful implementation of a Recharge Master Plan, including achieving hydrologic*
15 *balance within each Management Zone.*

16 In its Order of October 8, 2010, the Court Ordered Watermaster to proceed with the
17 funding for and the timely and successful implementation of the Recharge Master Plan which
18 includes achieving hydrologic balance within each Management Zone. As a part of this Order,
19 Watermaster must provide an update to the Court regarding implementation by December 17,
20 2011. Given the importance of this issue to parties' willingness to move forward with the
21 expansion project, it is appropriate for the Court to reiterate this Order here.

22 6. *All Parties to the Judgment that are members of CDA will exercise good faith and*
23 *reasonable best efforts to support the completion of the Expansion Project as it is*
24 *defined in and as conditioned by the anticipated CDA approval of the Expansion*
25 *Project and cause a quarterly report on its progress to be filed with Watermaster.*

26
27
28 ² The Resolution incorrectly cites to the Peace Agreement rather than the Peace II Agreement.

1 As described above, all of the CDA parties have adopted resolutions expressing their
2 commitment to exercise good faith and reasonable best efforts to the completion of the Expansion
3 Project. Confirmation of these commitments as an Order of the Court is therefore appropriate.

4 7. *Watermaster shall assume the complete financial and management responsibility for*
5 *monitoring baseline water level and groundwater extraction conditions so as to avoid*
6 *inelastic land subsidence that may cause physical damage as provided in Exhibit "E,"*
7 *attached to Watermaster's Resolution 2010-04.*

8 As described in Mr. Malone's Declaration, monitoring will be an essential component to
9 ensuring that operation of the CCWF does not result in Material Physical Injury. Through
10 adoption of the Resolution, Watermaster has agreed to assume the financial and management
11 responsibility for this task. Given the importance of the CCWF to the OBMP, assumption of this
12 responsibility by Watermaster is appropriate, and given the importance of the activity, it is
13 appropriate for the Court to confirm this commitment as a Court Order. See also paragraph 15,
14 below.

15 8. *No economic mitigation will be required of CDA to address the physical impact of*
16 *lowered water levels in the Basin, other than the agricultural wells designated in*
17 *Exhibit "F," attached to Watermaster's Resolution 2010-04.*

18 As described above, the Expansion Project is an important piece of the implementation of
19 the OBMP. Construction of the CCWF and Basin Re-Operation achieved through unreplenished
20 Desalter pumping have multiple benefits to all parties to the Judgment. All of the parties to the
21 Judgment are aware of the physical impacts of lowered water levels as a result of these actions
22 and accepted such impacts as a part of the Peace II process and adoption of the Resolution. It is
23 appropriate therefore for the Court to provide assurance to the CDA members that they will not
24 be held liable for such impacts by adoption of this Order. See also paragraph 14, below.

25 9. *A specific mitigation plan has been developed in the SEIR to address the agricultural*
26 *wells (there are no municipal or industrial wells) which will be implemented by the*
27 *Parties to the Judgment comprising CDA or in their discretion through CDA. The*
28

1 *specific criteria for evaluating the impacts are set forth in Exhibit "F," attached to*
2 *Watermaster's Resolution 2010-04.*

3 In combination with proposed Order number 13, below, this proposed Order establishes a
4 procedure for addressing individualized impacts on privately owned agricultural wells in the zone
5 of influence of the CCWF wells. Adoption of these proposed Orders will ensure that a committed
6 procedure is in place to address any potential impacts on these private wells once the CCWF
7 becomes operational.

8 10. *Watermaster shall proceed on the basis of the commitments made in Resolution No.*
9 *2010-04 and on the basis of the factual findings made by the Watermaster Board in*
10 *the adoption of the Resolution.*

11 This is a catchall provision which ensures that all of the commitments made by
12 Watermaster to the CDA and the CDA members will be upheld as specific Orders of the Court.

13 11. *Upon the completion of the Future Desalters (the Phase III Expansion) as reflected in*
14 *the approved revised Chino Desalter Phase 3 Comprehensive Pre-Design Report*
15 *(CDA PDR) attached to Watermaster's Resolution No. 2010-04 as Exhibit "G," the*
16 *Parties to the Judgment will have satisfied all individual and collective obligations*
17 *arising from the Peace Agreement and the OBMP Implementation Plan, Peace II*
18 *Measures and all prior orders of the Court related to the requirement to construct*
19 *Desalters in accordance with Peace Agreement II Section 10.2.*

20 Completion of the Desalter element of the OBMP has been a massive undertaking by the
21 parties and has been a primary concern of the Court over the past 11 years of OBMP
22 implementation. With the construction of the Expansion Project, Watermaster and the parties will
23 have reached the established target for Desalter production articulated in the 2000 OBMP
24 Implementation Plan. Given the importance of completion of this element to the Court, it is
25 appropriate to have a specific Court Order establishing that the OBMP Desalter commitment has
26 been satisfied.

27 12. *WMWD and IEUA are relieved of the funding requirements upon the completed*
28 *construction of the Expansion Project as set forth in Peace II Agreement Section 10.4.*

1 WMWD and IEUA accepted significant liabilities associated with their funding
2 obligations regarding the Desalters in the Peace Agreement. They have honored these
3 commitments and it is appropriate for the Court to Order that, pursuant to Peace II Agreement
4 section 10.4, these liabilities are satisfied.

5 13. *Localized impacts on the wells will be mitigated as provided in the mitigation plan set*
6 *forth in Watermaster Resolution 2010-04, Exhibit "F."*

7 See comments to paragraph nine, above.

8 14. *Regional impacts attributable to the lowering of the water table across the Basin have*
9 *been fully analyzed in connection with the Court approval of the Peace II Measures,*
10 *and fully mitigated by the suite of corresponding offsetting benefits arising under the*
11 *Peace II Measures. Consequently, CDA and the members of CDA will have no*
12 *obligation to offset or mitigate any increased costs that may be incurred by Parties to*
13 *the Judgment that own wells outside of the designated wells.*

14 See comments to paragraph 8, above.

15 15. *At its own expense, Watermaster will monitor water conditions to measure the*
16 *effectiveness of hydraulic control and subsidence.*

17 See comments to paragraph 7, above.

18 16. *As provided in Section 6.2(b)(ii) the allocation of Replenishment is reserved and*
19 *committed to offset the Replenishment attributable to the Future Desalter expansion.*

20 This paragraph refers to Section 6.2(b)(ii) of the Peace II Agreement and reiterates the
21 commitment by all members of the Appropriative Pool that Replenishment for the Desalters will
22 be a responsibility of the Appropriative Pool generally, and not just the Appropriative Pool
23 members of CDA.

24 17. *Agreements among the Parties, whatever they may be, for Replenishment, operations,*
25 *conditions and corresponding consideration without limitations, are unaffected by this*
26 *determination. However, for the avoidance of doubt, Watermaster Resolution 2010-*
27 *04, Exhibit "D" accurately summarizes and restates these obligations.*

28

1 Desalter Replenishment will be a significant ongoing cost. Peace II Agreement Section
2 6.2 articulates the sources from which such replenishment water will be obtained. The CDA
3 members required certainty that the commitments made in Section 6.2 would be upheld and that
4 Watermaster implementation of this section would be accomplished as described in Resolution
5 Exhibit "D." Given the importance of this issue and the need for clarity in order to provide the
6 necessary assurances to the CDA members, it is appropriate that the Court confirm these
7 procedures by Order.

8 *18. Watermaster will negotiate with the County of San Bernardino as the party primarily*
9 *responsible for contamination and all sums obtained will be paid to CDA to offset all*
10 *of the incremental capital and operations and maintenance expenses incurred by the*
11 *Parties to the Judgment comprising CDA or in their discretion through CDA.*

12 The CCWF is located such that it will intercept a plume of contamination emanating from
13 the Chino Airport which is owned and operated by the County of San Bernardino. CDA therefore
14 desires Watermaster involvement in ensuring that costs associated with interception of this plume
15 will be appropriately addressed. Adoption of this Order ensures Watermaster's participation in
16 addressing this situation.

17 *19. Watermaster will continue to require that to the extent any of the Peace II*
18 *Implementing Measures constitute "projects" within the meaning of the California*
19 *Environmental Quality Act ("CEQA"), compliance with CEQA will be required as a*
20 *pre-condition of Watermaster's issuance of any final, binding approvals.*

21 Issues have arisen in the past concerning whether Watermaster, as an arm of the Court, is
22 subject to CEQA. This commitment ensures that Watermaster will require CEQA compliance as
23 a pre-condition of any approvals.

24 *20. The actions articulated above and contemplated herein to optimize the beneficial use*
25 *of the groundwater and the Basin benefit the Basin and the Parties to the Judgment.*

26 Adoption of this paragraph as a specific Order provides assurance to the members of CDA
27 that the broad-based benefit to the Basin and the Parties to the Judgment of the Expansion Project
28 will be recognized.

1 21. *The members of CDA may make application for future relief and assistance from*
2 *Watermaster to redress potential inequities in redressing water quality concerns only*
3 *after having first obtained a recommendation for such relief from the Appropriative*
4 *Pool. The Watermaster retains complete discretion in responding to any such request.*

5 This paragraph does not limit the ability of the CDA members to address potential
6 inequities that may arise in the future, and it does not limit Watermaster’s response to such
7 requests. This paragraph merely ensures that the members of CDA will first raise such issues to
8 the Appropriative Pool.

9 22. *Within 24 months of the date of Watermaster Resolution 2010-04, WMWD will make*
10 *an election to either: (a) intervene into the Appropriative Pool on terms it may freely*
11 *negotiate; or (b) consensually assign the production for the desalted water*
12 *attributable to the Expansion Project on behalf of WMWD to an Appropriative Pool*
13 *member of the CDA.*

14 Currently WMWD is a “non-producer water district” under the Judgment. This creates
15 uncertainty in the application of the Judgment. It is thus appropriate for WMWD to either
16 intervene as a member of the Appropriative Pool, or to assign any production attributable to it to
17 another member of the Pool.

18 23. *These conclusions are subject to the express condition subsequent of CDA approving*
19 *the Water Purchase Agreements and the PDR as amended following WMWD’s*
20 *determination that it intends to proceed with the Expansion Project pursuant to*
21 *Section 5.7 of the Peace II Agreement.*

22
23 **IV. MISCELLANEOUS MATTERS**

24 **A. Restated Judgment**

25 On October 8, 2010, the Court verbally ordered Watermaster to prepare a restated
26 Judgment that contains all of the amendments made to the Judgment to date so that parties will
27 have an efficient way to review the Judgment in its current form. Watermaster has prepared such
28 a restated Judgment attached hereto as Exhibit “L.” This restated Judgment was distributed in

1 draft format to the parties on July 22, 2011. In order to assist parties in their review, Watermaster
2 also provided a database of Court Orders from the time of the Judgment to the present.
3 Watermaster requests the Court to receive and file this restated Judgment as a convenient
4 reference document for the Court and the parties.

5 **B. Status Report**

6 Attached to this pleading as Exhibit "M" is a copy of Watermaster's OBMP Status Report
7 2011-01. Watermaster requests the Court to receive and file this status report.

8 **C. Annual Report**

9 Attached to this pleading as Exhibit "N" is a copy of Watermaster's 35th Annual Report.
10 Watermaster requests the Court to receive and file this Annual Report.

11 **D. Confirmation of General Electric in the Non-Agricultural Pool**

12 During the review of prior Court Orders it was discovered that when General Electric
13 ("GE") intervened into the Judgment, the Court placed into the Appropriative Pool. (See Order
14 dated April 25, 1996 attached hereto as Exhibit "O.") However, since that time GE has been
15 treated by Watermaster and the parties as a member of the Non-Agricultural Pool. Watermaster
16 has been unable to find any subsequent Orders of the Court in this regard, nor has it been able to
17 establish whether any documents exist formalizing the placement of GE in the Non-Agricultural
18 Pool. Watermaster does not know whether the original Order approving the intervention was in
19 error.

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GE has expressed a desire to remain in the Non-Agricultural Pool and neither Watermaster nor the Non-Agricultural Pool objects to GE remaining in this Pool. Watermaster requests the Court to ratify this decision and to amend its prior Order to place GE in the Non-Agricultural Pool.

Dated: October 3, 2011

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

By: 

SCOTT S. SLATER
MICHAEL T. FIFE
Attorneys for
CHINO BASIN WATERMASTER

SB 589785 v1:008350.0001

BROWNSTEIN HYATT FARBER SCHRECK, LLP
21 East Camillo Street
Santa Barbara, CA 93101-2706

Exhibit A

**WATERMASTER RESOLUTION
NO. 2010-04**

**RESOLUTION OF THE CHINO BASIN WATERMASTER
REGARDING IMPLEMENTATION OF THE PEACE II AGREEMENT AND THE
PHASE III DESALTER EXPANSION IN ACCORDANCE WITH THE DECEMBER 21,
2007 ORDER OF THE SAN BERNARDINO SUPERIOR COURT**

1. **WHEREAS**, the Judgment in the Chino Basin Adjudication, *Chino Basin Municipal Water District v. City of Chino, et al.*, San Bernardino Superior Court No. 51010, created the Watermaster and directed it to perform the duties as provided in the Judgment or ordered or authorized by the Court in the exercise of the Court's continuing jurisdiction;
2. **WHEREAS**, Watermaster has the express powers and duties as provided in the Judgment or as "hereafter" ordered or authorized by the Court in the exercise of the Court's continuing jurisdiction" subject to the limitations stated elsewhere in the Judgment;
3. **WHEREAS**, Watermaster, with the advice of the Advisory and Pool Committees has discretionary powers to develop an Optimum Basin Management Program (OBMP) for Chino Basin, pursuant to Paragraph 41 of the Judgment;
4. **WHEREAS**, in June of 2000, the Parties to the Judgment executed the Peace Agreement providing for the implementation of the OBMP, and Watermaster adopted Resolution 2000-05 whereby it agreed to act in accordance with the Peace Agreement;
5. **WHEREAS**, the Court ordered Watermaster to proceed in accordance with the Peace Agreement and the OBMP Implementation Plan, Exhibit "B" thereto on June 20, 2000;
6. **WHEREAS**, Watermaster adopted and the Court approved Chino Basin Watermaster Rules and Regulations in June of 2001;
7. **WHEREAS**, the Peace Agreement, the OBMP Implementation Plan and the Chino Basin Watermaster Rules and Regulations reserved Watermaster's discretionary powers in accordance with Paragraph 41 of the Judgment, with the advice from the Advisory and Pool Committees, and contemplated further implementing actions by Watermaster;
8. **WHEREAS**, the Judgment requires that Watermaster, in implementing the Physical Solution and the OBMP, has flexibility, where appropriate, to make further

adjustments in consideration of technological, economic, social and institutional factors in maximizing the efficient use of the waters of the Basin;

9. WHEREAS, the Peace Agreement and the OBMP Implementation Plan were subject to reconsideration and potential revision of various provisions and ongoing judicial supervision as well as the requirement that monitoring and reporting may lead to further modifications and refinements in management practices;

10. WHEREAS, to prudently respond to changing conditions and best management practices, the Parties to the Judgment presented Watermaster with a proposed suite of management strategies, new agreements and proposed amendments to then-existing agreements that were collectively referenced in Watermaster Resolution 2007-05, (amendments to the Watermaster Rules and Regulations, Purchase and Sale Agreement with the Overlying (Non-Agricultural) Pool, Judgment Amendments, Peace II Agreement, Supplement to the OBMP, Second Amendment to the Peace Agreement) and the subsequent Court filings as the "Peace II Measures";

11. WHEREAS, the OBMP Implementation Plan was supplemented to reflect Western Municipal Water District's (WMWD's) commitment to act independently or in its complete discretion with the City of Ontario (Ontario) and the Jurupa Community Services District (Jurupa) to plan, design and construct 9 million gallons per day of new desalting capacity "to obtain Hydraulic Control, to support Re-Operation and support the Future Desalters" (Peace Agreement II Section 5.2.);

12. WHEREAS, Watermaster fully and carefully evaluated the legal, technical, scientific, economic and physical consequences of the proposed Peace II Measures through internal and professional expert reports and opinions, including but not limited to reports issued by Dr. David Sunding and Mark Wildermuth, and Watermaster lodged these reports with the Court;

13. WHEREAS, in some instances, the Parties to the Judgment retained their own independent professionals to analyze the Watermaster reports and the consequences of the Peace II Measures and presented their findings to Watermaster;

14. WHEREAS, the Peace II Measures were subject to substantial stakeholder input from parties and they were modified to address the stated concerns;

15. WHEREAS, the Appropriative Pool, the Overlying (Agricultural) Pool, the Overlying (Non-Agricultural) Pool; the Advisory Committee and the Watermaster Board all unanimously approved Resolution No. 2007-05 thereby adopting the Peace II Measures and forwarding them to the Court requesting an order to proceed in accordance with the stated terms;

16. **WHEREAS**, upon receipt of the submittal, the Special Referee issued a report requesting clarification and further information of the Peace II Measures at an evidentiary hearing;

17. **WHEREAS**, the Assistant to the Special Referee, Joe Scalmanini of Luhdorff & Scalmanini Consulting Engineers, transmitted his technical review in March of 2007 ("Report"). In relevant part, the Report states:

"For planning level analysis, the existing model is a useful and applicable tool to simulate approximate basin response to management actions that involve the quantities and distribution of pumping and recharge in the basin. For example, for the most notable of its applications to date, which has been to conduct a planning level analysis of intended future hydraulic control, the model can be confidently utilized to examine whether groundwater conditions (levels) will form in such a way that hydraulic control will be achieved as (sic) result of basin re-operation and, if not, what other changes in basin operation are logically needed to achieve it."
(Report at p. 37)

18. **WHEREAS**, Watermaster caused the completion of a preliminary engineering, hydrogeologic, and technical evaluation of the potential physical impacts to the Basin and to the Parties to the Judgment that might result from implementation of the Peace II Measures. The preliminary evaluation was conducted by Mark Wildermuth of Wildermuth Environmental and was lodged with the Court;

19. **WHEREAS**, Watermaster caused the preparation of a specific project description set forth in the then proposed Supplement to the OBMP Implementation Plan for the purpose of conducting a more refined engineering, hydrogeologic and technical evaluation of the physical impacts to the Basin and to the Parties to the Judgment that may result from implementation of the Peace II measures, and it was lodged with the Court;

20. **WHEREAS**, the design, financing, construction and operation of the planned expansion to desalting within the Chino Basin would cause the Parties to the Judgment to incur substantial, irrevocable commitments;

21. **WHEREAS**, Watermaster caused the completion of a macro socioeconomic analysis by Dr. David Sunding, a PhD in economics and professor at the University of California Berkeley referenced in Watermaster Resolution 2007-05 and lodged with the Court. The macro analysis provided a comprehensive evaluation of the macro costs and benefits to the parties as a whole that may be attributable to the Peace II measures, and it was lodged with the Court;

22. WHEREAS, Watermaster caused an update of the previously completed socioeconomic analysis conducted pursuant to the Judgment. The analysis was completed by Dr. Sunding, and it considered the positive and negative impacts of implementing the OBMP, the Peace Agreement, and the Peace II measures, including Watermaster assessments. The analysis also addressed the potential distribution of costs and benefits among the parties that were initiated with the approval of the Peace Agreement. The study was referenced in Watermaster Resolution 2007-05 and lodged with the Court in support of Watermaster's request to approve the Peace II Measures;

23. WHEREAS, a hearing was held before the Court at which Watermaster presented substantial evidence in support of the adoption of the Peace II Measures, through documentation, briefs, expert reports and opinions, argument and testimony in support of its request for an order to proceed in accordance with the Peace II Measures;

24. WHEREAS, Watermaster prepared a summary of the cumulative total of groundwater production and desalting from all authorized Desalters and other activities authorized by the 2007 Supplement to the OBMP Implementation Plan as amended as provided in the Peace Agreement in a schedule that: (i) identifies the total quantity of groundwater that will be produced through the proposed Basin Re-Operation to obtain Hydraulic Control, and (ii) characterizes and accounts for all water that is projected to be produced by the Desalters for the initial Term of the Peace Agreement (by 2030) as dedicated water, New Yield, controlled overdraft pursuant to the Physical Solution or subject to Replenishment;

25. WHEREAS, the post hearing briefs and supplemental evidence were filed by Watermaster, and the Special Referee issued a report recommending an order be issued to proceed in accordance with the Peace II Measures;

26. WHEREAS, on December 21, 2007, the Court issued an order instructing Watermaster to proceed with the Peace II Measures;

27. WHEREAS, on April 1, 2010, the Regional Water Quality Control Board (Regional Board) issued an Administrative Civil Liability complaint against Watermaster and IEUA in response to an alleged failure of the Co-Permittees to obtain Hydraulic Control;

28. WHEREAS, in reliance upon the collective commitments of the Parties to the Judgment and with the concurrence of CDA in the "Milestones Schedule," Watermaster and IEUA entered into a settlement agreement with the Regional Board in May of 2010 that established a revised schedule for the construction of new facilities and the completion of the Phase III Desalter Expansion (Expansion Project);

29. WHEREAS, a substantial fine has been paid to the Regional Board;

30. WHEREAS, Administrative Expenses arising under the Physical Solution must be categorized as either a General Administrative Expense or a Special Project Expense as set forth in Paragraph 54 of the Judgment;

31. WHEREAS, Administrative Expenses must be allocated and assessed against the respective pools and then uniformly among the members of the Appropriative Pool in accordance with their respective percentage of the year's total production. (Judgment Exhibit H, Section 6.);

32. WHEREAS, the Peace II Measures and specifically the Peace II Agreement obligates WMWD "acting independently or in its complete discretion with Ontario, Jurupa or both will exercise good faith and reasonable best efforts to arrange for the design, planning and construction of Future Desalters in accordance with the 2007 Supplement to the OBMP Implementation Plan, to account for Hydraulic Control, Re-Operation and Future Desalters" (Peace II Agreement Section 5.3);

33. WHEREAS, WMWD has exercised its discretion to join with Ontario and Jurupa to design, plan and construct the Future Desalters in accordance with the 2007 Supplement to the OBMP Implementation Plan;

34. WHEREAS, the intended purposes of the Future Desalters are to provide safe yield preservation, water supply for participating entities, salt management, and expanded use of recycled water and hydraulic control;

35. WHEREAS, the act of securing Hydraulic Control was a known and intended objective attributable to the Future Desalters that was to be achieved by causing a change in water levels within the Basin and the corresponding economic consequences related to those expected changes were fully evaluated at the time of adoption of the Peace II Measures;

36. WHEREAS, there are two sources of groundwater elevation changes that are projected to occur with the implementation of the Peace II Agreement: (1) groundwater elevation changes from Re-operation and (2) groundwater elevation changes from the expansion of the Chino Desalter Program, which includes the installation and operation of the new Chino Creek Well Field (CCWF) and changes in groundwater production at other wells that provide raw groundwater to the Desalters;

37. WHEREAS, the Court conditioned its approval of the Peace II Measures upon the prompt development and implementation of a Recharge Master Plan that will provide long-term hydrologic balance within the Basin and within each of the Management Zones;

38. WHEREAS, the broad regional impacts attributable to Re-operation were intended to be measured and monitored by Watermaster and the full cost differential

associated with a change in water levels, such as increased pump lifts, well deepening, and well and pump improvements were reserved to each party producing water in consideration for the substantial individual and broader benefits received pursuant to the Peace II Measures;

39. WHEREAS, based upon groundwater-level monitoring data available to Watermaster, groundwater levels in the 1970s, prior to the implementation of the Physical Solution set forth in the Judgment, were lower than the groundwater levels when the Re-Operation commenced;

40. WHEREAS, prudently constructed and properly maintained groundwater wells will not become inoperable due to groundwater level declines from Re-Operation;

41. WHEREAS, the more localized impacts of the CCWF and from changes in the production at other wells that provide water to the Desalters have been identified by Watermaster. These local impacts are characterized by groundwater-level declines greater than twenty (20) feet more than would occur if the Peace II Measures and Basin Re-operation had not been pursued (approximately thirty-five (35) feet lower than present groundwater elevations), as shown in Exhibit "A." This area is hereafter referred to as the Zone of Influence;

42. WHEREAS, exclusive of the existing and proposed Desalter wells, the Zone of Influence contains 8-9 active agricultural wells and no municipal and industrial wells¹;

43. WHEREAS, water level declines of less than twenty (20) feet should not cause a prudent well owner to suffer a loss of water supply;

44. WHEREAS, the Inland Empire Utilities Agency (IEUA) has caused the completion of a Supplemental Environmental Impact Report (SEIR) for the Peace II Measures which was certified by IEUA on October 6, 2010 and its relevant part is attached herein by this reference as Exhibit "F";

45. WHEREAS, the SEIR approved by IEUA has evaluated potential impacts and developed a proposed mitigation plan generally assigning responsibility for regional impacts to those entities with regional scope (IEUA and Watermaster) and localized impacts, to the CDA;

46. WHEREAS, Section 4.3-10 of the SEIR provides that if an owner of one of the agricultural wells is adversely impacted by a decline in the water table greater than twenty (20) feet as measured against the non-project scenario, they may present a request to CDA for mitigation of the alleged impact, and CDA will evaluate the claim and take whatever action is appropriate under the circumstances.

47. **WHEREAS**, the CDA previously adopted an Emergency Response Plan to address concerns of well owners in the vicinity of the existing Desalters and it is attached hereto as Exhibit "H";

48. **WHEREAS**, there is general satisfaction with the adequacy of the existing Emergency Response Plan and it is anticipated that CDA will make the Emergency Response Plan applicable to the Expansion Project;

49. **WHEREAS**, Section 5.8(a) of the Peace II Agreement, the Supplement to the OBMP and the Court Order required that the new wells for the Future Desalters be constructed so that they are perforated to produce groundwater only from the shallow aquifer system among Desalter I wells No. 1 through 4 and west of Desalter I as designated and this is where the CCWF will be located;

50. **WHEREAS**, the best available information, inclusive of the developed models, have been considered so as to locate and perforate these wells in a manner contemplated by the Peace Agreement, the Peace II Measures and reasonably calculated by Watermaster to secure the objective of Hydraulic Control and minimize the risk of differential land subsidence;

51. **WHEREAS**, provided that the production of groundwater from the Future Desalters is as provided in the Supplement to the OBMP, WMWD, Ontario and Jurupa shall be entitled to first priority for the allocation of the 400,000 acre-feet of controlled overdraft authorized by the Judgment Amendments to Exhibit I and as expressly set forth in the schedule filed with and approved by the Court as a component of Condition Subsequent Number Seven attached hereto as Exhibit "B";

52. **WHEREAS**, WMWD exercised its right to proceed with the proposed construction of Future Desalters with Ontario and Jurupa (Expansion Parties) as provided in the Peace II Agreement and to initially apportion their relative shares of the project costs and benefits in a manner consistent with the Peace II Measures;

53. **WHEREAS**, subject to final review of costs and compliance with stated conditions, the Expansion Parties elected to fully and completely integrate with and carry out their actions by and through the Chino Basin Desalter Authority (CDA) in a manner that will cause construction and operation of the designated new wells for the Future Desalters consistent with the Supplement to the OBMP, the Peace II Agreement and as approved herein by Watermaster;

54. **WHEREAS**, except for WMWD, CDA is comprised of members of the Appropriative Pool;

55. **WHEREAS**, in Article V of the Peace II Agreement, WMWD contractually agreed

to exercise good faith and reasonable best efforts to cause the completion of the Expansion Project among other things;

56. WHEREAS, WMWD has expended in excess of \$5 million dollars and the Expansion Parties a cumulative total of \$15 million in out-of-pocket costs (up to \$5 million of which may be subject to reimbursement by third-party grants that will be used for purposes consistent with the grant authorizations) in pursuit of the design, planning and construction of the Expansion Project.

57. WHEREAS, WMWD will make a determination pursuant to Section 5.7 of the Peace II Agreement as to whether the cost-cap has been exceeded or whether it intends to proceed with the Expansion Project notwithstanding that the cost-cap has been exceeded (inclusive of an approval or reasonable assurance by MWD that it will award a \$139 per acre-foot subsidy) no later than the date that CDA approves the Expansion Project;

58. WHEREAS, there has been no prior express undertaking pursuant to the Peace II Measures to complete the Expansion Project by any member of CDA other than WMWD and the members of the Appropriative Pool that are not members of CDA request that there be one by each member of CDA (but not CDA itself);

59. WHEREAS, it is anticipated that each of the members of the Appropriative Pool that are also members of CDA will pledge their support for the Expansion Project as it is approved by CDA by each member adopting a Resolution in substantial conformity with Exhibit "I" attached hereto;

60. WHEREAS, Wildermuth Env. Inc., has prepared a summary evaluation attached hereto as Exhibit "C" that concludes that the expected location of the new wells for the Future Desalters and production of groundwater from the shallow zones will: (a) result in Watermaster securing Hydraulic Control and (b) not cause inelastic land subsidence and damage or otherwise cause unmitigated Material Physical Injury;

61. WHEREAS, Watermaster and its engineer Wildermuth Env. Inc. will work closely with CDA in establishing final groundwater pumping protocols for each of the wells that will be constructed and operated in connection with the Future Desalters and will report these pumping protocols to Watermaster for review, comment and adoption;

62. WHEREAS, Jurupa has expressed concerns regarding the impact of local groundwater production when combined with the production from the Desalters within Management Zone 3;

63. WHEREAS, the Peace Agreement requires Watermaster to exercise Best Efforts to, among other things, "direct Recharge relative to Production in each area and sub-area of the Basin to achieve long-term balance and to promote the goal of equal access

to groundwater within all areas and sub-areas of the Chino Basin" (Peace Agreement Section 5.1(e)(iii).) as well as to "maintain long-term hydrologic balance between total Recharge and discharge within all areas and subareas" (Peace Agreement Section 5.1(e)(viii));

64. WHEREAS, Watermaster has prepared and filed its proposed Recharge Master Plan with the Court which seeks to create hydrologic balance within the Basin and within Management Zones in accordance with Peace Agreement Article VIII.

65. WHEREAS, the unfunded costs of capital improvements for the Recharge Master Plan are allocated equally between IEUA and Watermaster, with Watermaster's share being apportioned in accordance with each party's percentage of Operating Safe Yield (Peace II Agreement Section 8.1(b));

66. WHEREAS, to the extent grant funds, loans or other third-party money are unavailable to fund operations and maintenance costs of the Recharge Master Plan, they will be funded as provided in Peace Agreement II Section 8.1(a) with IEUA's relative share being based upon its percentage use for recycled water as compared to total recharge from all sources. Watermaster's respective share of the funding will be allocated among its stakeholders in accordance with their total Production from the Basin, other than Desalter Production (Peace Agreement II Section 8.1(a));

67. WHEREAS, the members of CDA would not undertake the Expansion Project without the Desalter Production Offsets provided in Section 6.2 of the Peace II Agreement and the reasonable assurances that 400,000 acre-feet of controlled overdraft was available to offset the cost of Replenishment attributable to the Desalters and thereby avoid a Replenishment Assessment as a member of the Appropriative Pool as described in the Peace II Agreement, and which availability is subject to the successful completion of the Recharge Master Plan.

68. WHEREAS, CDA desires clarification as to its respective obligations regarding potential mitigation of localized as compared with regional impacts attributable to changes in groundwater levels resulting from Hydraulic Control and from the specific draw-down affecting the 8-9 wells identified in Exhibit "A";

69. WHEREAS, the Peace Agreement provides, among other things, that "[t]he specific location of wells to supply the Chino II Desalter and Future Desalters shall be determined with Watermaster approval and shall be in a location which is consistent with and shall carry out the purpose of the OBMP. The design and construction of the Chino II Desalter, Chino I Expansion, and Future Desalters shall be in accordance with the OBMP and subject to Watermaster approval. Watermaster's approval shall not be unreasonably withheld and shall insure that the operation of the Desalters will implement the OBMP and not result in Material Physical Injury to any Party to the Judgment or the Basin";

70. **WHEREAS**, subject to the acknowledgements in Whereas' 39, 40, 43 and Finding 11, all Parties to the Judgment retain all common law rights, remedies to redress the impacts attributable to land subsidence and unreasonable interference with vested property rights, whatever those rights, remedies and defenses will be;

71. **WHEREAS**, Watermaster will review data and monitoring efforts relevant to the measurement of land subsidence, report at least annually thereon and take appropriate corrective action as provided in the SEIR and as otherwise required;

72. **WHEREAS**, CDA and the Parties to the Judgment desire a summation of their respective obligations for Desalter Replenishment and Future Desalters arising under the Peace Agreement and its progeny, and Watermaster has prepared such a summary restatement attached hereto as Exhibit "D";

73. **WHEREAS**, groundwater contamination has resulted at the Chino Airport and this contamination may result in the Desalters incurring additional costs associated with removing and treating the contamination;

74. **WHEREAS**, certain Parties to the Judgment that are members of the CDA requested Watermaster to lead efforts to obtain compensation from the primary responsible party, San Bernardino County, and Watermaster accepted the request;

75. **WHEREAS**, Watermaster expects and intends to recover all of the incremental capital and operations and maintenance expenditures from San Bernardino County and to remit such proceeds to the Parties to the Judgment comprising CDA as they may direct subject to Watermaster's outstanding prior request to be reimbursed by CDA for the legal and consultant costs reasonably incurred in leading the effort to recover funds from San Bernardino County;

76. **WHEREAS**, all conditions precedent to the construction and operation of the Future Desalters as set forth in the Peace Agreement and the Peace II Agreement have been satisfied upon the action by CDA to approve the Expansion Project and there are no conditions subsequent that will require a suspension in operations;

77. **WHEREAS**, WMWD is the only member of the CDA with a right to receive delivery of groundwater that will be produced by the Desalters that is not also a member of the Appropriative Pool;

78. **WHEREAS**, all production from the Basin must be accounted for by Watermaster and the production attributed to WMWD under Exhibit I to the Judgment should be accounted for by being assigned to a party within a respective Pool;

79. **WHEREAS**, WMWD has no share of Operating Safe Yield as defined by the

Judgment but would be entitled to produce groundwater with a "first priority right" to a credit against replenishment under Exhibit I to the Judgment and the Peace II Agreement, up to the maximum quantities stated in Condition Subsequent Number Seven for the duration of the Peace Agreement (2030);

80. WHEREAS, WMWD may desire to intervene into the Appropriative Pool if it can freely negotiate reasonable terms prior to the operation of the Expansion Project; and.

NOW, THEREFORE, on the basis of the staff reports, expert opinions and substantial evidence presented at this hearing, Watermaster finds that:

1. WMWD has elected to proceed to construct the Future Desalters jointly with Jurupa and Ontario (Expansion Parties) by and through CDA as provided in agreements between and among CDA and its members.
2. It is reasonably anticipated that all members of CDA as Parties to the Judgment will agree to exercise good faith and reasonable best efforts towards the timely completion of the Expansion Project as it is described in the approved PDR by their approval of a resolution in substantial conformity with the Resolution of Support for Completion of Future Desalters attached hereto as Exhibit "I".
3. Upon MWD's reasonably anticipated approval of the requested \$139 subsidy for the Desalters, the cost-cap set forth in Peace II Agreement Section 5.7 will not be exceeded and WMWD shall proceed, jointly with Jurupa and Ontario through CDA to cause the completion of the Future Desalters.
4. For the avoidance of doubt, the allocation of the cost of Replenishment Water for the Desalters under the Peace Agreement and its progeny is set forth in Exhibit "D" with acknowledgement that the provisions of Peace Agreement II Section 6.2(b)(ii) which excludes Desalter production in the calculation of an Appropriator's proportionate responsibility for Desalter Replenishment as subject to being revisited if the net cost of Desalter Water is materially reduced.
5. The Expansion Parties have proposed Future Desalter facilities that are reasonably calculated to achieve the stated objectives of Future Desalters: (a) yield preservation; (b) water supply; (c) salt management; (d) expanded use of recycled water; and (e) hydraulic control.
6. The Future Desalters have been designed and will be constructed and operated to produce water with high total dissolved solids (TDS).
7. Peace Agreement and Peace II Measures' obligations regarding the requirement of providing hydrologic balance in each Management Zone, including Management Zone Number 3 remains in full force and effect.
8. The CCWF will be located in an area that is consistent with the designations in the Supplement to the OBMP and the purposes of the OBMP Implementation Plan. (Peace Agreement 7.3(e).)

9. The location and the proposed operation of the Future Desalter wells are highly unlikely to result in inelastic subsidence that causes any physical damage to the aquifer, roads or structures.
10. Watermaster has proposed measures set forth in the SEIR attached hereto as Exhibit "F" and will establish measurement and monitoring protocols that if followed, will minimize the long-term risk of inelastic subsidence that might cause physical damage to de minimus levels and report on these protocols to Watermaster and to the parties.
11. Prudent well operators will design, construct and operate groundwater production facilities that withstand seasonal fluctuations in water levels.
12. Water levels that fluctuate more than 35 feet from present levels and that are 20 feet lower than the groundwater level conditions that would occur in absence of the Phase II Desalter Expansion can be addressed through the proposed SEIR mitigation plan
13. Watermaster has timely filed its Recharge Master Plan and intends to implement the Plan in a manner that creates hydrologic balance with Management Zone 3 and minimizes adverse impacts of pumping within the Management Zone as required by the Peace Agreement.
14. The WMWD, Jurupa and Ontario have spent \$15 million in pursuit of the planning, design and construction costs for the Expansion Project (up to \$5 million of which may be reimbursed from third-party grants that will be used for purposes consistent with the grant authorizations) in consideration of and in reliance upon Watermaster's timely and successful implementation of the Recharge Master Plan.
15. Within 24 months from the adoption of the Resolution, WMWD can reasonably negotiate terms for intervention into the Appropriative Pool or request Watermaster to designate a member of CDA that is also a member of the Appropriative Pool for purposes of accounting for the Desalter Production;
16. The designation by Watermaster must not increase the assignee Appropriator's obligations or benefits to Watermaster or under the Judgment, Peace Agreement and the Peace II Measures.
17. The requirements set forth in Section 5.5(e) of the Peace II Agreement have been satisfied by WMWD's assumption of project risk, out of pocket costs presently in excess of \$5 million (\$15 million for the Expansion Parties) and the further assumption of capital and operations and maintenance costs in excess of expectations (the cost-cap as for WMWD's portion of expenses. However, this finding is made only with regard to WMWD's obligation under Section 5.5 to complete final binding agreement(s) regarding Future Desalters. This finding is not intended to have any bearing or impact on the sufficiency of WMWD's assumption of risk and costs for any other purpose, including the availability of a reduced uniform loss percentage under Peace II Agreement Section 7.4. This finding also does not affect WMWD's rights or obligations to intervene into the Appropriative Pool on the terms and

conditions that may be fairly agreed among the Appropriative Pool and WMWD.

18. The MWD is expected to approve the award of \$139 per acre-foot to Western for the benefit of the Expansion Project between November of 2010 and January of 2011.
19. CDA is expected to take all required actions to allow the Expansion Project to proceed in between December of 2010 and February of 2011.

NOW, THEREFORE, on the basis of substantial evidence presented and the above findings, be it further resolved and determined that:

1. The above-referenced actions in whole and in part are consistent with the Judgment, the Peace Agreement, the Peace II Measures and the December 21, 2007 Order of the Court (collectively "Prior Directives") and in the event of any inconsistencies between this Resolution and the language of these Prior Directives, the Prior Directives shall control.
2. As approved and conditioned as set forth above, including but not limited to the location and screening of the proposed wells, the CDA Emergency Response Plan, the SEIR mitigation plans applicable for subsidence, water level fluctuations and the improvements identified in the Recharge Master Plan, the above-referenced actions present no threat of Material Physical Injury (Peace Agreement Section 7.3(d).
3. Unless authorized in advance by Watermaster for good cause arising from the need for testing, monitoring, or mitigation, the Parties to the Judgment comprising CDA will not produce groundwater from the deep aquifer system among Desalter wells No 1 through 4 as set forth in Peace Agreement II Section 5.8(a)(i)(ii). Watermaster reserves all rights and remedies to redress a violation of this condition, including but not limited to the right to make application to the Court to revisit the allocation of some or all of the 400,000 acre-feet of controlled overdraft, taking into account the specific causes associated with the failure. However, such an application will not require a discontinuance of Desalter operations. (See Judgment Exhibit I; Peace Agreement II, Section 5.8(a)(i)(ii).)
4. Watermaster will not otherwise suspend availability of any portion of the 400,000 acre-feet of controlled overdraft unless there is a failure to comply with the requirements to complete and implement a Recharge Master Plan as provided in Peace Agreement Section 7.3.
5. Watermaster reconfirms its commitment to the funding for and the timely and successful implementation of a Recharge Master Plan, including achieving hydrologic balance within each Management Zone.
6. All Parties to the Judgment that are members of CDA will exercise good faith and reasonable best efforts to support the completion of the Expansion Project as it is defined in and as conditioned by the anticipated CDA approval

- of the Expansion Project and cause a quarterly report on its progress to be filed with Watermaster.
7. Watermaster shall assume the complete financial and management responsibility for monitoring baseline water level and groundwater extraction conditions so as to avoid inelastic land subsidence that may cause physical damage as provided in Exhibit "E," attached hereto.
 8. No economic mitigation will be required of CDA to address the physical impact of lowered water levels in the Basin, other than the agricultural wells designated in Exhibit "F," attached hereto.
 9. A specific mitigation plan has been developed in the SEIR to address the agricultural wells (there are no municipal or industrial wells) which will be implemented by the Parties to the Judgment comprising CDA or in their discretion through CDA. The specific criteria for evaluating the impacts are set forth in Exhibit "F," attached hereto.
 10. Watermaster will update and inform the Court of the status of implementing the OBMP and request a further order of the Court directing Watermaster to proceed as provided herein.
 11. Upon the completion of the Future Desalters (the Phase III Expansion) as reflected in the approved revised Chino Desalter Phase 3 Comprehensive Pre-Design Report (CDA PDR) attached hereto as Exhibit "G," the Parties to the Judgment will be deemed to have satisfied all individual and collective obligations arising from the Peace Agreement and the OBMP Implementation Plan, Peace II Measures and all prior orders of the Court related to the requirement to construct Desalters in accordance with Peace Agreement II Section 10.2.
 12. WMWD and IEUA are relieved of the funding requirements upon the completed construction of the Expansion Project as set forth in Peace II Agreement Section 10.4.
 13. Localized impacts on the wells will be mitigated as provided in the mitigation plan set forth in Exhibit "F."
 14. Regional impacts attributable to the lowering of the water table across the Basin have been fully analyzed in connection with the Court approval of the Peace II Measures, and fully mitigated by the suite of corresponding offsetting benefits arising under the Peace II Measures. Consequently, CDA and the members of CDA will have no obligation to offset or mitigate any increased costs that may be incurred by Parties to the Judgment that own wells outside of the designated wells.
 15. At its own expense, Watermaster will monitor water conditions to measure the effectiveness of hydraulic control and subsidence.
 16. As provided in Section 6.2(b)(ii) the allocation of Replenishment is reserved and committed to offset the Replenishment attributable to the Future Desalter expansion.
 17. Agreements among the Parties, whatever they may be, for Replenishment, operations, conditions and corresponding consideration without limitations,

are unaffected by this determination. However, for the avoidance of doubt, Exhibit "D" accurately summarizes and restates these obligations.

18. Watermaster will negotiate with the County of San Bernardino as the party primarily responsible for contamination and all sums obtained will be paid to CDA to offset all of the incremental capital and operations and maintenance expenses incurred by the Parties to the Judgment comprising CDA or in their discretion through CDA.
19. Watermaster will continue to require that to the extent any of the Peace II Implementing Measures constitute "projects" within the meaning of the California Environmental Quality Act ("CEQA"), compliance with CEQA will be required as a pre-condition of Watermaster's issuance of any final, binding approvals.
20. The actions articulated above and contemplated herein to optimize the beneficial use of the groundwater and the Basin benefit the Basin and the Parties to the Judgment.
21. The members of CDA may make application for future relief and assistance from Watermaster to redress potential inequities in redressing water quality concerns only after having first obtained a recommendation for such relief from the Appropriative Pool. The Watermaster retains complete discretion in responding to any such request.
22. Within 24 months of the date of this Resolution, WMWD will make an election to either: (a) intervene into the Appropriative Pool on terms it may freely negotiate; or (b) consensually assign the production for the desalted water attributable to the Expansion Project on behalf of WMWD to an Appropriative Pool member of the CDA.
23. This Resolution is subject to the express condition subsequent of CDA approving the Water Purchase Agreements and the PDR as amended following WMWD's determination that it intends to proceed with the Expansion Project pursuant to Section 5.7 of the Peace II Agreement.

LIST OF EXHIBITS

Exhibit "A" Map: Mitigation Area for Groundwater-Level Decline Caused by Expansion of the Chino Desalter Program, Figure x-x

Exhibit "B" Judgment Amendments to Exhibit I, "Engineering Appendix, "components of Wildermuth Response to Condition Subsequent Number Seven, including Schedule and Tables

Exhibit "C" Wildermuth Env. Inc. Staff Letter, May 27, 2010 re Material Physical Injury Analysis – Wells I-16, I-18, I-MW16, I-MW18 of the Chino Creek Well Field

Exhibit "D" Watermaster Summary of Obligations for Desalter Replenishment and Future Desalters Post-Peace Agreement II

Exhibit "D-1" Peace II Section 6.2

Exhibit "E" Map: Chino Basin Watermaster's Current and Proposed Subsidence Monitoring Program, Figure x-x

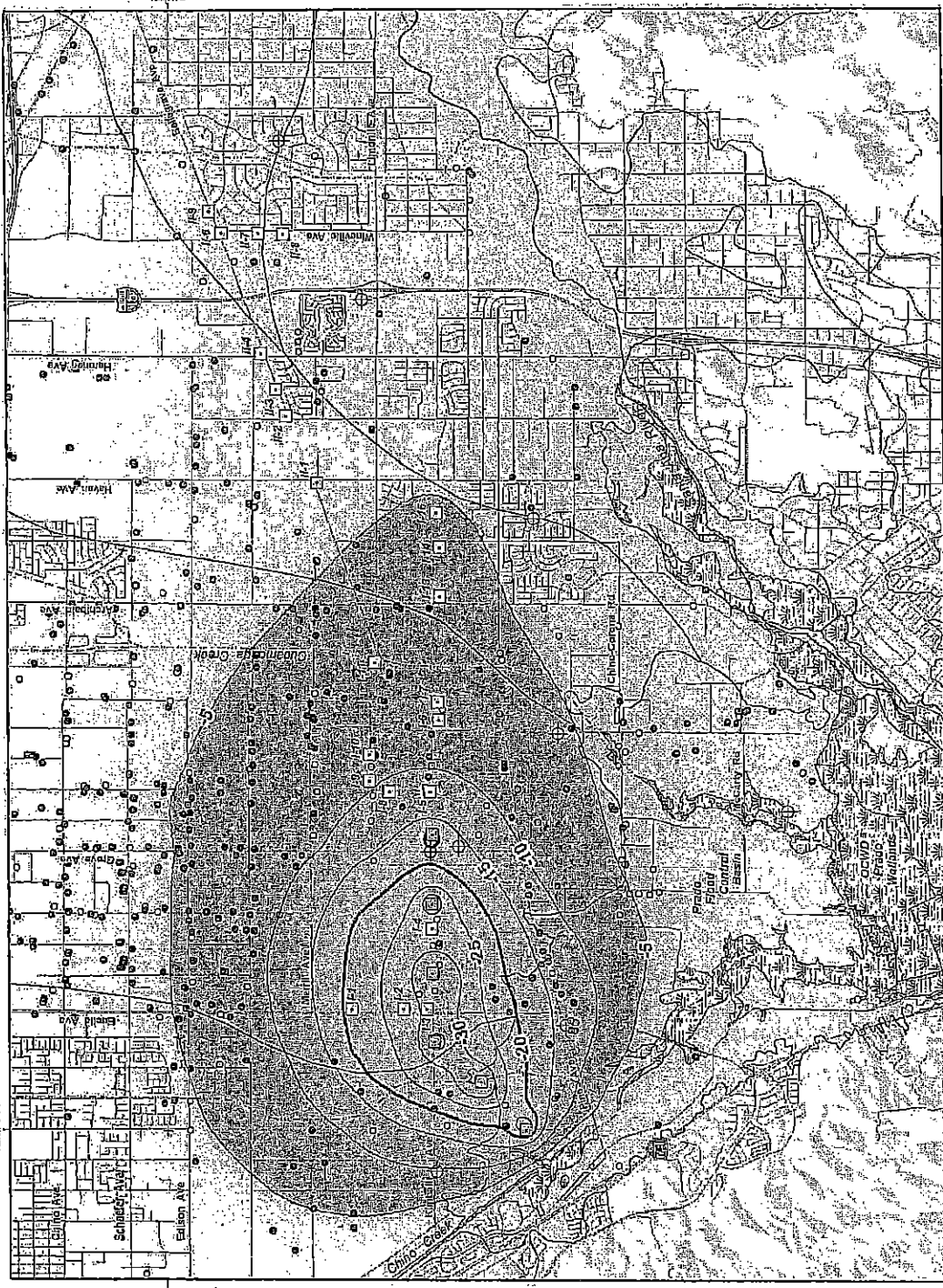
Exhibit "F" Groundwater-Levels Mitigation Measures Peace II SEIR 4.3-10

Exhibit "G" Revised Chino Desalter Phase 3 Comprehensive Pre-Design Report CDA PDR

Exhibit "H" CDA Emergency Response Plan, June 29, 2005

Exhibit "I" Draft 3 Appropriator Resolution of Support for Completion of Future Desalters, October 20, 2010

Exhibit "A"

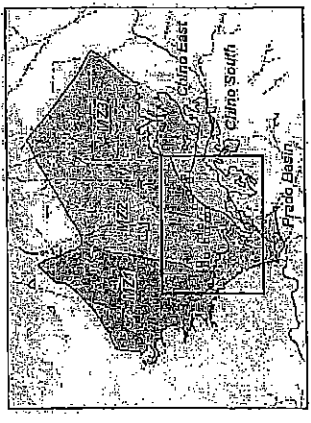


Maximum Projected Drawdown Caused by Expansion of the Chico Desalter Program

0.00 - 0.25
0.25 - 0.50
0.50 - 0.75
0.75 - 1.00
1.00 - 1.25
1.25 - 1.50
1.50 - 1.75
1.75 - 2.00
2.00 - 2.25
2.25 - 2.50
2.50 - 2.75
2.75 - 3.00
3.00 - 3.25
3.25 - 3.50
3.50 - 3.75
3.75 - 4.00
4.00 - 4.25
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4.75 - 5.00
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6.25 - 6.50
6.50 - 6.75
6.75 - 7.00
7.00 - 7.25
7.25 - 7.50
7.50 - 7.75
7.75 - 8.00
8.00 - 8.25
8.25 - 8.50
8.50 - 8.75
8.75 - 9.00
9.00 - 9.25
9.25 - 9.50
9.50 - 9.75
9.75 - 10.00

The Mitigation Area is defined by maximum projected drawdown greater than 20 ft

- Existing Atoka Production Well
- Existing Inactive/Abandoned Production Well
- Proposed Chico Creek Well Field
- Existing Chico Desalter Well
- Nested NACMP Monitoring Well
- Unconsolidated Sediments
- Management Zone Boundaries



Mitigation Area for Groundwater-Level Decline Caused by Expansion of the Chico Desalter Program

Figure x-x

Prepared for:
GeoA Mitigation Monitoring and Reporting Program
 Prepared by SEER

Initial Funding
 2013-2014

1 Mile
 1 KM

WILDERMUTH
 2300 S. 10th Ave
 Reno, NV 89502
 775.784.3333
 www.wilder-muth.com

Exhibit “B”



WILDERMUTH
ENVIRONMENTAL INC.

November 13, 2008

Chino Basin Watermaster
Attention: Kenneth R. Manning
Chief Executive Officer
9641 San Bernardino Road
Rancho Cucamonga, CA 91730

Subject: Response to Condition Subsequent Number 7

Dear Mr. Manning:

Pursuant to your request, Wildermuth Environmental, Inc. (WEI) reviewed the December 20, 2007 Special Referee's Report and the Honorable Judge Gunn's December 21, 2007 Court Order with regard to Condition Subsequent No. 7 (CS7). Specifically, you asked WEI to develop and recommend a response to CS7 for the Watermaster's consideration and use in the Watermaster's response to the Court. Our review and recommendations are summarized below.

Condition Subsequent No. 7

CS7 reads:

By December 31, 2008, Watermaster shall prepare and submit to the Court for approval a revised schedule to replace the initial corrected schedule, which submittal shall include a reconciliation of new yield and storm water estimates for 2000/01 through 2006/07, and a discussion of how Watermaster will account for un-replenished overproduction for that period.

There are two issues posed by the CS7. The first issue relates to under-replenishment of the Chino Basin desalters during the 2000/01 through 2006/07 period. The following questions need to be answered to resolve this issue:

- What was the magnitude of said under-replenishment?
- How will the Watermaster fulfill the replenishment obligation?

The second issue relates to how Watermaster accounts for the new yield created by the operation of the recently constructed recharge improvements, referred to as the Chino Basin Facilities Improvement Program (CBFIP). To resolve this issue, the following questions need to be answered:

- What was the volume of storm water recharge over the 2000/01 through 2006/07 period?
- What part of this recharge is "new" and how will the Watermaster account for this new recharge?

Under-Replenishment of the Chino Desalters During the 2000/01 through 2006/07

The *Chino Basin Water Resources Management Study* (MW, 1993) and the subsequent early desalter engineering studies used groundwater flow models to evaluate groundwater basin response to desalter proposals and concluded that the inducement of new Santa Ana River inflow to the Chino Basin would occur from the then proposed Chino desalters. Subsequent investigations during the development of the Optimum Basin Management Program (OBMP) produced a similar result. One of the conditions necessary to generate new yield with the desalters is to assume that new yield will occur and to conduct replenishment operations with that assumption. At the time of the desalter startup, around 2000, WEL used Watermaster's *Rapid Assessment Model* (RAM) of the Chino Basin to determine how much new yield could be obtained from the Santa Ana River. (RAM is a steady state model that produces an equilibrium response to any prescribed groundwater management plan.) Through the application of RAM, it was determined that Watermaster should assume that about half of the desalter production would come from the River.

Our current models are, by contrast, very detailed transient models. The recent modeling work done for the Peace II process suggests a very different answer for the new yield associated with the desalters and the reoperation authorized by the Peace II Agreement. In analyzing future reoperation alternatives, it was determined that the induced Santa Ana River recharge lagged the dedication of groundwater storage to desalter replenishment by several years. Table 1 shows the Initial Corrected Schedule referred to in CS7. The planning simulation for this schedule started in July 2006. This table contains the estimated new yield from the Santa Ana River and the time history of withdrawals from the reoperation accounts used to satisfy the desalter replenishment obligation. Note that new yield from the river appears to start in fiscal year 2011/12 and rises to about 5,000 acre-ft/yr by 2021/2022. The column titled "Residual Replenishment Obligation" is the desalter replenishment obligation that must be satisfied through either physical recharge, other sources provided for in the Peace II Agreement, water acquired from other storage accounts, or a combination of these sources. One of the take aways from Table 1 is that the induced Santa Ana River recharge originally projected to occur in the 2000/01 through 2006/07 period did not occur.

Table 2 shows desalter production during the 2000/01 through 2006/07 period, which totals to about 91,200 acre-ft. This production must be fully replenished. The table shows that 36,400 acre-ft of replenishment obligation was provided by the Desalter Account, that 25,700 acre-ft was provided by the CDA reoperation account, and that about 29,100 acre-ft was provided projected new Santa Ana River recharge. However, as mentioned above, the new modeling results strongly suggest that new Santa Ana River recharge did not occur, thus, there is an outstanding replenishment obligation of about 29,100 acre-ft.

There are four water sources that can be used to make up the outstanding replenishment obligation, including 1) physical (wet-water) recharge with supplemental water, 2) a debit from the non-Western Municipal Water District (WMWD) reoperation account,² 3) other sources provided for in the Peace

¹ The term *Initial Corrected Schedule* refers to the specific schedule of desalter production, projected new yield, use of reoperation water for desalter replenishment, and other desalter replenishment that was requested by the Court during the Peace II process.

² It is likely that the WMWD will become a member of the CDA before the end of 2008. The WMWD reoperation account refers to the water in storage that is dedicated to desalter capacity that will be constructed by the WMWD.

If Agreement, 4) water acquired from other storage accounts, or a combination of these sources. Physical recharge is the least desirable alternative because it will retard the projected buildup in new yield (as shown in Table 1), it works counter to hydraulic control, and it will come at a great cost. Figure 1 shows the time history of projected Santa Ana River recharge attributed to desalter production with reoperation and the estimated retardation of the projected buildup in new yield if the 29,100 acre-ft were replenished with physical recharge. A better approach is acquire the replenishment water either from the non-WMWD reoperation account, other sources provided for in the Peace II Agreement, other water from existing storage accounts if available, or a combination thereof. Table 3 presents a modified version of the Initial Corrected Schedule, extended back to fiscal 2000/01, that shows historical and projected desalter production, projected new yield, the time history of withdrawals from the Desalter Account, projected withdrawals from the reoperation accounts, and the historical and projected residual replenishment obligation. In this schedule it was assumed that the Watermaster would debit the non-WMWD reoperation account in fiscal 2009/10, although it could be done this year as well. If the replenishment water was supplied from the non-WMWD reoperation account, the non-WMWD reoperation account would be depleted one year earlier than initially projected in Table 1.

Reconciliation of Storm Water Recharge for the 2000/01 through 2006/07 Period

In addition to the new yield created by new Santa Ana River recharge, the Peace Agreement provides for new yield created by new storm water recharge. New storm water recharge refers to the additional storm water recharge that results from the CBFIP and subsequent storm water recharge enhancements. New storm water recharge is equal to the total volume of storm water recharge minus the storm water recharge that would have occurred without the CBFIP and subsequent storm water recharge enhancements.

The CBFIP was mostly completed during fiscal 2004/05. The Inland Empire Utilities Agency (IEUA) managed CBFIP construction and currently operates the CBFIP facilities. These facilities are operated pursuant to an agreement between the Watermaster, the IEUA, the Chino Basin Water Conservation District, and the County of San Bernardino. The IEUA collects data and prepares storm water recharge estimates for each of the recharge basins in the Chino Basin. The IEUA reviews its calculations with the Groundwater Recharge Coordinating Committee and provides the final estimates to the Watermaster. Recently, we developed pre-CBFIP storm water recharge estimates for use in our groundwater modeling work for both the Peace II Agreement and, more recently, the material physical injury analysis of the Dry Year Yield Program Expansion. The WEI and IEUA estimates are provided in Table 4. The recharge facility locations are shown in Figure 2.

In contrast to the new yield developed by the desalters, the new recharge from recharge improvements varies significantly from year to year as a function of precipitation, storm water management practices, and the state of the recharge facilities. In 2003, Watermaster investigated two methods for computing new storm water recharge. The first method involves preparing estimates of the long-term average annual storm water recharge with and without the CBFIP and calculating the new yield as the difference. Modeling tools would be used to estimate recharge, and

and will be exclusively available to the WMWD. The non-WMWD reoperation account refers to the other water in the reoperation account.

the new yield estimate would be refined over time if historical observations demonstrated that the assumptions, data, and/or models needed to be refined. With this approach, the new yield estimate is more stable over time, providing certainty to the members of the Appropriative Pool. Moreover, the yield of the Chino Basin is based on recharge components, some of which are highly variable over time (stormwater recharge and the deep percolation of precipitation), yet the yield is a constant value. This occurs because the Chino Basin is a large storage reservoir that buffers the effects of wet and dry periods. The use of a long-term average annual estimate of new recharge is consistent with the notion of the safe yield of the Chino Basin and other basins that are managed to a safe yield.

The second method would be to estimate actual recharge annually, based on observed data, and what would have recharged had the CBFIP not been implemented. The difference would equal the new yield. With this approach, the new yield estimate would be highly variable over time.

In April 2003, Watermaster adopted the first approach. The procedures for implementing this approach are as follows:

1. The volume of recharge provided by the pre-CBFIP facilities was assumed to be 5,600 acre-ft/yr (baseline) per the Peace Agreement implementation plan.
2. Assumptions were made about the additional recharge that would result from the CBFIP.
3. It was assumed that the CBFIP would produce a long-term average new recharge of 12,000 acre-ft/yr.
4. This assumed long-term average recharge (12,000 acre-ft/yr) would be used for the first five years of new recharge facility operations.
5. Each year, the performance characteristics and actual additional recharge would be determined.
6. At the end of five years, a new long-term average estimate of new recharge would be computed, based on the actual performance characteristics of the facilities.
7. Any credit or debit that results from the initial estimate of additional recharge being too low or high, respectively, would be spread evenly over the next five-year period.
8. Repeat items 5 through 7 every five years.

This process started in fiscal 2004/05, thus, the five-year period will end in June 2009. The Watermaster is charged with developing a new long-term average recharge estimate using the recharge monitoring and performance data collected by the IRUA. The Watermaster should be able to prepare this estimate by the end of August 2009 and will then be in a position to execute step 7 listed above. Table 5 and Figure 3 show how such a calculation will be performed. In this example, the initial long-term average of new recharge was assumed to be 12,000 acre-ft/yr through 2008/09. A new long-term average of new recharge of 6,000 acre-ft/yr is computed in the summer of 2009 and is used for the next five years. Note that this estimate of new storm water recharge means that the Watermaster overestimated new storm water recharge by 6,000 acre-ft/yr for the first five years, resulting a cumulative overestimate of 30,000 acre-ft through the end of 2008/09. This overestimate is debited from the new recharge estimates for the 2009/10 through 2013/14 period and, in this example, results in a new recharge credit of zero acre-ft/yr through 2013/14. And, the initial overestimate is completely debited from the appropriators.

Recommended Responses to CS7

In response to the questions posed by CS7 as they relate to the under-replenishment of the Chino Basin desalters during the 2000/01 to 2006/07 period, our recommended answers are as follows:

1. What was the magnitude of the desalter under-replenishment during this period? The estimated under-replenishment is 29,070 acre-ft as shown in Table 2 and is numerically equal to the projected new Santa Ana River recharge.
2. How will Watermaster fulfill the replenishment obligation? Our recommendation is that Watermaster use either water from the non-WMWID reoperation account, other water that it can acquire from sources provided for in the Peace II Agreement, water acquired from other storage accounts, or a combination of these sources. Physical recharge will retard full acquisition of hydraulic control and will lead to reduced Santa Ana River recharge of about 5,000 acre-ft through 2030. There are no hydrologic or economic advantages to replenishing with physical recharge, only disadvantages.

In response to the questions posed by CS7 as they relate to the reconciliation of the new storm water recharge, our recommended answers are as follows:

1. What was the storm water recharge over the 2000/01 through 2006/07 period? The volume of storm water recharged during this period is provided in Table 4. The period through 2003/04 represents the pre-CBER period, as does the first part of the fiscal 2004/05. Thereafter, the storm water recharge totals include new storm water recharge.
2. What part of this recharge is "new" and how will the Watermaster account for this new recharge? The Watermaster will use the process described above, specifically steps 6 and 7, to account for new recharge. Watermaster will perform its first reconciliation in fiscal 2009/10 pursuant to the new storm water recharge policy it adopted in April 2003.

Please call me if you have any questions or need further assistance.

Wildermuth Environmental, Inc.



Mark J. Wildermuth
Chairman

cc:
Shen Rejo, Chino Basin Watermaster
Ben Pak, Chino Basin Watermaster
Scott Slater, Brownstein Hyatt Farber Schreck
Michael Effe, Brownstein Hyatt Farber Schreck

Encl.

Table 1
Initial Corrected Schedule
 (acre-ft)

Fiscal Year	Desalter Pumping	New Yield	Re-Operation			Residual Replenishment Obligation
			Replenishment Allocation for Desalter, III	Replenishment Allocation to GDA	Balance	
2006 / 2007	26,350	0	0	26,350	400,000	0
2007 / 2008	26,350	0	0	26,350	373,650	0
2008 / 2009	26,356	0	0	26,356	347,300	0
2009 / 2010	26,356	0	0	26,356	320,944	0
2010 / 2011	28,966	0	0	28,966	294,588	0
2011 / 2012	31,574	75	0	31,500	265,622	0
2012 / 2013	34,182	442	5,000	28,740	234,125	0
2013 / 2014	36,791	962	10,000	25,829	200,383	0
2014 / 2015	39,320	1,629	10,000	4,554	164,554	23,137
2015 / 2016	39,320	2,265	10,000	0	150,000	27,065
2016 / 2017	39,320	2,771	10,000	0	140,000	26,549
2017 / 2018	39,320	3,275	10,000	0	130,000	26,045
2018 / 2019	39,320	3,767	10,000	0	120,000	25,553
2019 / 2020	39,320	4,283	10,000	0	110,000	25,037
2020 / 2021	39,320	4,764	10,000	0	100,000	24,556
2021 / 2022	39,320	5,198	10,000	0	90,000	24,122
2022 / 2023	39,320	5,570	10,000	0	80,000	23,760
2023 / 2024	39,320	5,864	10,000	0	70,000	23,466
2024 / 2025	39,320	5,959	10,000	0	60,000	23,261
2025 / 2026	39,320	5,834	10,000	0	50,000	23,086
2026 / 2027	39,320	5,698	10,000	0	40,000	22,922
2027 / 2028	39,320	5,546	10,000	0	30,000	22,774
2028 / 2029	39,320	5,479	10,000	0	20,000	22,841
2029 / 2030	39,320	5,594	10,000	0	10,000	22,726
Totals	866,045	74,953	175,000	225,000	0	391,091

1 -- Note that the new yield projection shown above relates only to the storage reduction caused by the use of the reoperation water listed in this schedule. There was over 60,000 acre-ft of additional storage reduction that occurred during 2000/01 and 2005/06 that is not reflected in the new yield schedule. In the near future, Watermaster will determine the additional new yield created by the Pre-Peace II reductions in storage and will include a new schedule for yield.

Table 2.
Desalter Production and Replenishment 2000/01 through 2006/07
 (acres-ft)

Fiscal Year	Desalter Production	Desalter Replenishment		
		Initial Projection of SAR Recharge	Desalter (aka Kaiser) Account	Re-operation Account
2000/01	7,989	3,995	3,995	
2001/02	9,458	4,729	4,729	
2002/03	10,439	5,220	5,220	
2003/04	10,605	5,303	5,303	
2004/05	9,854	4,927	4,927	
2005/06	16,476	4,897	11,579	
2006/07	26,366	0	608	25,748
Totals	91,177	29,070	36,360	25,748

Table 3
Initial Corrected Schedule Updated to Show Desalter Replenishment Accounting and Santa Ana River Inflow
From 2000/01 through 2029/30; Shortfall Deducted from Non-WWWD Reoperation Account
 (cont.)

Fiscal Year	Desalter Pumping	New Yield	Desalter (aka Kaiser) Account	Desalter Replenishment			Residual Replenishment Obligation
				Replenishment Allocation for Desalter III	Re-Operation Replenishment Allocation to GDA	Balance	
2000 / 2001	7,989	0	3,995				3,995
2001 / 2002	9,458	0	4,729				4,729
2002 / 2003	10,439	0	5,220				5,220
2003 / 2004	10,605	0	5,303				5,303
2004 / 2005	9,854	0	4,927				4,927
2005 / 2006	16,476	0	11,579			400,000	4,897
2006 / 2007	26,356	0	608	0	25,748	374,252	0
2007 / 2008	26,356	0	0	0	26,356	347,896	0
2008 / 2009	26,356	0	0	0	55,426	292,470	-29,070
2009 / 2010	26,356	0	0	0	26,356	266,114	0
2010 / 2011	28,965	0	0	0	28,965	237,149	0
2011 / 2012	31,574	75	0	0	31,500	205,649	0
2012 / 2013	34,182	-442	0	5,000	28,740	171,909	0
2013 / 2014	36,791	-952	0	10,000	1,909	160,000	23,920
2014 / 2015	39,320	1,529	0	10,000	0	150,000	27,691
2015 / 2016	39,320	2,255	0	10,000	0	140,000	27,065
2016 / 2017	39,320	2,771	0	10,000	0	130,000	26,549
2017 / 2018	39,320	3,275	0	10,000	0	120,000	26,045
2018 / 2019	39,320	3,767	0	10,000	0	110,000	25,553
2019 / 2020	39,320	4,253	0	10,000	0	100,000	25,037
2020 / 2021	39,320	4,734	0	10,000	0	90,000	24,556
2021 / 2022	39,320	5,193	0	10,000	0	80,000	24,122
2022 / 2023	39,320	5,570	0	10,000	0	70,000	23,750
2023 / 2024	39,320	5,854	0	10,000	0	60,000	23,466
2024 / 2025	39,320	5,959	0	10,000	0	50,000	23,361
2025 / 2026	39,320	5,834	0	10,000	0	40,000	23,486
2026 / 2027	39,320	5,698	0	10,000	0	30,000	23,622
2027 / 2028	39,320	5,546	0	10,000	0	20,000	23,774
2028 / 2029	39,320	5,479	0	10,000	0	10,000	23,841
2029 / 2030	39,320	5,594	0	10,000	0	0	23,726
Totals	930,877	74,953	36,360	175,000	226,000		418,565

1 - Note that the new yield projection shown above relates only to the storage reduction caused by the use of the reoperation water listed in this schedule. There was over 80,000 acre-ft of additional storage reduction that occurred during 2000/01 and 2005/06 that is not reflected in the new yield schedule. In the near future, Watermaster will determine the additional new yield created by the Pre-Peace II reductions in storage, and will include a new schedule for yield.

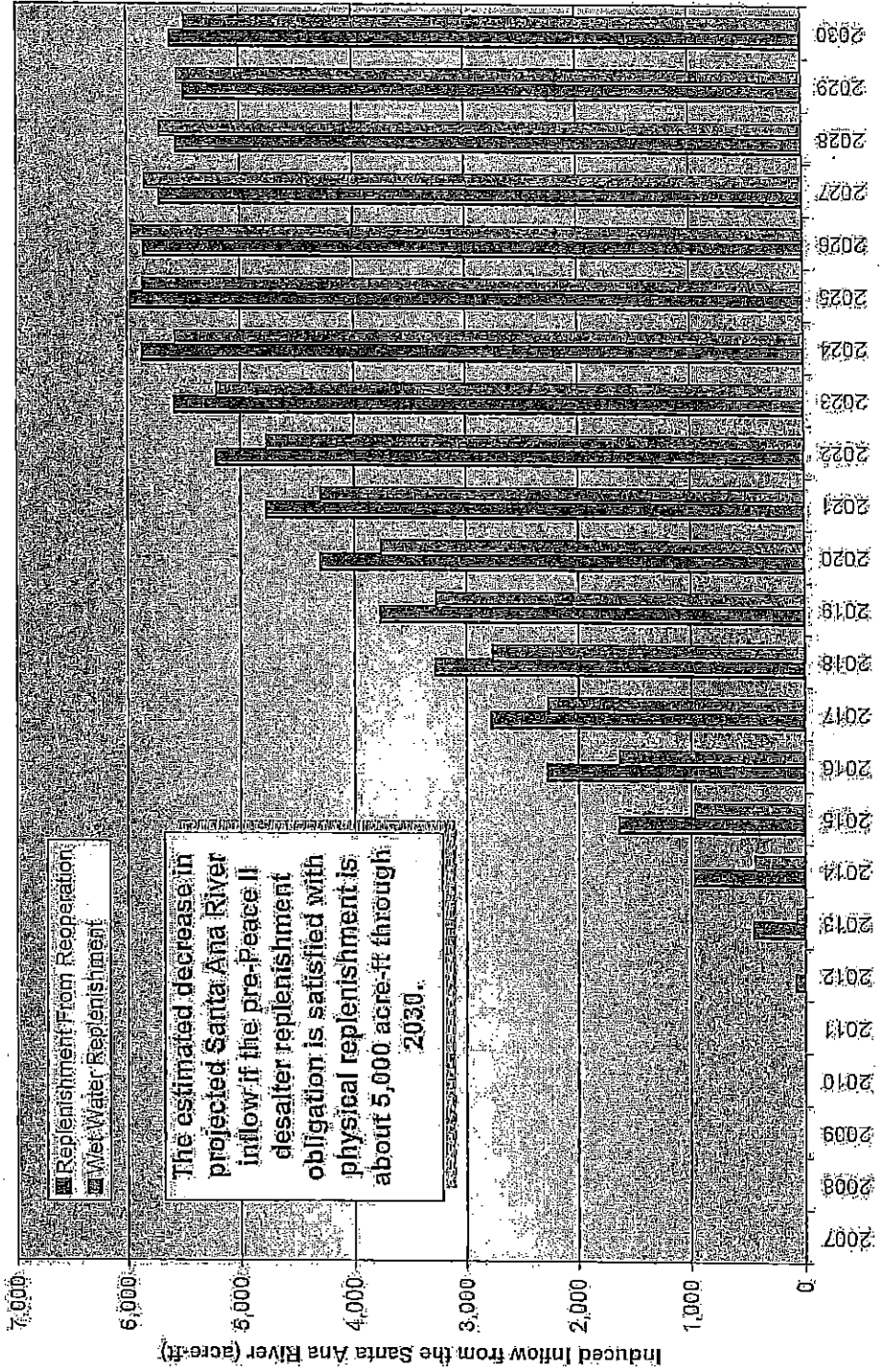
Table 4
Estimates of Historical Storm Water Recharge to the Chino Basin During the Peace Agreement Period
(in cfs)

Channel/Recharge Basin	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08
San Antonio Channel / CB-59:								
College Heights East (MZ1)	0	0	0	0	0	0	0	0
College Heights West (MZ1)	0	0	0	0	0	0	0	0
Upland (MZ1)	572	94	810	397	989	244	195	312
Montclair 1, 2, 3, 4 (MZ1)	1,982	897	3,757	1,298	3,850	1,255	365	859
Brooks (MZ1)	794	133	1,278	563	1,776	524	206	475
West Cucamonga Channel								
15th Street (MZ1)	0	0	0	0	0	0	0	0
50th Street (MZ1)	0	0	0	0	240	918	385	569
7th Street (MZ1)	0	0	0	0	350	353	282	30
Ely 1 (MZ2)	895	446	575	587	2,010	1,409	631	1,909
Ely 2 (MZ2)	0	0	0	0	0	0	0	0
Ely 3 (MZ2)	0	0	0	0	0	122	0	0
Riverside Drive Drain								
Grove (MZ2)	0	0	0	0	0	33	166	325
Cucamonga/Dear Creek Ch / CB-11								
Turner 1 & 2 (MZ2)	157	100	162	0	482	1,870	250	1,166
Turner 3 & 4 (MZ2)	0	0	0	0	976	705	155	376
Day Creek Channel / CB-15								
Lower Day (MZ2)	0	0	0	0	2,799	924	78	303
Wineville (MZ3)	0	0	0	0	0	0	0	0
Riverside (MZ3)	0	0	0	0	0	0	0	0
Ellwanda Channel / CB-14								
Ellwanda Deltas Basin (MZ2)	0	0	0	0	0	26	0	0
Victoria (MZ2)	0	0	0	0	0	330	260	427
Conservation Ponds (MZ3)	0	0	0	0	0	0	0	0
San Sevaine Channel / CB-13								
San Sevaine #1 (MZ2)	190	260	1,364	512	758	2,072	244	749
San Sevaine #2 (MZ2)	0	0	58	11	0	0	0	0
San Sevaine #3 (MZ2)	65	70	461	157	0	0	0	0
San Sevaine #4 & 5 (MZ2)	0	0	168	38	2,062	0	0	0
San Sevaine Reach (MZ3)	0	0	0	0	0	0	0	0
Jitupa (MZ3)	0	0	0	0	0	0	0	0
West Fontana Channel / CB-18								
Hickory (MZ2)	37	105	551	224	295	438	535	949
Bahans (MZ2)	390	184	365	188	425	800	228	275
Declez Channel								
RPA Cell 1a (MZ3)	0	0	0	0	1,105	507	237	511
RPA Cell 3b (MZ3)	0	0	0	0	0	280	565	0
Declez (MZ3)	0	0	0	0	19	727	0	730
Total Recharge	4,803	2,216	9,699	3,973	17,649	12,940	4,745	10,205
Index Precipitation 1992 Cucamonga (inches)	16.58	7.95	21.6	11.67	33.87	3.15	5.68	14.71
Index Precipitation 2205 Fontana (inches)	12.39	4.62	17.3	7.67	27.6	12.09	4.52	12.85

Table 5
Example of New Storm Water Recharge Calculation
 (acre-ft)

Fiscal Year Ending	Pre-CBFRP Recharge	Estimated Total Recharge	Projected New Storm Water Recharge	Over Estimate of New Recharge	Cumulative Over (Under) Estimate of New Recharge
2005	5,600	17,600	12,000	6,000	6,000
2006	5,600	17,600	12,000	6,000	12,000
2007	5,600	17,600	12,000	6,000	18,000
2008	5,600	17,600	12,000	6,000	24,000
2009	5,600	17,600	12,000	6,000	30,000
2010	5,600	11,600	0	0	24,000
2011	5,600	11,600	0	0	18,000
2012	5,600	11,600	0	0	12,000
2013	5,600	11,600	0	0	6,000
2014	5,600	11,600	0	0	0
2015	5,600	11,600	6,000	0	0
2016	5,600	11,600	6,000	0	0
2017	5,600	11,600	6,000	0	0
2018	5,600	11,600	6,000	0	0
2019	5,600	11,600	6,000	0	0
2020	5,600	11,600	6,000	0	0
2021	5,600	11,600	6,000	0	0
2022	5,600	11,600	6,000	0	0
2023	5,600	11,600	6,000	0	0
2024	5,600	11,600	6,000	0	0
2025	5,600	11,600	6,000	0	0
2026	5,600	11,600	6,000	0	0
2027	5,600	11,600	6,000	0	0
2028	5,600	11,600	6,000	0	0
2029	5,600	11,600	6,000	0	0
2030	5,600	11,600	6,000	0	0
Totals	145,600	331,600	156,000	30,000	na
Estimated Total Recharge				<u>331,600</u>	
Pre Improvement Recharge				<u>145,600</u>	
Over Estimate of New Recharge				<u>30,000</u>	
Assumed New Recharge				<u>156,000</u>	

Figure 1
The Effect of Desalter Replenishment on Santa Ana River Inflow



Tables 1, 2, and 3 for C57 Report.xls - Figure 1



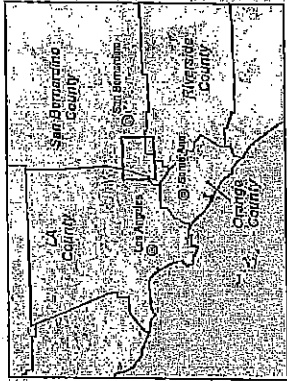


Recharge Basins (Symbolized by Improvements)
 China Basin Facilities Improvement Project
 Improvements by City
 No Improvements

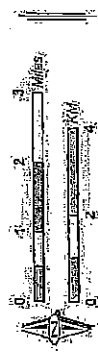
Imported Water Facilities
 Service Connection/Trunk
 Imported Water Pipeline

Drainage Areas
 San Antonio Creek System
 West Coast/Orange-Clear System
 Chatsworth and Clear Creek Systems
 Lower Culverwood Creek System
 Day Creek System
 San Gabriel and Elwood Creek System

Other Features
 Rivers, Creeks, and Flood Control Channels
 Facilities
 Location Control
 Location Approximate
 Location Unspecified



Continuation Study Report



Author: SCA
 Date: 10/10/10
 File: P10R.dwg

Produced by:
 SCA
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 Los Angeles, CA 90010
 Telephone: (213) 744-1000

Groundwater Recharge and Imported Water Facilities
 Figure 2:

Exhibit “C”



WILDERMUTH
ENVIRONMENTAL INC.

May 27, 2010

Chino Basin Watermaster
Attention: Mr. Kenneth R. Manning, Chief Executive Officer
9641 San Bernardino Road
Rancho Cucamonga, CA 91730

Subject: Material Physical Injury Analysis -- Wells I-16, I-18, I-MW16, I-MW18 of the Chino Creek Well Field

Dear Mr. Manning:

Per your request, Wildermuth Environmental, Inc. (WEI) has reviewed the *Detailed Technical Specifications for Drilling, Construction, Development, and Testing of Chino Basin Desalter Authority Wells I-16, I-18, I-MW16 and I-MW18, December 24, 2009* prepared by Geoscience Support Services, Inc. for the Chino Desalter Authority (CDA), and has prepared this opinion on consistency with the Optimum Basin Management Program (OBMP) and the Reace II project description, and the potential for material physical injury that could be associated with these proposed wells.

Wells I-16 and I-18 are the first of six production wells that are planned for the so-called Chino Creek Well Field (CCWF), and these wells are the subject of the material physical injury analysis. Wells I-MW16 and I-MW18 are two companion monitoring wells that will be constructed adjacent to the production wells to assist in aquifer testing. We anticipate no material physical injury associated with the drilling, construction, development and testing of the monitoring wells.

There are two main objectives of the CCWF: (1) to develop a supply of raw groundwater for an expansion of the Chino Desalter facilities and (2) to achieve and maintain hydraulic control of groundwater outflow from the Chino Basin. Achievement and maintenance of hydraulic control is a requirement of the Basin Plan as updated in 2004 and the Reace II Agreement as approved by the Court in December 2007.

Our primary concerns for material physical injury associated with the CCWF are the inability to achieve and maintain hydraulic control and the potential for land subsidence and ground fissuring.

Hydraulic Control. Hydraulic control is defined as the elimination of the groundwater discharge from the Chino-North management zone into the Prado Basin management zone (PBMZ). Currently, hydraulic control is not being achieved in the area of the proposed CCWF. Current piezometric data indicates that groundwater originating in the Chino-North management zone is discharging to the south in this area, mainly through the shallow aquifer system, into the PBMZ. The water quality in the shallow aquifer system is generally high in TDS and nitrate concentrations. Watermaster's (and IEUA's) primary objective is to ensure that groundwater pumping at the CCWF achieves hydraulic control in this area, so that these shallow poor-quality groundwaters do not exit the Chino Basin as rising groundwaters which could decrease basin yield and degrade the quality of the Santa Ana River. Therefore, the wells of the CCWF should be located, constructed and operated to cause the requisite drawdown in the shallow aquifer system to achieve hydraulic control.

Land Subsidence. Pumping from the deeper confined aquifers (<200 ft-bgs) in the western portion of the Chino Basin can lead to excessive drawdown in these deep aquifers, which can lead to compaction of clay

and silt layers within the aquifer system, which can result in land subsidence and ground fissuring at the land surface. Pumping from the shallow unconfined aquifers typically causes less drawdown within the aquifer system and, hence, lessens the potential for material physical injury associated with land subsidence and ground fissuring.

Preliminary Opinion on Material Physical Injury. Watermaster recently completed and published a groundwater flow modeling study of the Peace II project description called *2009 Production Optimization and Evaluation of the Peace II Project Description* (WEL November 25, 2009). In this study, the CCWF was simulated to pump from six wells located in the southwestern portion of the Chino Basin. These wells were simulated to be screened exclusively across the shallow aquifer system which, in this region, is approximately 30-200 feet below ground surface (ft bgs). The study demonstrated that this design and configuration of the CCWF was capable of (1) achieving and maintaining hydraulic control and (2) not causing excessive drawdown in the deeper confined aquifers that could lead to high rates and magnitudes of land subsidence.

In Figure 1 of the technical specifications referenced above, the production wells I-16 and I-18 are located in approximately the same locations as two of the CCWF wells that have been modeled and approved by Watermaster (WEL November 25, 2009). If, in addition, these production wells are screened across the shallow aquifer system, then we anticipate no material physical injury associated with not achieving hydraulic control or with pumping-induced land subsidence and ground fissuring.

This opinion of no material physical injury is contingent upon the appropriate operation (pumping) of these wells in the future. We respectfully request the opportunity to opine on the appropriate operation of these wells and the potential for material physical injury after the entire CCWF has been installed and tested.

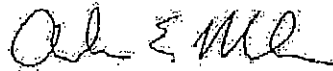
We appreciate the opportunity to serve the Watermaster and the Parties to the Judgment. Please call me if you have any questions or need additional information.

Very truly yours,

Wildermuth Environmental, Inc.



Mark J. Wildermuth, PE
Chairman



Andrew E. Malone, PG
Principal Geologist

Exhibit “D”

EXHIBIT "D"

DESALTER REPLENISHMENT POST-PEACE II MEASURES

Summary

Desalter Replenishment is controlled by Peace II Section 6.2, attached hereto. As a result of the methodology referenced below, Western Municipal Water District (WMWD) will not incur any replenishment obligation for the 9 mgd expansion. This follows from the fact that WMWD is not a member of the Appropriative Pool and it was not required to become one as a precondition to the approval of the Peace II Measures, although it may elect in its discretion to do so.

WMWD has no share of Operating Safe Yield. Because the formula for apportioning the cost of Replenishment set forth in Section 6.2 attributable to the Desalters expressly excluded Production from the Desalters from the calculation of responsibility, even WMWD's intervention into the Appropriative Pool would not trigger a Replenishment obligation for WMWD. Specifically, without a share of Operating Safe Yield or any eligible groundwater production, there would be no basis to assess WMWD for a Replenishment Assessment.

It is also true that to the extent WMWD shared a portion of its rights to the 9 mgd expansion with Jurupa Community Services District and the City of Ontario as contemplated by Article VI, there would be no impact on the net Replenishment obligation of any other Party to the Judgment because all of the projected groundwater production planned for the proposed 9 mgd expansion was to be offset by the apportionment of 175,000 acre-feet for this purpose; both in the Court proceeding and in the filing in compliance with Condition Subsequent Number 7 (attached hereto as Exhibit "B").¹ (See below.) Replenishment attributable to the Chino I and Chino II Desalters is also addressed by formula in Peace Agreement II Section 6.2(b)(ii).

Replenishment Example

The obligation for Desalter Replenishment, for existing Desalters (as the Expansion was fully offset) was apportioned among the Parties to the Judgment in accordance with the hierarchy set forth in Peace Agreement II Section 6.2. Thus, assuming in Year X, there was 35,000 acre-feet of Desalter Production, the stated hierarchy of sources would be applied to satisfy the cumulative demand.

- (1) Kaiser: (Peace Agreement II Section 6.2(a)(i))

¹ Subject to an adjustment in the schedule to reflect actual operations.

- (2) No Ag Dedication (Peace Agreement II Section 6.2(a)(ii)
- (3) New Yield other than Storm Water (Peace Agreement II Section 6.2(a)(iii)
- (4) Losses from Storage and Recovery Agreements enforced as a Leave Behind (Peace Agreement II Section 6.2(a)(iv).
- (5) Contributed safe yield (Peace Agreement II Section 6.2(a)(v)
- (6) Controlled Overdraft as authorized (175 / 225). (Judgment Exhibit I.

Assuming for purposes of this example that the sum of (1)-(5) referenced above in Year X was 10,000 acre-feet, there would be a total Replenishment Requirement of 25,000 acre-feet. That quantity apportioned to the Expansion would be apportioned 10,000 acre-feet to offset that production (assuming the schedule is adhered to) and the balance would be assumed by the Appropriative Pool in accordance with the formula set forth in Section 6.2(b)(ii). In summary, that formula divides the residual Replenishment obligation among the members of the Appropriative Pool on the basis of 50% Base Annual Production Right and 50% actual Production. The actual language of Section 6.2(b)(ii) reads slightly different, but it is not inconsistent. This formula is used elsewhere in the Peace II Agreement and it is commonly understood by the Parties to the Judgment and Watermaster to apply in the manner described in this paragraph and this Exhibit.

The formula expressly, albeit provisionally, excludes Desalter Production from the calculation. This means that the 25,000 acre-feet of production in this example attributed to the Desalters would not form a basis to assess any member of CDA a larger assessment simply because they received desalted water. However, if there is a material reduction in the cost of desalted water, this provision was subject to a re-opener. (See below)

This structure preserves the intention of the parties, the Court and Watermaster to remove the Replenishment obligation from the cost consideration of the Expansion Project. The Replenishment obligation attributed to the Chino I and Chino II Desalters was a pre-existing and known obligation prior to Peace II. The use of water made available by the Peace II Measures substantially reduced the projected Replenishment obligation by 225,000 acre-feet.

It is true that there is a provision in Peace Agreement Section 6.2(b)(ii) that reflects that the exclusion of the Desalter production from the calculation might be revisited if the costs of water from the Desalters were to be materially reduced. However, as of October 28, 2010, Watermaster has no present information and thus no good cause that would suggest that the cost of product water from the Desalters is going to be substantially less than the negotiated price cap. Consequently it would appear that there is no present basis to reconsider this element although Watermaster and the Court would be authorized to revisit this provision if good cause were subsequently presented.

The treatment of Replenishment in any Renewal Term (Post-Peace Agreement 2030) is the subject of negotiation. (Peace Agreement II, Section 6.2(c).). This means that the inter-se allocation of the 400,000 acre-feet is fully addressed during the term of the Peace Agreement. The Parties to the Judgment are free to extend the Peace Agreement for the Renewal Term or to renegotiate any provision as a condition of extension.

Any individual member of the Appropriative Pool reserves discretion to meet their Replenishment Obligation in any manner that they may choose that is otherwise consistent with the Judgment. For example, a party may pursue water transfers, remove water from a stored water account or assign a share of Operating Safe Yield to offset their individual Replenishment Assessment. Nothing contained with Peace II and its treatment of Replenishment for the Desalters limited the pre-existing rights of the parties with respect to Replenishment.

Allocation of 400,000 Acre-Feet

As far as the inter-se apportionment of the allocation, Section 7 of the Peace II Agreement contemplated a fair process to arrive at an apportionment. An initial schedule was transmitted to the Court in response to the Court Order. The schedule was the subject of testimony and further reporting and ultimately a requirement for a schedule to be filed in connection with Condition Subsequent Number 7.

Watermaster filed its apportionment in response to Condition Subsequent Number 7, allocating 175,000 acre-feet to the expansion and 225,000 to the existing Desalters.

Peace Agreement II Section 7.2(e)(ii) authorizes Watermaster to propose revisions to the proposed schedule where good cause exists – supported by a technical explanation. A potential cause to revise the schedule might include the Expansion Project's failure to extract the allocated quantities as a result of delays in construction and operation. It is possible that there may be other public policy reasons that support other potential causes that would support a revision of the schedule, but no such reason has been presented to Watermaster.

In general, modest corrections are fairly likely to be acceptable. Material deviations may suggest a failure in one or more purposes of the OBMP Implementation Plan, and Watermaster is unable to predict how it may respond to the failure of the Expansion Project to proceed as planned.

Legal Effect of WMWD Intervention in the Appropriative Pool

As noted above, there is no requirement in the Peace II Measures that WMWD intervene into the Appropriative Pool. There is a requirement that

WMWD make the Appropriative Pool whole for historic contributions under Peace Agreement II Section 5.5(e). The requirements set forth in Section 5.5(e) of the Peace II Agreement have been satisfied by WMWD's assumption of project risk, out-of-pocket costs presently in excess of \$5 million (\$15 million for the Expansion Parties) and the further assumption of capital and operations and maintenance costs in excess of expectations (the cost-cap as for WMWD's portion of expenses. However, this finding is made only with regard to WMWD's obligation under Section 5.5 to complete final binding agreement(s) regarding Future Desalters. This finding is not intended to have any bearing or impact on the sufficiency of WMWD's assumption of risk and costs for any other purpose, including the availability of a reduced uniform loss percentage under Peace II Agreement Section 7.4. This finding also does not affect WMWD's rights or obligations to intervene into the Appropriative Pool on the terms and conditions that may be fairly agreed among the Appropriative Pool and WMWD.

Transferability of 400,000 Acre-Feet

There is no allocation of any portion of the 400,000 acre-feet to any individual party. The water is made available for the express purpose of offsetting Desalter production in furtherance of obtaining Hydraulic Control through Re-Operation. The water is apportioned as provided in Watermaster's Response to Condition Subsequent Number 7 to the December 21, 2007 Order of the Court.

EXHIBIT D-1

PEACE II AGREEMENT: PARTY SUPPORT FOR WATERMASTER'S OBMP IMPLEMENTATION PLAN, – SETTLEMENT AND RELEASE OF CLAIMS REGARDING FUTURE DESALTERS

6.2 Peace II Desalter Production Offsets. To facilitate Hydraulic Control through Basin Re-Operation, in accordance with the 2007 Supplement to the OBMP Implementation Plan and the amended Exhibits G and I to the Judgment, additional sources of water will be made available for purposes of Desalter Production and thereby some or all of a Replenishment obligation. With these available sources, the Replenishment obligation attributable to Desalter production in any year will be determined by Watermaster as follows:

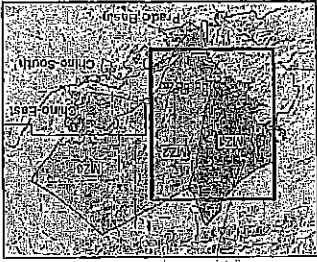
- (a) Watermaster will calculate the total Desalter Production for the preceding year and then apply a credit against the total quantity from:
 - (i) the Kaiser account (Peace Agreement Section 7.5(a).);
 - (ii) dedication of water from the Overlying (Non-Agricultural) Pool Storage Account;
 - (iii) New Yield (other than Stormwater (Peace Agreement Section 7.5(b)));
 - (iv) any declared losses from storage in excess of actual losses enforced as a "Leave Behind";
 - (v) Safe Yield that may be contributed by the parties (Peace Agreement Section 7.5(c));
 - (vi) any Production of groundwater attributable to the controlled overdraft authorized pursuant to amended Exhibit I to the Judgment.

- (b) To the extent available credits are insufficient to fully offset the quantity of groundwater production attributable to the Desalters, Watermaster will use water or revenue obtained by levying the following assessments among the members of the Overlying (Non-Agricultural) Pool and the Appropriate Pool to meet any remaining replenishment obligation as follows.

- (i) A Special OBMP Assessment against the Overlying (Non-Agricultural) Pool as more specifically authorized and described in amendment to Exhibit "G" paragraph 8(c) to the Judgment will be dedicated by Watermaster to further off-set replenishment of the Desalters. However, to the extent there is no remaining replenishment obligation attributable to the Desalters in any year after applying the off-sets set forth in 6.2(a), the OBMP Special Assessment levied by Watermaster will be distributed as provided in Section 9.2 below. The Special OBMP Assessment will be assessed pro-rata on each member's share of Safe Yield, followed by
 - (ii) A Replenishment Assessment against the Appropriative Pool, pro-rata based on each Producer's combined total share of Operating Safe Yield and the previous year's actual production. Desalter Production is excluded from this calculation. However, if there is a material reduction in the net cost of Desalter product water to the purchasers of product water, Watermaster may re-evaluate whether to continue the exclusion of Desalter Production but only after giving due regard to the contractual commitment of the parties.
 - (iii) The quantification of any Party's share of Operating Safe Yield does not include the result of any land use conversions.
- (c) The rights and obligations of the parties, whatever they may be, regarding Replenishment Assessments attributable to all Desalters and Future Desalters in any renewal term of the Peace Agreement are expressly reserved and not altered by this Agreement.

Exhibit “E”

Chino Basin Watermaster's
Current and Proposed
Subsidence Monitoring Program



Subsidence Monitoring
1:25,000

▲ Water Park Extension

— Leveling Surveys of Benchmarks

±0.20' ±0.20' Relative Change in Land Surface Elevation as Measured by InSAR (Oct. 2007 - Oct. 2008 (Year))

±0.20' Two areas reported in this report (see Appendix A)

Proposed Area of Expanded Subsidence Monitoring Will include monitoring wells, watermeters, leveling surveys, and InSAR.

Prepared by: WILDBRITH CONSULTANTS AND THE UNIVERSITY OF CALIFORNIA, BERKELEY

CEQA Monitoring, Reporting and Reporting Program

Chino Basin Management Zones

- █ MZ1 Managed Area
- █ Areas of Subsidence Concern
- █ Chino Basin Management Zones
- █ Proposed Chino Creek Detainer Well
- █ Chino Desalter Well (Bakling)

Other Features

- Monthly Measurement (24 wells)
- Measurement by Transducer (134 wells)
- Crystal Measurement Well Level (479 wells)

Groundwater-Level Monitoring

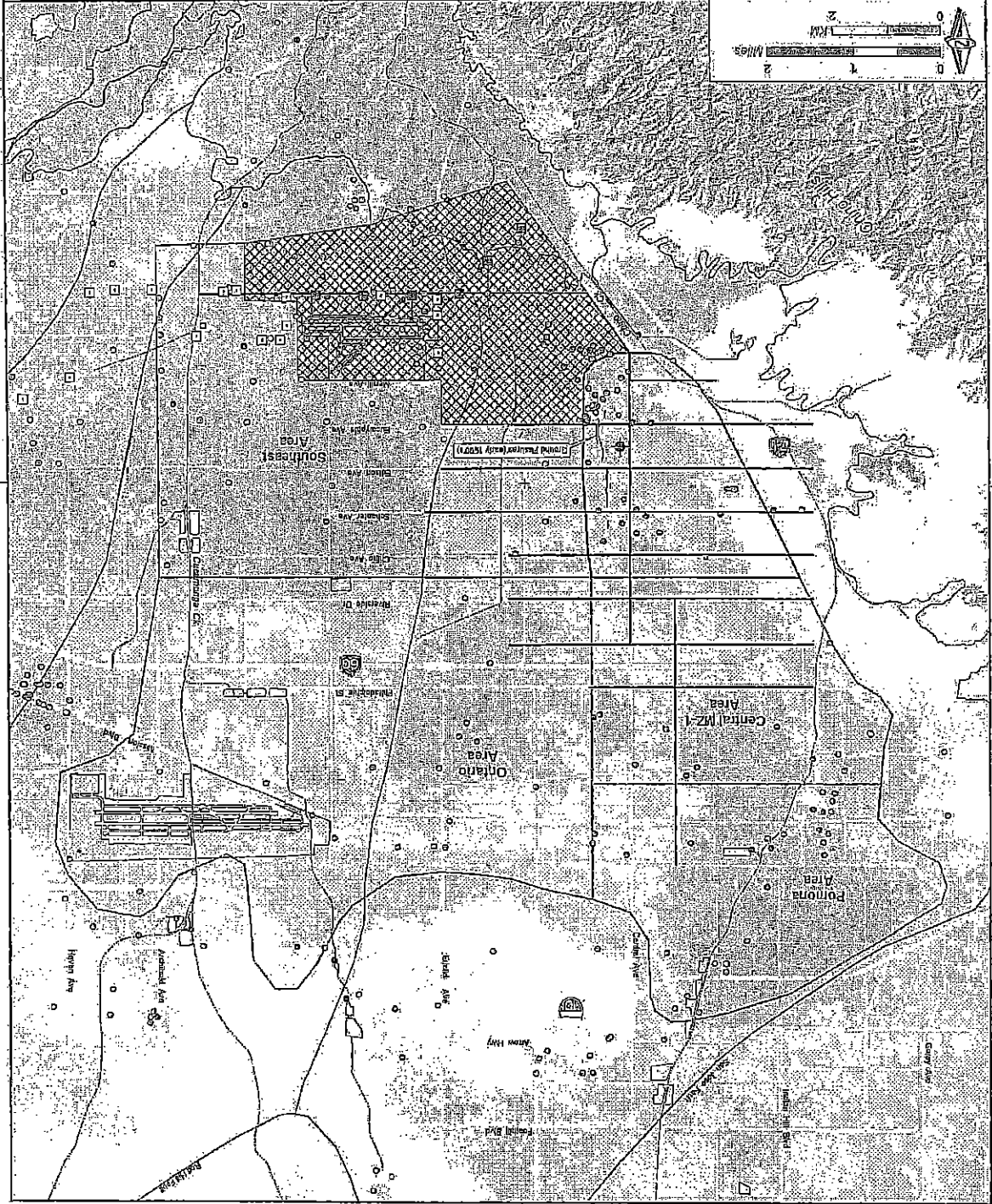


Exhibit "F"

GROUNDWATER-LEVEL MITIGATION MEASURES PEACE II SEIR

4.3-10

Implementation of the Peace II Measures (a series of related agreements and an amendment to the OBMP Implementation Plan) will result in a general lowering of groundwater elevation throughout the Chino Basin. This was known and documented in the Peace II engineering work which was referenced initially in *Final Report, 2007 CBWM Groundwater Model Documentation and Evaluation of the Peace II Project Description* (WEI, 2007). This report was submitted to the Court in November 2007 along with the final version of the Peace II Agreement and supporting documents. The Court received direct testimony regarding the report and it was reviewed in detail by the Court and was the subject to analysis by the Special Referee and consulting engineer.

The general lowering of the water table was a known physical condition for which there would be corresponding and off-setting water supply reliability, water quality and economic benefits. As well owners, the parties to the Judgment knowingly accepted the responsibility for redressing their individual impacts attributed to regional draw-down.

The Peace II Measures were approved by each of the three Pools, the Advisory Committee and the Watermaster Board prior to being transmitted to the Court. There was no opposition by the Judgment parties, and the Court subsequently approved the Peace II Measures and ordered Watermaster and the parties to proceed in accordance with the Peace II Measures on December 21, 2007. Since that time there were other investigations related to the Peace II Measures [e.g., *Analysis of Material Physical Injury from the Proposed Expansion of the Dry-Year Yield Program* (WEI, 2008)] that were reported to the Judgment parties, the Watermaster, and the IEUA in a transparent process that included several public meetings and the distribution of reports via email and website postings. The most recent report completed during 2009 was entitled *2009 Production Optimization and Evaluation of the Peace II Project Description* (WEI, 2009). This latest report has been incorporated into the Peace II SEIR. All these subsequent reports projected a general lowering of the groundwater elevation across the Chino Basin.

The projected groundwater elevation change with the implementation of the Peace II Measures is not uniform across the basin, and therefore some water purveyors and private well owners will experience greater lift and related energy expenses from the Re-operation component of the Peace II Agreement and the expansion of the Chino Desalter Program. However, as noted above the corresponding and off-setting benefits received (e.g. water quality, recycled water, yield enhancement, salt management) were consensually and voluntarily exchanged for the projected increase in energy expenses with the expectation of other financial gains and certainties made possible by implementing the Peace II Measures. Therefore, no unmitigated Material Physical Injury is projected to occur from the decline in groundwater elevation caused by implementing the Peace II Agreement.

There are two sources of groundwater elevation changes that are projected to occur with the implementation of the Peace II Agreement: (1) groundwater elevation changes from Re-operation and (2) groundwater elevation changes from the expansion of the Chino Desalter Program, which includes the installation and operation of the new Chino Creek Well Field (CCWF) and changes in groundwater production at other wells that provide raw groundwater to the Desalters.

Mitigation Requirements for Changes in Groundwater Elevation Due to Re-operation

The parties to the Judgment have previously voluntarily accepted the changes in groundwater elevation due to the Re-operation element of the Peace II Measures in exchange for the individual and collective benefits received and therefore no mitigation is required to offset these changes.

Mitigation Requirements for Changes in Groundwater Elevation Due to the Expansion of the Chino Desalter Program

Figure ___ shows the expected change in groundwater elevation due to the expansion of the Chino Desalter Program (WEL, 2010). The area where mitigation of groundwater-elevation changes caused by the expansion of the desalter program will be limited to where the lowering of groundwater elevation is greater than 20 feet as shown in Figure ___. Hereafter, this area is referred to as the Mitigation Area. The 20-foot metric that establishes the Mitigation Area is based on the following: groundwater elevations in the mitigation area have been stable for the last 20 years through wet periods and dry periods; it is a reasonable expectation that wells should be constructed and operated to maintain production with a 20-foot regional lowering of groundwater elevation; and that well owners have a responsibility to maintain their wells and pumping equipment to maintain production with a 20-foot lowering of groundwater elevation.

Mitigation will be provided to well owners/operators within the Mitigation Area when the well owner/operator cannot produce enough groundwater to meet their needs and the cause of reduced production can be demonstrated to be the expansion of the desalter program. The mitigation will either restore enough of the lost production capacity to ensure that the well owner/operator can produce enough groundwater to meet their needs or provide an alternate source of water to replace the lost production capacity. The method of mitigation will be determined at the discretion of the CDA taking into account the historical fluctuations in the water table, the depth to water, the pump and well efficiency and the reasonableness of the well owner's expectation that the existing well configuration (pump, well and water table) should be partially or fully protected. As a pre-requisite to receiving mitigation, every well owner will be expected to engage in reasonable self-help measures to address inefficient groundwater withdrawal practices.

Prior to start up of the desalter expansion, the Watermaster will survey all the private wells in the Mitigation Area to determine their production capacities, historical water use, motor and pump characteristics, depth of pump bowls, depth to groundwater, depth of

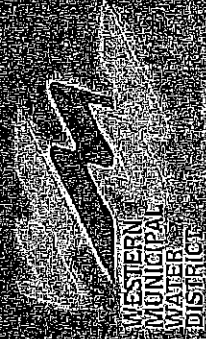
well, depth interval of well screens, and other information. The Watermaster will either manually monitor the groundwater elevation monthly or will install an integrated pressure transducer/data logger into the wells with the goal of obtaining at least one year of groundwater-elevation data for all the wells in the Mitigation Area prior to the start up of the desalter expansion. The Watermaster will also obtain monthly groundwater production estimates for these wells. The Watermaster will provide these data to the CDA and the private well owners. These data will be used as a baseline to assess the impact on the private wells.

There are about eight active wells in the Mitigation Area. Prior to start up of the desalter expansion, the CDA will prepare a contingency response plan that describes how the CDA would mitigate lost production for each private well in the Mitigation Area.

The Watermaster will collect groundwater-elevation data and production estimates monthly for the private wells in the Mitigation Area for five years after start up of the desalter expansion. These data will be provided to the CDA and the private well owners monthly. After this five-year start up period, the Watermaster will collect groundwater-elevation data at the private wells in the Mitigation Area at its discretion, and will obtain groundwater-production estimates at least quarterly.

Well owners/operators with wells outside the Mitigation Area that experience production problems after the desalter expansion start up will not receive mitigation from the CDA, the IEUA or the Watermaster. The sources of production problems for groundwater-level declines of less than 20 feet include interference from nearby non-desalter wells, climate variability, poor construction and poor maintenance. These well may be constructed too shallow, their pump intakes too shallow, or the wells screens clogged, any of which could cause production problems of groundwater-elevation changes of less than 20 feet from the desalter expansion. Well owners/operators with wells outside the Mitigation Area will need to engage in reasonable self-help to maintain production after the desalter expansion startup.

Exhibit "G"



CHINO DESALTER PHASE 3 COMPREHENSIVE PREDESIGN REPORT

JUNE 2010

FINAL





Engineers...Working Wonders With Water™



June 2, 2010
7651 C:00

Mr. Jack Safely
Water Resources Director
Western Municipal Water District
450 E. Alessandro Boulevard
Riverside, CA 92517-5286

Mr. Robert Tock
Director of Engineering and Operations
Jurupa Community Services District
11201 Harrel Street
Mira Loma, CA 91752

Mr. Scott Burton
Assistant Utilities Director
City of Ontario
Ontario Municipal Services Center
1425 S Bon View Avenue
Ontario, CA 91761

Subject: Chino Desalter Phase 3 Comprehensive Pre-design Final Report
District Contract No. MAG06-720, W.O.# 100-56-900-2856,
Purchase Order No. 35381

Gentlemen:

In accordance with referenced Purchase Order, dated February 13, 2009, Carollo Engineers is pleased to submit 16 copies of the final Chino Desalter Phase 3 Pre-design Report (PDR) to the Western Municipal Water District, Jurupa Community Services District, and the City of Ontario.

We appreciate this opportunity to work with you on this interesting project.

Respectfully submitted,

CAROLLO ENGINEERS, P.C.

Matthew R. Marshall, P.E.
Project Manager

Patrick White
Partner



CHINO DESALTER PHASE 3
Comprehensive Predesign Report



Prepared for

**Jurupa Community Services District,
 City of Ontario, and
 Western Municipal Water District**

FINAL

June 2010



Jurupa Community Services District,
City of Ontario, and
Western Municipal Water District
CHINO DESALTER PHASE 3
COMPREHENSIVE PREDESIGN REPORT

THIS REPORT IS 897 PAGES
AND IS AVAILABLE ON A CD
ON REQUEST—THANK YOU

May 2010 – FINAL

pw://Carollo/Documents/CA/WMWD/7651C00/Deliverables/Report/TOC

Exhibit “H”

4.0 EMERGENCY RESPONSE AND MITIGATION PLAN

As Chino Desalter operations are anticipated to lower ground water levels, an emergency response and mitigation plan has been developed in the event that existing wells are adversely impacted. Potential impacts requiring mitigation could include:

- Decrease in pump efficiency as a result of lowered ground water levels;
- Ground Water levels lowered below pump intake;
- Ground Water levels lowered below effective depth of well; and
- Increased pumping costs due to lowered ground water levels.

Any claims of well impact attributed to the Chino Desalter well operation will be addressed according to the following general approach:

- Where the reportedly impacted well lies within one thousand (1,000) feet of an active Chino Desalter well, CDA will provide for an interim supply of water to the impacted party, subject to reimbursement by the well owner if CDA is determined not to be the cause of the impact;
- Where the reportedly impacted well lies outside one thousand (1,000) feet of an active Chino Desalter well, CDA will provide for an interim supply of water to the impacted party at the impacted party's expense, subject to reimbursement by CDA if CDA is determined to be the cause of the impact;
- CDA will immediately obtain the information necessary to assess the cause of well/pump problems;
- CDA will review the data and make a determination as to whether the well problem is attributable to Chino Desalter pumping or other factors not associated with Desalter operation;

- If the well/pump impact is determined not to be attributable to Chino Desalter well pumping, CDA will notify the person filing the claim and make arrangements to provide water at the claimant's cost; and
- If the well/pump problem is found by the CDA to be attributable to Chino Desalter pumping, then further mitigation measures will be implemented as described in Section 4.3.

4.1 Emergency Response

Many of the individual well owners in the vicinity of the Chino Desalter have backup plans for an emergency supply of water should their existing water supply system fail. As an additional backup, an emergency response plan has been developed that includes measures for providing temporary water in an emergency that has been attributed to Chino Desalter pumping. The emergency response measures would be immediately implemented until the exact cause of the impact could be determined or, if necessary, mitigation could be implemented. Emergency response measures could include:

- Connections to existing potable, raw water or recycled water supplies in accordance with regulatory and local jurisdictional requirements;
- Use of existing piping/pumping facilities;
- Use of existing well owner back up wells and other miscellaneous facilities available;
- Use of neighboring owners' facilities; and
- Trucking of water to the impacted party in conformance with water quality requirements consistent with intended use of water.

Formal implementation of emergency response measures by the CDA will require a written claim for damages from the impacted party (see Appendix A for Claim for Damages Form). Once the claim form has been received, if necessary, CDA will provide interim water as described immediately hereafter. If the impacted well is located within one thousand (1,000) feet of an active Chino Desalter well, the CDA will immediately arrange an emergency supply of water, subject to the owner's reimbursement of costs incurred by CDA if CDA is determined not to be the cause of the impact. If the affected well is located more than one thousand (1,000) feet from an active Chino Desalter well, CDA will immediately arrange an emergency supply of water at the well owner's cost, subject to reimbursement by CDA in the event that CDA is determined to be the cause of the impact. The claim form will be required to allow the CDA to inspect the well and collect the necessary information to determine the cause of impact during the supply of emergency water. Mitigation water will be discontinued unless the well owner provides inspection access and all available information related to the claim within 24 hours of submitting the claim to CDA.

4.2 Impact Assessment

After a well impact has been reported to the CDA (and concurrent with the supply of emergency water, if needed), the CDA Coordinator will be responsible for the inspection and data collection necessary to assess the cause of the impact. Some basic information must be obtained regarding the well and pumping equipment before an assessment of Desalter Well related impacts and potential mitigation measures can be evaluated (see Appendix B for Private Well Inspection Form). All information collected to assess well impact will be evaluated by CDA and summarized in a brief letter report or technical memorandum for submittal to the Claimant. The report or technical memorandum will include a preliminary determination as to whether the claim is attributable to the Desalter Well operation. It will also summarize future steps, if any, to be taken.

In the event that the claimant wishes to challenge any preliminary determination by the CDA, a copy of the report or technical memorandum will be distributed to the TRT. The TRT will meet and render an opinion regarding the role that Chino Desalter well pumping has on the well/pump-related impact, as described in Section 5. In the event that the TRT determines that the well/pump-related impact is not caused by Chino Desalter well pumping, no mitigation will be recommended. If the TRT determines that the well/pumping-related impact may be a result of Chino Desalter well pumping, the TRT may recommend that the claim be mitigated by the CDA.

If the CDA Board approves the recommendation of the TRT, the CDA will direct CDA staff to carry out the approved mitigation measures in an expedited manner.

The following detailed procedures may be utilized to collect the information necessary to assess impacts to private wells:

- Perform an SCE-type pump test to evaluate pumping and static water levels, current well specific capacity, and current pump condition;
- Temporarily pull pump from well;
- Verify the current pumping equipment, including pump and motor type, pump and motor manufacturer, model number and specifications, pump performance curves, and pump set depth;
- Evaluate SCE test results in conjunction with pump manufacturers' performance specifications and if the pump is found to be worn out, then the owner shall be responsible for pump replacement;
- Measure well diameter and current well depth;
- Conduct a down-hole video log to confirm the condition of the casing and perforated intervals. If the well integrity is questionable due to well age or excessive corrosion, or if the well produces sand due to corrosion holes in the casing, then the owner shall be responsible for well repair or replacement;

- Reinstall the pump. As a preliminary mitigation measure, the pump may be set to a greater depth (if possible, and warranted based on anticipated pumping and static water levels);
- Install a one-inch diameter PVC water-level sounding tube when resetting pump;
- Install a pressure transducer in the sounding tube to obtain ongoing ground water level data from the well. The transducer will provide a continuous record of pumping levels, as well as the approximate static ground water level when the pump is periodically shut off;
- Initiate a monitoring program to collect data regarding the well pumping rate and pressure, cumulative volume pumped, pumping ground water levels, and static ground water levels; and
- Cause a report or technical memorandum summarizing the information collected during the well inspection and testing to be prepared by the CDA or its representative.

4.3 Mitigation Plan

In the event that the CDA or TRT determines that pumping from the Chino Desalter wells has adversely impacted an existing well, CDA will implement a mitigation measure(s) for the existing well to restore the lost production. Mitigation measures that could be adopted to address impacts attributed to the Chino Desalter include the following:

- If pump submergence is inadequate, lower the pump, if possible.
- If well capacity is adequate but pump manufacturer specifications indicate that the current pump is undersized due to additional pumping lift caused by drawdown of the Chino Desalter wells, replace pump with a higher head pump.
- In the event that the well depth limits the ability to mitigate drawdown caused by operation of the Chino Desalter wells, drill a replacement well or provide an alternate source of water.

Exhibit "I"

Cleaned

Exhibit I - Appropriator Resolution
(Resolution of Support for
Completion of Future Desalters)

EXHIBIT "I"
**RESOLUTION OF SUPPORT FOR COMPLETION OF
FUTURE DESALTERS**

1. **WHEREAS**, _____ is a Party to the Judgment (Chino Basin Municipal Water District v. City of Chino), member of the Appropriative Pool and a member of the Chino Basin Desalter Authority ("CDA");
2. **WHEREAS**, the Western Municipal Water District ("WMWD") previously agreed to exercise its good faith and reasonable best efforts to cause the design, planning and construction of Future Desalters in accordance with the 2007 Supplement to the OBMP Implementation Plan, to account for Hydraulic Control, Re-Operation and Future Desalters;
3. **WHEREAS**, WMWD exercised its discretion to elect to proceed with the City of Ontario ("Ontario") and the Jurupa Community Services District ("Jurupa") the Future Desalters as Expansion Parties;
4. **WHEREAS**, WMWD is prepared to proceed with construction of the Future Desalters under terms and subject to conditions agreed between WMWD on one hand and CDA on the other hand as proposed in the revised Preliminary Design Report for the Phase III Desalter Expansion, Water Purchase Agreements, Inter-Governmental Agreement and other related agreements ("Expansion Project"); and
5. **WHEREAS**, CDA is not a Party to the Judgment and its actions are not subject to review or approval by the Chino Basin Watermaster;
6. **WHEREAS**, Parties to the Judgment have requested that Watermaster require an express undertaking by the members of CDA that are also Parties to the Judgment and members of the Appropriative Pool that they will act in support of the completion of the Expansion Project as it is approved by CDA;
7. **WHEREAS**, Section 10.2 of the Peace II Agreement provides that the Parties thereto, including the members of CDA, will have satisfied "all individual and collective pre-existing obligations arising from the Peace Agreement and the OBMP Implementation Plan, whatever they may be, with regard to Future Desalters as described in Part VII of the Peace Agreement and the OBMP Implementation Plan";
8. **WHEREAS**, the members of CDA would not undertake the Expansion Project without the Desalter Production Offsets provided in Section 6.2 of the Peace II Agreement and the reasonable assurances that 400,000 acre-feet of controlled overdraft was available to offset the cost of Replenishment attributable to the Desalters and thereby avoid a Replenishment Assessment as a member of

the Appropriative Pool as described in the Peace II Agreement; and

9. **WHEREAS**, the members of CDA expect and require Watermaster to fulfill its prior commitment to the timely and successful implementation of the Recharge Master Plan to ensure the availability of the controlled overdraft and hydrologic balance within each Management Zone.

NOW THEREFORE, be it hereby resolved that:

1. On condition that each Appropriative Pool member of CDA has also approved a Resolution in substantial conformity with this Resolution, _____ assumes the obligation to exercise good faith and reasonable best efforts to support the completion of the Expansion Project as it is defined in and as conditioned by the anticipated CDA approval of the Expansion Project and to cause a quarterly report on its progress to Watermaster.
2. On condition that each Appropriative Pool member of CDA has approved a Resolution in substantial conformity with this Resolution, Watermaster will make the finding as set forth in Paragraph 1 in its Resolution 2010-04 that the Appropriative Pool members of CDA have agreed to support the completion of the Expansion Project as approved by CDA.
3. The effectiveness of the Resolution is further conditioned upon (a) Watermaster's, CDA's and CDA members' approvals as described in paragraphs 1 and 2; (b) complete execution of the Revised Water Purchase Agreements and all related agreements by CDA and its members; and (c) subsequent Court approval along with appropriate findings of Watermaster's Resolution 2010-04.
4. Watermaster may represent to the Court and regulatory agencies that _____ has agreed to this undertaking of good faith.
5. Nothing herein shall be construed as an intent to amend any provision of the Judgment, the Peace Agreement or the Peace II Agreement or to directly or indirectly commit CDA or submit CDA to the jurisdiction of Watermaster, the Court or a regulatory agency.

Exhibit B

Table 5-8a

Chino Basin Maximum Benefit Commitments

Description of Commitment	Compliance Date -- as soon as possible, but no later than
1. Surface Water Monitoring Program <ul style="list-style-type: none"> a. Submit Draft Monitoring Program to Regional Board b. Implement Monitoring Program c. Quarterly data report submittal d. Annual data report submittal 	<ul style="list-style-type: none"> a. January 23, 2005. b. Within 30 days from date of Regional Board approval of monitoring plan c. April 15, July 15, October 15, January 15 d. February 15th
2. Groundwater Monitoring Program <ul style="list-style-type: none"> a. Submit Draft Monitoring Program to Regional Board b. Implement Monitoring Program c. Annual data report submittal 	<ul style="list-style-type: none"> a. January 23, 2005 b. Within 30 days from date of Regional Board approval of monitoring plan c. February 15th
3. Chino Desalters <ul style="list-style-type: none"> a. Chino 1 desalter expansion to 10 MGD b. Chino 2 desalter at 10 MGD design 	<ul style="list-style-type: none"> a. Prior to recharge of recycled water b. Recharge of recycled water allowed once award of contract and notice to proceed issued for construction of desalter treatment plant
4. Future desalters plan and schedule submittal	October 1, 2005 Implement plan and schedule upon Regional Board approval
5. Recharge facilities (17) built and in operation	June 30, 2005
6. IEUA wastewater quality improvement plan and schedule submittal	60 days after agency-wide 12 month running average effluent TDS quality equals or exceeds 545 mg/L for 3 consecutive months or agency-wide 12 month running average TIN equals or exceeds 8 mg/L in any month. Implement plan and schedule upon approval by Regional Board

Table 5-8a

Chino Basin Maximum Benefit Commitments (cont.)

Description of Commitment	Compliance Date – as soon as possible, but no later than
<p>7. Recycled water will be blended with other recharge sources so that the 5-year running average TDS and nitrate-nitrogen concentrations of water recharged are equal to or less than the “maximum benefit” water quality objectives for the affected Management Zone (Chino North or Cucamonga).</p> <p>a. Submit a report that documents the location, amount of recharge, and TDS and nitrogen quality of stormwater recharge before the OBMP recharge improvements were constructed and what is projected to occur after the recharge improvements are completed</p> <p>b. Submit documentation of amount, TDS and nitrogen quality of all sources of recharge and recharge locations. For stormwater recharge used for blending, submit documentation that the recharge is the result of CBW/IEUA enhanced recharge facilities.</p>	<p>Compliance must be achieved by end of 5th year after initiation of recycled water recharge operations.</p> <p>a. Prior to initiation of recycled water recharge</p> <p>b. Annually, by February 15th, after initiation of construction of basins/other facilities to support enhanced stormwater recharge.</p>
<p>8. Hydraulic Control Failure</p> <p>a. Plan and schedule to correct loss of hydraulic control</p> <p>b. Achievement and maintenance of hydraulic control</p> <p>c. Mitigation plan for temporary failure to achieve/maintain hydraulic control</p>	<p>a. 60 days from Regional Board finding that hydraulic control is not being maintained</p> <p>b. In accordance with plan and schedule approved by Regional Board. The schedule shall assure that hydraulic control is achieved as soon as possible but no later than 180 days after loss of hydraulic control is identified.</p> <p>c. By January 23, 2005. Implement plan upon Regional Board determination that hydraulic control is not being maintained.</p>
<p>9. Ambient groundwater quality determination</p>	<p>July 1, 2005 and every 3 years thereafter</p>

Description of Chino Basin Watermaster and Inland Empire Utilities Agency Commitments

1. Surface Water Monitoring Program (Table 5-8a #1)

The Chino Basin Watermaster (Watermaster), in conjunction with staff of the Orange County Water District and Regional Board, has developed a proposed surface water monitoring program. By January 23, 2005 and prior to the discharge of recycled water to the Chino Basin, Watermaster shall submit the recommended surface water monitoring program to the Regional Board for approval. The monitoring program must be implemented within 30 days of Regional Board approval, and six months of data must be generated prior to the discharge of recycled water to the Chino Basin.

At a minimum, the surface water monitoring program shall include the collection of bi-weekly measurements of general minerals and nitrogen components at the locations listed in Table 5-8b. Data reports shall be submitted to the Regional Board Executive Officer by April 15, July 15, October 15 and January 15 each year. An annual report summarizing all data collected for the year and evaluating compliance with relevant surface water objectives shall be submitted by February 15th of each year.

2. Groundwater Monitoring Program (Table 5-8a, #2)

The purpose of the Groundwater Monitoring Program is to (1) identify potential impacts from implementation of the Chino Basin "maximum benefit" water quality objectives on water levels and water quality within the Chino Basin and in downgradient basins and (2) determine whether hydraulic control (see # 8, below) is being achieved and maintained. By January 23, 2005 and prior to the discharge of recycled water to the Chino Basin, Watermaster shall submit to the Regional Board for approval a proposed groundwater monitoring program to determine hydraulic control and ambient water quality in the Chino North and Cucamonga Management Zones. Within 30 days of Regional Board approval of the monitoring plan, the groundwater monitoring program must be implemented.

An annual report, including all raw data and summarizing the results of the approved groundwater monitoring program, shall be submitted to the Regional Board by February 15th of each year.

3. Chino 1 and Chino 2 Desalters (Table 5-8a, # 3)

Prior to the recharge of recycled water in the Chino Basin, the Chino 1 desalter must be expanded and in operation at a capacity of 10 million gallons per day (MGD). Also, contracts for the construction of the Chino 2 desalter treatment plant must be awarded and a notice to proceed with the construction must be given prior to recharge of recycled water.

4. Future Desalter Development (Table 5-8a, # 4)

No later than October 1, 2005, the schedule for implementation of the next 20 MGD of desalter capacity, pursuant to the Peace Agreement that implements the Chino Basin OBMP, and as required by the San Bernardino Superior Court, must be submitted to the Regional Board by the Chino Basin Watermaster. IEUA and/or the Chino Basin Watermaster and/or other responsible parties deemed acceptable by the Executive Officer, will initiate building of the next desalter when the 12-month running average effluent concentration (measured as an average for all IEUA wastewater treatment facilities) reaches 545 mg/L TDS for three consecutive months.

Table 5-8b

Surface Water Monitoring Sites for Monitoring of Surface Water and Groundwater Quality
Near the River to Determine the Presence and Source of Rising Groundwater

Site Name	Discharge	Owner	Type	Discharge Monitoring			Water Quality Monitoring		
				Frequency	Period	Frequency	Period	Analyses	
11066460	Santa Ana Riv.	USGS	Total Discharge	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
11072100	Temescal Cr.	USGS	Total Discharge	Bi-weekly	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
11073495	Cucamonga Cr.	USGS	Total Discharge	Bi-weekly	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
11073440	Chino Cr.	USGS	Total Discharge	Bi-weekly	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
11074000	Santa Ana Riv.	USGS	Total Discharge	Bi-weekly	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
RWQCP Direct	Recycled Water	Riverside	Recycled Water	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
RWQCP Hidden Valley	Recycled Water	Riverside	Recycled Water	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
Corona RW	Recycled Water	Corona	Recycled Water	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
RP1 Cucamonga	Recycled Water	IEUA	Recycled Water	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
RP1 Prado	Recycled Water	IEUA	Recycled Water	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
RP2	Recycled Water	IEUA	Recycled Water	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
Carbon Canyon	Recycled Water	IEUA	Recycled Water	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
RP5	Recycled Water	IEUA	Recycled Water	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
WRCRWTP	Recycled Water	WR-JPA	Recycled Water	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
SAR-MWDXING	Santa Ana Riv.	OCWD	Total Discharge	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
SAR-HOLELK-01	Hole Lake	OCWD	Total Discharge	Bi-weekly	May-Sep	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
SAR-VANBUREN	Santa Ana Riv.	OCWD	Total Discharge	Bi-weekly	May-Sep	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
SAR-ETIWANDA-01	Santa Ana Riv.	OCWD	Total Discharge	Bi-weekly	May-Sep	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
SAR-HAMNER-01	Santa Ana Riv.	OCWD	Total Discharge	Bi-weekly	May-Sep	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
SAR-RIV.RD	Santa Ana Riv.	OCWD	Total Discharge	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
SAR-DIV-PRADOWTLNDS	Santa Ana Riv.	OCWD	Total Discharge	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
SAR-BELOWDAM-01	Santa Ana Riv.	OCWD	Total Discharge	Daily	Jan - Dec	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
CK-CHINO	Chino Cr.	OCWD	Total Discharge	Bi-weekly	May-Sep	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
CK-MILL	Cucamonga Cr.	OCWD	Total Discharge	Bi-weekly	May-Sep	Bi-weekly	Jan - Dec	Gen. Min. & Physical	
CK-TEMESCAL	Temescal Cr.	OCWD	Total Discharge	Bi-weekly	May-Sep	Bi-weekly	Jan - Dec	Gen. Min. & Physical	

(Source: Ref. 10B)

5. Recharge Facilities (Table 5-8a, # 5)

By June 30, 2005, or no later than one year from the start of discharge of recycled water, the 17 recharge facilities identified in the August 2001 Watermaster Recharge Master Plan and as updated by the Watermaster and IEUA, must be completed and operated to maximize the capture of storm water in the Chino Basin. The Watermaster has also committed to optimize the recharge of imported water in the Chino Basin based on the goal of maximizing recharge of State Project water when the TDS of that water is lowest.

The Watermaster proposal recognizes the importance and necessity of recharge of both storm water and imported water to meet the water supply demands on the Chino Basin. Recharge of high quality supplies to the Chino Basin is necessary to offset the quality effects of recycled water and to achieve an ambient water quality equal to or better than the "maximum benefit" TDS and nitrate-nitrogen water quality objectives.

6. IEUA Wastewater Effluent Quality (Table 5-8a, # 6)

Within 60 days after the IEUA 12-month running average effluent concentration (measured as an average for all IEUA wastewater treatment facilities) for TDS exceeds 545 mg/L for 3 consecutive months, or the 12-month running average total inorganic nitrogen (TIN) concentration (measured as an average for all IEUA wastewater treatment facilities) exceeds 8 mg/L in any month, the IEUA shall submit to the Regional Board a plan and time schedule for implementation of measures to insure that the 12-month running average agency wastewater effluent quality does not exceed 550 mg/L and 8 mg/L for TDS and TIN, respectively. The Plan and schedule are to be implemented upon Regional Board approval.

7. Recycled Water Use (Table 5-8a, # 7)

The use and recharge of recycled water within the Chino Basin is a critical component of the Watermaster OBMP and is necessary to maximize the use of the water resources of the Chino Basin. The demonstration of maximum benefit, and the continued application of the "maximum benefit" TDS and nitrate-nitrogen water quality objectives, depends on the recharge to the Chino North Management Zone of 5-year annual average (running average) TDS and nitrogen concentrations of no more than 420 mg/L and 5 mg/L, respectively. If and when recycled water recharge in the Cucamonga Management Zone is pursued, the application of the "maximum benefit" objectives will depend on the recharge to that zone of 5-year running average TDS and nitrogen concentrations no greater than 380 mg/L and 5 mg/L, respectively. IEUA has committed to meeting these levels and recognizes that the maximum benefit objectives depend on achieving these 5-year running average concentrations.

Accordingly, the use of recycled water for groundwater recharge shall be limited to the amount that can be blended on a volume-weighted basis with other sources of recharge to the management zone to achieve a 5-year running average concentration equal to or less than the "maximum benefit" TDS and nitrogen water quality objectives of the affected Management Zone (Chino North or Cucamonga). The 25% nitrogen loss coefficient will be applied to calculate recycled water nitrogen quality when determining the amount of recharge of other water sources that must be achieved to meet the 5-year running averages.

8. Hydraulic Control (Table 5-8a, # 8)

"Hydraulic Control" is defined as eliminating groundwater discharge from the Chino Basin to the Santa Ana River, or controlling the discharge to *de minimis* levels. The surface water and groundwater monitoring programs described above are intended to demonstrate whether hydraulic control is achieved and maintained. In the event that the Regional Board finds that hydraulic control is not being accomplished, the Watermaster shall submit to the Regional Board within 60 days of that finding a plan and time schedule to correct (within 180 days from the Regional Board approval of the plan and schedule) the failure to achieve and maintain hydraulic control.

By January 23, 2005, the Watermaster and IEUA shall prepare a proposed plan and schedule to mitigate temporary losses of hydraulic control. These agencies must implement this plan upon a determination by the Regional Board that hydraulic control is not being achieved or maintained.

9. Ambient Groundwater Quality Determination (Table 5-8a, # 9)

By July 1, 2005, and every three years thereafter, Watermaster shall submit a determination of ambient TDS and nitrate-nitrogen quality in the Chino North and Cucamonga Management Zones. This determination shall be accomplished using methodology consistent with the determinations (20-year running averages) used by the TDS/Nitrogen Task Force to develop the "antidegradation" TDS and nitrate-nitrogen water quality objectives for groundwaters subbasins within the Region. [Ref. 1].

Implementation by Regional Board:

1. Revision of the Inland Empire Utilities Agency NPDES Permits

To implement the "maximum benefit" objectives, the Regional Board will revise the NPDES permits for IEUA wastewater discharges to reflect the commitments described above, as appropriate. This includes the following. TDS and TIN (includes nitrate-nitrogen) limits of 550 mg/L and 8 mg/L, respectively, will be specified as an agency-wide, volume weighted-average. The limits will be expressed as 12-month running averages. These limits implement the wasteload allocations for IEUA surface water discharges (see Table 5-5), and are not contingent on the "maximum benefit" objectives or demonstration⁹. IEUA will be required to implement measures to improve effluent quality when the 12 month running average effluent concentration (measured as an average for all IEUA treatment facilities) exceeds 545 mg/L for 3 consecutive months, or when the 12-month running average total inorganic nitrogen concentration (also measured as an average for all IEUA treatment facilities) exceeds 8 mg/L in any month. The permits will require that recycled water used for recharge shall be limited to the amount that can be blended in the management zone with other water sources, such as stormwater or imported water, to achieve 5-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the affected management zone (Chino North or Cucamonga). Recycled water recharge is not currently contemplated in other parts of the Chino Basin. Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified for recycled water recharge in the Chino 1, 2 and 3 and Cucamonga Management Zones. These limits will apply should the Regional Board find that maximum benefit is not demonstrated. If recharge projects are implemented elsewhere in the Chino Basin, TDS and TIN limits will be based on the TDS and nitrate-nitrogen objectives of the affected management zones.

⁹ Surface water discharges by IEUA do not affect the groundwater management zones for which "maximum benefit" objectives are specified. Thus, the wasteload allocations do not vary depending on whether or not the "maximum benefit" objectives apply.

The effluent limits for IEUA, which establish an upper limit on TDS and TIN concentrations of recycled water discharged in the basin, are a cornerstone of the maximum benefit demonstration. The cap on effluent TDS and TIN concentrations provides a controlling point for management of TDS and nitrogen water quality in the Chino Basin. The TDS in IEUA's effluent is expected to reach 550 mg/L before the groundwater in the Chino North Management Zone or the Cucamonga Management Zone reaches the "maximum benefit" objectives of 420 mg/L and 380 mg/L, respectively. The IEUA/Chino Basin Watermaster maximum benefit proposal commits to the initiation of construction of another Chino Basin desalter when the TDS in IEUA's effluent reaches 545 mg/L for three consecutive months. This desalter may be constructed by IEUA and/or Chino Basin Watermaster and/or other responsible parties deemed acceptable by the Executive Officer. Further, IEUA will immediately implement a salt management program to reduce the salts, including nitrogen, entering IEUA's wastewater treatment plants. This salt management program will include: 1) connection of new industries that have wastewater discharges with TDS greater than 550 mg/L to the brine line; 2) regulation of the use of new and existing water softeners to the extent allowed by law, with incentives provided for the removal of on-site regenerative water softeners and the use of exchange canisters or other off-site regenerative systems; 3) connection of existing domestic system industries with high TDS waste discharges to the brine lines; 4) percolation of State Water Project water into the Chino Basin when that water is low in TDS; and 5) development of a plan for sewerage areas presently served by septic tanks to reduce the nitrogen loading into the Chino and Cucamonga Management Zones. IEUA's permits will reflect these commitments.

Implementing these measures will assure that the groundwater quality remains at or below the Chino North Management Zone objective of 420 mg/L and the Cucamonga Management Zone objective of 380 mg/L. Maintenance of this ambient groundwater quality is necessary, in turn, to assure that IEUA's wastewater treatment facilities are able to meet the effluent TDS limits. Chino Basin groundwater is a significant component of the water supplied in IEUA's service area and its quality thus has an important effect on effluent quality. Poor ambient water quality will preclude IEUA from meeting effluent limits, without desalting. IEUA can revise treatment plant operations to assure that the TIN limit is achieved. These TDS and TIN limitations assure beneficial use protection for Chino Basin and downstream Orange County groundwater, as well as surface waters (including Chino Creek and the Santa Ana River) affected by IEUA discharges.

IEUA's revised permits will also reflect the surface and groundwater monitoring program requirements described above.

2. Issuance of permits to Chino Basin Watermaster

The Regional Board will issue appropriate permits to the Watermaster, individually or jointly with IEUA, for the recharge of recycled water in the Basin. These permits will implement the commitments described above for recharge of other water sources to offset the quality of the recycled water. The parties will be required to document the amount, quality and location of recharge of these other sources, and to demonstrate that stormwater recharge used for blending purposes occurred as the result of the parties' efforts to enhance such recharge. Other "maximum benefit" commitments will be reflected in these permits, or in other orders of the Regional Board, as appropriate.

3. Review of Project Status

No later than 2005, and every three years thereafter (to coincide with the Regional Board's triennial review process), the Regional Board intends to review the status of the activities planned and executed by the Watermaster and IEUA to demonstrate maximum benefit and to justify continued

implementation of the "maximum benefit" water quality objectives. This review is intended to determine whether the commitments specified above and summarized in Table 5-8a are met. If, as a result of this review and after consideration at a duly noticed Public Hearing, the Regional Board finds that the Watermaster and IEUA commitments are not met, the Regional Board will make a finding that the lowering of water quality associated with TDS and nitrate-nitrogen water quality objectives that are higher than historical water quality (the "antidegradation" objectives") is not of maximum benefit to the people of the state. By default, the scientifically derived, "antidegradation objectives" for the Chino 1, 2 and 3 and Cucamonga Management Zones would become effective (280 mg/L, 250 mg/L, 260 mg/L and 210 mg/L TDS respectively; 5.0 mg/L, 2.9 mg/L, 3.5 mg/L and 2.4 mg/L for nitrate-nitrogen – see Chapter 4).

The Watermaster and IEUA have made clear commitments to the implementation of projects and management strategies to achieve the "maximum benefit" objectives. A finding of "maximum benefit to the people of the state" is also a very strong commitment of support by the Regional Board for the goals, vision and future plans of the Watermaster and IEUA. Watermaster and IEUA have indicated that the supervision of the Watermaster program by the San Bernardino County Superior Court will ensure that the Watermaster and IEUA commitments are met. However, people change, commitments may be changed, and public agency decisions may certainly change. If the commitments are not met and "maximum benefit" is not demonstrated, then the Regional Board will require that Watermaster and IEUA mitigate the effects of discharges of recycled and imported water that took place under the maximum benefit objectives. Under this circumstance, mitigation will be required such that, after mitigation, the salt and nitrogen loads to the basin from imported water, newly captured stormwater inputs under the Watermaster enhanced stormwater interception program, and recycled water are made to be equivalent to the salt loads that would have been allowed to the Chino Basin under the antidegradation objectives. Discharges in excess of the antidegradation objectives that must be considered for mitigation include both recycled water and imported water at TDS concentrations in excess of the antidegradation objectives. Mitigation by groundwater extraction and desalting must be adjusted to address concentrations of salt and nitrogen in the basin, not simply salt load. (Desalting will be an effective mitigation strategy, but desalting removes water, as well as salt, and the resulting salt concentrations in the groundwater will not completely mitigate the effects of the maximum benefit discharges, if mitigation is considered simply on a salt load, rather than concentration basis.) This remediation will be required of the agencies that were responsible for the discharge of recycled and imported water (waste discharge permit holders) under the maximum benefit objectives. The remediation must be completed within a 10-year period following the finding by the Regional Board that the antidegradation objectives apply. The Regional Board will also require mitigation of any adverse effects on water quality downstream of the Chino Basin that result from failure to implement the "maximum benefit" commitments.

Exhibit C



Management Zone Boundaries
Chino (Maximum Benefit), Rialto-Colton,
& Riverside Basins
Figure 3-5a

Exhibit D

1 SCOTT S. SLATER (State Bar No. 117317)
MICHAEL T. FIFE (State Bar No. 203025)
2 BROWNSTEIN HYATT FARBER SCHRECK, LLP
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3 Santa Barbara, CA 93101
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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

Case No. RCV 51010

12 Plaintiff,

DECLARATION OF KURT BERCHTOLD

13 vs.

14 CITY OF CHINO, ET AL.

Hearing Date:

Time:

Dept:

15 Defendant.

16
17
18 I, KURT BERCHTOLD, declare:

19 1. I am the current Executive Officer of the Santa Ana Regional Water Quality Control
20 Board ("RWQCB"). I have served in this post since 2010. The information contained herein is
21 made based on my own personal knowledge except those statements which I make based on
22 information and belief.

23 2. Prior to my appointment as Executive Officer, I served as Assistant Executive Officer
24 at the Santa Ana RWQCB for 22 years. I am a Registered Civil Engineer in California, License No.
25 C 36145. I have worked at the Santa Ana RWQCB since 1981.

26 3. From my role as Executive Officer of the Santa Ana RWQCB, I know that on April 1,
27 2010, the RWQCB issued an Administrative Civil Liability Complaint against the Chino Basin
28 Watermaster ("Watermaster") and the Inland Empire Utilities Agency ("IEUA") in response to what

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

1 the RWQCB alleged as a failure to obtain Hydraulic Control for the Chino Basin. This complaint
2 was revised on April 19, 2010.

3 4. As a negotiating party on behalf of the RWQCB, I have personal knowledge that
4 Watermaster and IEUA entered into a settlement agreement with the RWQCB on July 1, 2010. This
5 settlement agreement established a revised schedule for the construction of new facilities and the
6 completion of the Phase III Desalter Expansion ("Expansion Project") to obtain Hydraulic Control.

7 5. Based on my review and understanding of the Pre-design Report, the 2009
8 Production Optimization and Evaluation of the Peace II Project Description Report, and the 2011
9 Chino Creek Well Field Flow Simulation report, it is my opinion that the project as designed will
10 meet the objectives set forth by the RWQCB for achieving Hydraulic Control of the Chino Basin.

11
12 I declare under penalty of perjury under the laws of the State of California that the foregoing
13 is true and correct.

14
15 Executed on September 15, 2011, at Riverside, California.

16
17
18 
19 KURT BERCHTOLD

Exhibit E

Exhibit E: Potentially Affected Wells in the Vicinity of the Chino Creek Wellfield

Chino Basin Watermaster ID No.	Owner Name	Well Activity (Active, Inactive or Abandoned)
3602597	Xavier Aphesssetche	Active
600171	Vander Weerd	Active
3602552	Lekkerkerk	Active
3602572	Orange County Flood C.D.	Active
3602609	Bouma Family Trust	Active
600229	Mary Souza	Active
600313	RDB Family Properties	Active
600506	RDB Family Properties	Active
601105	Patti Lekkerkerk	Active
600012	Watson Land Acquisition LLC	Active
601106	Fidel Hernandez/Leonor Orozco	Active
3602573	Orange County Flood C.D.	Active
600534	Chino Preserve Devel. Corp.	Active
600399	San Bernardino County Airport	Inactive
600409	San Bernardino County Airport	Inactive
3602503	San Bernardino County	Inactive
600679	Oakville Reserve LTD	Inactive
3601044	San Bernardino County	Abandoned
3600961	Orange County Flood C.D.	Abandoned
600172	Vander Weerd	Abandoned
600413	Letty Bassler	Abandoned
600051	Chino Preserve Devel. Corp.	Abandoned
3600758	San Bernardino County Airport	Abandoned
601107	RDB Family Properties	Abandoned
600050	Chino Preserve Devel. Corp.	Abandoned

Exhibit F

RESOLUTION NO. 2162

RESOLUTION OF THE BOARD OF DIRECTORS OF
JURUPA COMMUNITY SERVICES DISTRICT
SUPPORTING COMPLETION OF FUTURE DESALTERS

Whereas, Jurupa Community Services District ("JCSD") is a Party to the Judgment (Chino Basin Municipal Water District v. City of Chino), member of the Appropriative Pool and a member of the Chino Basin Desalter Authority ("CDA");

WHEREAS, the Western Municipal Water District ("WMWD") previously agreed to exercise its good faith and reasonable best efforts to cause the design, planning and construction of Future Desalters in accordance with the 2007 Supplement to the Optimum Basin Management Plan (OBMP) Implementation Plan, to account of Hydraulic Control, Re-Operation and Future Desalters;

WHEREAS, WMWD exercised its discretion to elect to proceed with the City of Ontario (Ontario) and JCSD on the Future Desalters;

WHEREAS, WMWD is prepared to proceed with construction of the Future Desalters under terms and subject to conditions agreed between WMWD on one hand and CDA on the other hand as proposed in the revised Preliminary Design Report for the Phase III Desalter Expansion, Water Purchase Agreements, Inter-Governmental Agreement and other related agreements;

WHEREAS, CDA is not a Party to the Judgment, and its actions are not subject to review or approval by the Chino Basin Watermaster ("Watermaster");

WHEREAS, Parties to the Judgment have requested that Watermaster require an express undertaking by the members of CDA that are also Parties to the Judgment and members of the Appropriative Pool that they will exert a level of effort equivalent to that of WMWD to complete construction of the Future Desalters as a condition of making the necessary findings under the Peace II Agreement;

WHEREAS, Section 10.2 of the Peace II Agreement provides that the Parties thereto, including the members of CDA, will have satisfied "all individual and collective pre-existing obligations arising from the Peace Agreement and the OBMP Implementation Plan, whatever they may be, with regard to Future Desalters as described in Part VII of the Peace Agreement and the OBMP Implementation Plan;

WHEREAS, the members of CDA would not undertake the Expansion Project unless it was reasonably certain that up to 400,000 acre-feet of controlled overdraft was available to off-set the Replenishment attributable to the Desalters; and

WHEREAS, the members of CDA expect and require Watermaster to fulfill its prior commitment to the timely and successful implementation of the Recharge Master Plan to ensure the availability of the controlled overdraft and hydrologic balance within each Management Zone.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF JURUPA COMMUNITY SERVICES DISTRICT AS FOLLOWS:

Section 1. Jurupa expressly assumes the obligation to exercise good faith and reasonable best efforts to complete the construction of the Future Desalters as defined in and as conditioned by the CDA's approval of the revised Preliminary Design Report of the Phase III Desalter Expansion, Water Purchase Agreements, Inter-Governmental Agreement and related agreements.

Section 2. In consideration of this Resolution, Watermaster will make the finding that JCSD, but not CDA, has expressly agreed to undertake the construction and operation of the Future Desalters subject to the conditions of approval as described in Resolution 2010 and that the Parties to the Judgment have satisfied the requirements of Section 10.2 of the Peace II Agreement.

Section 3. Watermaster may represent to the Court and regulatory agencies that JCSD, but not CDA, has expressly agreed to this undertaking.

ADOPTED this 22nd day of November 2010.


President of the Board of Directors

ATTEST:


Secretary of the Board of Directors

CERTIFICATION

I, Eldon Horst, Secretary of the Board of Directors of Jurupa Community Services District, certify that the foregoing resolution was adopted by the Board of Directors at a regular meeting held on the 22nd day of November 2010, by the following vote of the Directors:

AYES: Betty A. Anderson, Jane F. Anderson, Kathryn Bogart,
Kenneth J. McLaughlin

NOES: None

ABSENT: None

ABSTAINED: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of Jurupa Community Services District this 22nd day of November 2010.



Secretary of the Board of Directors

(SEAL)

RESOLUTION NO. 2010-39

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHINO,
CALIFORNIA, SUPPORTING THE COMPLETION OF CHINO DESALTER
PHASE III PROJECT**

WHEREAS, the City of Chino is a Party to the Judgment (Chino Basin Municipal Water District v. City of Chino), a member of the Appropriative Pool and a Member of the Chino Basin Desalter Authority (CDA); and

WHEREAS, Western Municipal Water District (WMWD) is required by the Peace II Agreement to exercise its good faith and reasonable best efforts to cause the design, planning, financing, and construction of the Chino Desalter Phase III Project (the Expansion Project) in accordance with the 2007 Supplement to the Optimum Basin Management Program (OBMP) Implementation Plan, to help achieve hydraulic control and re-operation of the Basin; and

WHEREAS, WMWD exercised its discretion to proceed with the City of Ontario (Ontario) and the Jurupa Community Services District (JCSD), the Expansion Parties, in the design, planning, and construction of the Expansion Project; and

WHEREAS, WMWD is prepared to proceed with construction of the Expansion Project under terms and subject to conditions proposed in the revised Preliminary Design Report for the Phase III Desalter Expansion, Water Purchase Agreements, Amended Inter-Governmental Agreement and other related agreements; and

WHEREAS, CDA is not a Party to the Judgment and its actions are not subject to review, approval or direction by the Chino Basin Watermaster; and

WHEREAS, Certain Parties to the Judgment have asked Watermaster to request an undertaking by the individual Members of CDA who also are parties to the Judgment and members of the Appropriative Pool that they will support the completion of the Expansion Project by assuming responsibility for timely construction contract management and completion, in accordance with the terms and conditions of its approval by the CDA, including assumption of responsibility for, and provision of long term CDA bond financing for any member of the Expansion Parties who defaults in payment of capital costs otherwise due, subject to recovery of all debt service and other costs of that bond financing from such defaulting member; and

WHEREAS, Section 10.2 of the Peace II Agreement provides that the Parties thereto, including the Members of CDA, will have satisfied "all individual and collective pre-existing obligations arising from the Peace Agreement and the OBMP Implementation Plan, whatever they may be," with regard to Future Desalters as described in Part VII of the Peace Agreement and the OBMP Implementation Plan; and

WHEREAS, the Members of CDA would not undertake the Expansion Project without the Desalter Production Offsets provided in Section 6.2 of the Peace II Agreement and the reasonable assurance that 400,000 acre-feet of controlled overdraft would be available to offset the cost of replenishment attributable to the Desalters and thereby avoid a Replenishment Assessment as a member of the Appropriative Pool, as described in the Peace II Agreement; and

WHEREAS, the members of CDA expect and require Watermaster to fulfill its prior commitment to the timely and successful implementation of the Recharge Master Plan to ensure the availability of the controlled overdraft and hydrologic balance within each Management Zone.

City of Chino

NOW THEREFORE, be it hereby resolved that Chino supports the completion of the Chino Desalter Phase III project:

1. On condition that each Appropriative Pool Member of CDA has also approved a Resolution in substantial conformity with this Resolution, assuming the obligation to exercise good faith and reasonable best efforts to support the completion of the Expansion Project as it is defined in and as conditioned by the anticipated CDA approval of the Expansion Project, including CDA's assumption of responsibility for timely construction contract management and completion, in accordance with the terms and conditions of its approval by the CDA, including assumption of responsibility for, and provision of, long term CDA bond financing for any member of the Expansion Parties who defaults in payment of capital costs otherwise due, subject to recovery of all debt service and other costs of that bond financing from such defaulting member, and to cause the CDA to provide a quarterly report on its progress to Watermaster.
2. On condition that each Appropriative Pool member of CDA has approved a resolution in substantial conformity with this Resolution, Watermaster will make the finding as set forth in Paragraph 1 in its Resolution 2010-04 that the Appropriative Pool members of CDA have agreed to support the completion of the Expansion Project as approved by CDA, by assuming responsibility for timely construction contract management and completion, in accordance with the terms and conditions of its approval by the CDA, including assumption of responsibility for, and provision of, long term CDA bond financing for any member of the Expansion Parties who defaults in payment of capital costs otherwise due, subject to recovery of all debt service and other costs of that bond financing from such defaulting member, and to cause the CDA to provide a quarterly report on its progress to Watermaster.
3. The effectiveness of the Resolution is further conditioned upon (a) Watermaster's, CDA's and CDA members' approvals as described in paragraphs 1 and 2; (b) complete execution of the Revised Water Purchase Agreements and all related agreements by CDA and its members; and (c) subsequent Court approval along with appropriate findings of Watermaster's Resolution 2010-04.
4. Watermaster may represent to the Court and regulatory agencies that the City of Chino has agreed to this undertaking.
5. Nothing herein shall be construed as an intent to amend any provision of the Judgment, the Peace Agreement or the Peace II Agreement or to directly or indirectly commit CDA or submit CDA to the jurisdiction of Watermaster, the Court or a regulatory agency.

APPROVED AND ADOPTED THIS 7TH DAY OF DECEMBER 2010.


DENNIS R. YATES, MAYOR

ATTEST:


ANGELA ROBLES, CITY CLERK

City of Chino

State of California)
County of San Bernardino)ss.
City of Chino)

I, ANGELA ROBLES, City Clerk of the City of Chino, do hereby certify that the foregoing Resolution was duly adopted by the City Council at a regular meeting held on the 7th day of December 2010, by the following votes:

AYES: COUNCIL MEMBERS: YATES, HAUGHEY, DUNCAN, ELROD, ULLOA

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None



ANGELA ROBLES, CITY CLERK

RESOLUTION NO. 2011-008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,
CALIFORNIA, SUPPORTING THE COMPLETION OF FUTURE
DESALTERS.

WHEREAS, City of Ontario ("City") is a Party to the Judgment (Chino Basin Municipal Water District v. City of Chino), member of the Appropriative Pool and a member of the Chino Basin Desalter Authority ("CDA"); and

WHEREAS, the Western Municipal Water District ("WMWD") previously agreed to exercise its good faith and reasonable best efforts to cause the design, planning and construction of Future Desalters in accordance with the 2007 Supplement to the OBMP Implementation Plan, to account of Hydraulic Control, Re-Operation and Future Desalters; and

WHEREAS, WMWD exercised its discretion to elect to proceed with the City of Ontario (Ontario) and the Jurupa Community Services District ("Jurupa") the Future Desalters as Expansion Parties; and

WHEREAS, WMWD is prepared to proceed with construction of the Future Desalters under terms and subject to conditions agreed between WMWD on one hand and CDA on the other hand as proposed in the revised Preliminary Design Report for the Phase III Desalter Expansion, Water Purchase Agreements, Inter-Governmental Agreement and other related agreements (Expansion Project); and

WHEREAS, CDA is not a Party to the Judgment and its actions are not subject to review or approval by the Chino Basin Watermaster; and

WHEREAS, Parties to the Judgment have requested that Watermaster require an express undertaking by the members of CDA that are also parties to the Judgment and members of the Appropriative Pool that they will act in support of the completion of the Expansion Project as it is approved by CDA; and

WHEREAS, Section 10.2 of the Peace II Agreement provides that the Parties thereto, including the members of CDA, will have satisfied "all individual and collective pre-existing obligations arising from the Peace Agreement and the OBMP Implementation Plan, whatever they may be, with regard to Future Desalters as described in Part VII of the Peace Agreement and the OBMP Implementation Plan; and

WHEREAS, the members of CDA would not undertake the Expansion Project without the Desalter Production Offsets provided in Section 6.2 of the Peace II Agreement and the reasonable assurances that 400,000 acre-feet of controlled overdraft was available to off-set the cost of Replenishment attributable to the Desalters and thereby avoid a Replenishment Assessment as a member of the Appropriative Pool as described in the Peace II Agreement; and

WHEREAS, the members of CDA expect and require Watermaster to fulfill its prior commitment to the timely and successful implementation of the Recharges Master Plan to ensure the availability of the controlled overdraft and hydrologic balance within each Management Zone.

NOW THEREFORE, be it hereby resolved that:

1. On condition that each Appropriative Pool member of CDA has also approved a Resolution in substantial conformity with this Resolution, the City assumes the obligation to exercise good faith and reasonable best efforts to support the completion of the Expansion Project as it is defined in and as conditioned by the anticipated CDA approval of the Expansion Project and to cause a quarterly report on its progress to Watermaster.
2. On condition that each Appropriative Pool member of CDA has approved a Resolution in substantial conformity with this Resolution, Watermaster will make the finding as set forth in Paragraph 1 in its Resolution 2010-04 that the Appropriative Pool members of CDA have agreed to support the completion of the Expansion Project as approved by CDA.
3. The effectiveness of the Resolution is further conditioned upon (a) Watermaster's, CDA's and CDA members approvals as described in paragraphs 1 and 2; (b) complete execution of the Revised Water Purchase Agreements and all related agreements by CDA and its members; and (c) subsequent Court approval along with appropriate findings of Watermaster's Resolution 2010-04.
4. Watermaster may represent to the Court and regulatory agencies that the City has agreed to this undertaking of good faith.
5. Nothing herein shall be construed as an intent to amend any provision of the Judgment, the Peace Agreement or the Peace II Agreement or to directly or indirectly commit CDA or submit CDA to the jurisdiction of Watermaster, the Court or a regulatory agency.

The City Clerk of the City of Ontario, California shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 1st day of March 2011.



PAUL S. LEON, MAYOR

ATTEST:



MARY E. WIRTES, MMC, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2011-008 was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held March 1, 2011 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS: LEON, DORST-PORADA, WAPNER,
MAUTZ AND BOWMAN

NOES: COUNCIL MEMBERS: NONE

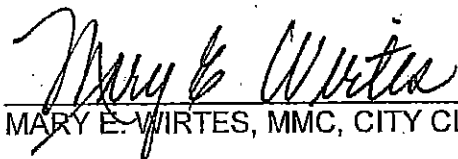
ABSENT: COUNCIL MEMBERS: NONE



MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2011-008 duly passed and adopted by the Ontario City Council at their regular meeting held March 1, 2011.



MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

RESOLUTION NO. 11R-02

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF CHINO HILLS, SUPPORTING THE
COMPLETION OF CHINO DESALTER PHASE III
PROJECT.

WHEREAS, the City of Chino Hills is a Party to the Judgment (Chino Basin Municipal Water District v. City of Chino), a member of the Appropriative Pool and a Member of the Chino Basin Desalter Authority (CDA); and

WHEREAS, Western Municipal Water District (WMWD) is required by the Peace II Agreement to exercise its good faith and reasonable best efforts to cause the design, planning, financing, and construction of the Chino Desalter Phase III Project (the Expansion Project) in accordance with the 2007 Supplement to the Optimum Basin Management Program (OBMP) Implementation Plan, to help achieve hydraulic control and re-operation of the Basin; and

WHEREAS, WMWD exercised its discretion to proceed with the City of Ontario (Ontario) and the Jurupa Community Services District (JCSD), the Expansion Parties, in the design, planning, and construction of the Expansion Project; and

WHEREAS, WMWD is prepared to proceed with construction of the Expansion Project under terms and subject to conditions proposed in the revised Preliminary Design Report for the Phase III Desalter Expansion, Water Purchase Agreements, Amended Inter-Governmental Agreement and other related agreements; and

WHEREAS, CDA is not a Party to the Judgment and its actions are not subject to review, approval or direction by the Chino Basin Watermaster; and

WHEREAS, Certain Parties to the Judgment have asked Watermaster to request an undertaking by the individual Members of CDA who also are parties to the Judgment and members of the Appropriative Pool that they will support the completion of the Expansion Project by assuming responsibility for timely construction contract management and completion, in accordance with the terms and conditions of its approval by the CDA, including assumption of responsibility for, and provision of long term CDA bond financing for any member of the Expansion Parties who defaults in payment of capital costs otherwise due, subject to recovery of all debt service and other costs of that bond financing from such defaulting member; and

WHEREAS, Section 10.2 of the Peace II Agreement provides that the Parties thereto, including the Members of CDA, will have satisfied "all individual and collective pre-existing obligations arising from the Peace Agreement and the OBMP Implementation Plan, whatever they may be," with regard to Future Desalters as described in Part VII of the Peace Agreement and the OBMP Implementation Plan; and

WHEREAS, the Members of CDA would not undertake the Expansion Project without the Desalter Production Offsets provided in Section 6.2 of the Peace II Agreement and the reasonable assurance that 400,000 acre-feet of controlled overdraft would be available to offset the cost of replenishment attributable to the Desalters and thereby avoid a Replenishment Assessment as a member of the Appropriative Pool, as described in the Peace II Agreement; and

WHEREAS, the members of CDA expect and require Watermaster to fulfill its prior commitment to the timely and successful implementation of the Recharge Master Plan to ensure the availability of the controlled overdraft and hydrologic balance within each Management Zone.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CHINO HILLS DOES RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. Chino Hills supports the completion of the Chino Desalter Phase III project:

SECTION 2. On condition that each Appropriative Pool Member of CDA has also approved a Resolution in substantial conformity with this Resolution, assuming the obligation to exercise good faith and reasonable best efforts to support the completion of the Expansion Project as it is defined in and as conditioned by the anticipated CDA approval of the Expansion Project, including CDA's assumption of responsibility for timely construction contract management and completion, in accordance with the terms and conditions of its approval by the CDA, including assumption of responsibility for, and provision of, long term CDA bond financing for any member of the Expansion Parties who defaults in payment of capital costs otherwise due, subject to recovery of all debt service and other costs of that bond financing from such defaulting member, and to cause the CDA to provide a quarterly report on its progress to Watermaster.

SECTION 3. On condition that each Appropriative Pool member of CDA has approved a resolution in substantial conformity with this Resolution, Watermaster will make the finding as set forth in Paragraph 1 in its Resolution 2010-04 that the Appropriative Pool members of CDA have agreed to support the completion of the Expansion Project as approved by CDA, by assuming responsibility for timely construction contract management and completion, in accordance with the terms and conditions of its approval by the CDA, including assumption of responsibility for, and provision of, long term CDA bond financing for any member of the Expansion Parties who defaults in payment of capital costs otherwise due, subject to recovery of all debt service and other costs of that bond financing from such defaulting member, and to cause the CDA to provide a quarterly report on its progress to Watermaster.

SECTION 4. The effectiveness of the Resolution is further conditioned upon (a) Watermaster's, CDA's and CDA members' approvals as described in paragraphs 1 and 2; (b) complete execution of the Revised Water Purchase Agreements and all related agreements by CDA and its members; and (c) subsequent Court approval along with appropriate findings of Watermaster's Resolution 2010-04.

SECTION 5. Watermaster may represent to the Court and regulatory agencies that the City of Chino Hills has agreed to this undertaking.

SECTION 6. Nothing herein shall be construed as an intent to amend any provision of the Judgment, the Peace Agreement or the Peace II Agreement or to directly or indirectly commit CDA or submit CDA to the jurisdiction of Watermaster, the Court or a regulatory agency.


PASSED, APPROVED AND ADOPTED THIS 25TH DAY OF JANUARY, 2011.


ED GRAHAM, MAYOR

ATTEST:


MARY M. McDUFFEE, CITY CLERK

APPROVED AS TO FORM:


MARK D. HENSLEY, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) §
CITY OF CHINO HILLS)

I, Mary M. McDuffee, City Clerk of the City of Chino Hills, DO HEREBY CERTIFY that the foregoing Resolution No. 11R-02 was duly adopted at a regular meeting of the City Council of the City of Chino Hills held on the 25th day of January, 2011, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS: GRAHAM, BENNETT, KRUGER,
NORTON-PERRY AND ROGERS

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE


MARY M. McDUFFEE, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 11R-02 duly passed and adopted by the Chino Hills City Council at their regular meeting held January 25, 2011.


MARY M. McDUFFEE, CITY CLERK

(SEAL)

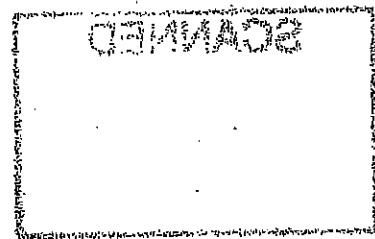


Exhibit G

SCOTT S. SLATER (State Bar No. 117317)
MICHAEL T. FIFE (State Bar No. 203025)
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Attorneys For
CHINO BASIN WATERMASTER

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

DECLARATION OF JACK SAFELY

Hearing Date: October 28, 2011
Time: 10:30 a.m.
Dept: C-1

I, JACK SAFELY, declare:

1. I have been Director of Water Resources at Western Municipal Water District ("WMWD") since October 2005. The information contained herein is made based on my own personal knowledge except those statements which I make based on information and belief.

2. In my role as Director of Water Resources at WMWD, I have acted as program manager for the Desalter Expansion project in the Chino Groundwater Basin. This program is part of the Chino Basin Watermaster's ("Watermaster") Optimum Basin Management Program ("OBMP") Implementation Plan. I currently serve as program manager for Phase III of the Desalter Expansion to construct Future Desalters.

3. As program manager for the Desalter Expansion, I have specialized and particular knowledge of Desalter Expansion operations and obligations completed to date by Watermaster and other parties to the Peace II Measures. I have provided periodic status reports to Watermaster and other parties to the Peace II Measures on Desalter Expansion milestones and objectives.

4. Based on my role as Director of Water Resources at WMWD, I know that the OBMP Implementation Plan was supplemented by Watermaster to reflect WMWD's commitment to act independently or in its complete discretion with the City of Ontario ("Ontario") and the Jurupa Community Services District ("Jurupa") to plan, design and construct 9 million gallons per day of new desalting capacity to obtain Hydraulic Control as required by the Court in its Order of December 17, 2007, and as necessary for Watermaster and IEUA to comply with various Regional Water Quality Control Board, Santa Ana Region, directives.

5. Based on my experience as Director of Water Resources at WMWD, I personally know that WMWD elected to proceed to construct the Future Desalters under Phase III of the Desalter Expansion jointly with Jurupa and Ontario—both known as "Expansion Parties"—by and through the Chino Basin Desalter Authority ("CDA") as provided by agreements reached between and among CDA and its members. Except for WMWD, CDA is comprised of members of the Appropriative Pool.

6. Based on my experience as program manager and cumulative contacts with CDA members, I anticipate that all members of CDA will agree to exercise good faith and reasonable best efforts towards the timely completion of the Desalter Expansion as it is described in the approved revised Chino Desalter Phase III Comprehensive Pre-Design Report ("CDA PDR").

7. Based on my position as Director of Water Resources at WMWD, I know that WMWD projected that upon The Metropolitan Water District of Southern California's ("MWD") approval of the requested local resources program incentive payment for the Desalters, WMWD planned to jointly proceed with Jurupa and Ontario to cause the completion of the Future Desalters. MWD has approved the requested \$139 per acre-foot incentive payment

for the Desalters, and WMWD has considered the applicable costs as provided in Section 5.7 of the Peace II Agreement. WMWD has committed to proceed jointly with Jurupa and Ontario through CDA to cause the completion of the Future Desalters. On August 22, 2011, MWD transmitted the fully executed incentive agreement to WMWD for the benefit of the Desalter Expansion project. WMWD's general manager signed this agreement on behalf of WMWD on July 26, 2011, and the CDA and IEUA were also signatories to this agreement. WMWD now plans to jointly proceed with Jurupa and Ontario to cause the completion of the Future Desalters.

8. Based on my review of the Peace Agreement and my presence at negotiations with the parties to the Peace II Measures, I know that the parties have set forth terms regarding the allocation of the cost of Replenishment Water for the Desalters under the Peace Agreement and its progeny as set forth in Exhibit "D" to Watermaster's Resolution 2010-04, with acknowledgement that the provisions of Peace Agreement II Section 6.2(b)(ii), which excludes Desalter production in the calculation of an Appropriator's proportionate responsibility for Desalter Replenishment, is subject to being revisited if the net cost of Desalter Water is materially reduced.

9. Based on my knowledge of Desalter Expansion project costs and operations, I know that WMWD, Jurupa and Ontario have spent \$15 million in pursuit of the planning, design, and construction costs for the project. Up to \$5 million of this cost may be reimbursed from third-party grants that will be used for purposes consistent with grant authorizations. According to the December 2010 Chino Desalter Phase 3 PDR Table 8.10, adopted by the CDA Board, the total projected cost for the Expansion is estimated to be \$116,470,000. WMWD, Jurupa and Ontario have spent the \$15 million in consideration of and reliance upon Watermaster's timely and successful implementation of the Recharge Master Plan for the Basin, filed by Watermaster with this Court.

10. Based on my interpretation of the Peace II Measures and my observations as program manager of the Desalter Expansion, I am informed and believe the requirements set forth in Section 5.5(e) of the Peace II Measures have been satisfied by WMWD's assumption of

project risk, out of pocket costs presently in excess of \$5 million (\$15 million for the Expansion Parties) and the further assumption of capital and operations and maintenance costs in excess of expectations (the cost-cap as for WMWD's portion of expenses). At this time, WMWD has satisfied its obligation under Section 5.5 to complete final binding agreements regarding Future Desalters.

11. CDA has adopted a mitigated negative declaration to address potential environmental impacts of the Expansion Project and it has executed binding purchase and sale agreements with each of its members and it will timely proceed to implement the Expansion Project in accordance with the Peace II Measures and the December 17, 2007 Order of this Court.

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

Executed on October 3, 2011, at Riverside, California.


JACK S. SAFELY

Exhibit H

1 SCOTT S. SLATER (State Bar No. 117317)
2 MICHAEL T. FIFE (State Bar No. 203025)
3 BROWNSTEIN HYATT FARBER SCHRECK, LLP
4 21 East Carrillo Street
5 Santa Barbara, CA 93101-2706
6 Telephone: 805.963.7000
7 Facsimile: 805.965.4333

8 Attorneys for Defendant

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

11 CHINO BASIN MUNICIPAL WATER
12 DISTRICT,

13 Plaintiff,

14 v.

15 CITY OF CHINO, et al.,

16 Defendants.

Case No. RCV 51010

DECLARATION OF ELDON HORST

Hearing Date: October 28, 2011
Time: 10:30 a.m.
Dept.: C-1

17
18 I, ELDON HORST, declare:

19 1. I am the General Manager of the Jurupa Community Services District ("JCSD").

20 The information contained herein is based on my own personal knowledge except those
21 statements which I make based on information and belief.

22
23 2. I have served as the General Manager of JCSD since November, 2006. I am a
24 licensed engineer and I have more than 40 years experience in the water industry. I have been
25 responsible for managing virtually every aspect of public water supply systems.

26 3. JCSD is a special district, organized in 1956. It is governed by a five member
27 Board of Directors, elected by popular vote.

1 4. JCSD is located in the southeast portion of the Chino Basin; specifically, in
2 Management Zone 3 (“MZ3”) of the Basin. The residents and businesses within JCSD depend
3 upon MZ3 as their water supply.

4 5. As General Manager, I am primarily responsible for the operations of JCSD and I
5 am familiar with the Watermaster’s Optimum Basin Management Program (“OBMP”) and the
6 various actions ordered by this Court requiring implementation of certain Chino Basin projects,
7 including the Hydraulic Control Project, and its companion project, the Recharge Master Plan.
8

9 6. JCSD supported, and has made a substantial financial commitment to, the
10 implementation of the OBMP, including the Hydraulic Control Project, on Watermaster’s
11 commitment to timely implement the Court-ordered Recharge Master Plan.
12

13 7. The timely implementation of the Recharge Master Plan is critical to the success of
14 the OBMP and Peace II Measures because the Hydraulic Control Project is de-watering the Chino
15 Basin by 400,000 acre feet and, specifically, the southern end of MZ3, the site of the JCSD and
16 Chino II Wellfields.

17 8. JCSD is assigned the responsibility of operating the Chino II Desalter and the
18 Chino II Wellfield, which is located in MZ3. Consequently, my staff and I are intimately familiar
19 with the groundwater levels in MZ3.
20

21 9. I have observed declining groundwater levels in the JCSD and Chino II Wellfields
22 as a consequence of the Hydraulic Control Project. MZ3 is a relatively shallow aquifer, the
23 bottom of which is bedrock.

24 10. Consequently, the Chino II and JCSD Wellfields will suffer Material Physical
25 Injury if the Recharge Master Plan is not promptly implemented.
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11. Watermaster is aware of the likelihood of Material Physical Injury in MZ3, as reflected in Watermaster's technical analyses of the Hydraulic Control Project. Watermaster is also aware that such Injury is to be avoided by the implementation of the Recharge Master Plan.

12. JCSD consented to the Hydraulic Control Project and committed tens of millions of dollars to its implementation relying on assurances that Material Physical Injury in MZ3 would be avoided through timely implementation of the Recharge Master Plan. JCSD's consent and substantial financial commitment remains dependent upon Watermaster's implementation of the Recharge Master Plan.

13. It is of great importance to the success of the OBMP that this Court obtain Watermaster's renewed commitment to timely implement the Recharge Master Plan. On behalf of JCSD, I respectfully request that the Court closely scrutinize future filings for compliance, recognizing that Watermaster has been ordered by the Court to present an update in December, 2011, concerning progress made towards implementation of the Recharge Master Plan.

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

Executed on September 27, 2011, at Jurupa, California.



ELDON HORST