

CHINO BASIN WATERMASTER



NOTICE OF MEETINGS

January 16, 2003

January 16, 2003 @ 08:30 a.m. - Non-Agricultural Pool Annual Meeting
@ 10:00 a.m. - Appropriative Pool Annual Meeting
@ 01:00 p.m. - Agricultural Pool Annual Meeting

*at the office of the
Chino Basin Watermaster
8632 Archibald Avenue, Suite 109
Rancho Cucamonga, CA 91730
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CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool

10:00 a.m. - Appropriative Pool

1:00 p.m. - Agricultural Pool

NON-AGRICULTURAL POOL AGENDA

AGENDA
CHINO BASIN WATERMASTER
ANNUAL MEETING -
NON-AGRICULTURAL POOL
8:30 a.m. - January 16, 2003

CALL TO ORDER

AGENDA - ADDITIONS/REORDER

RECOGNITION OF SERVICE

Steve Arbelbide, California Steel Industries Inc.

I. ANNUAL ELECTIONS – Action

Resolution 01-05 constituting a quorum for the transaction of Non-Agricultural Pool affairs is included as information.

A. Calendar-Year 2003 Non-Agricultural Pool Officers

Nominations will be heard for Pool Chair, followed by nominations for Pool Vice-Chair, to serve during Calendar-Year 2003.

Chair	_____
Vice-Chair	_____
Secretary/Treasurer	<u>Watermaster Chief Executive Officer</u>

B. Calendar-Year 2003 Advisory Committee Members

Pool member(s) will be asked to elect representatives and alternates to serve on the Advisory Committee during Calendar-Year 2003.

Member: _____	Alternate: _____
Member: _____	Alternate: _____
Member: _____	Alternate: _____

C. Calendar-Year 2003 Advisory Committee Officers

Based on the rotation sequence established among the pools, the members of the Non-Agricultural Pool will be asked to appoint the Pool Chair or a designated representative, as Vice-Chair of the Advisory Committee during Calendar-Year 2003. If the appointed representative is unable to attend an Advisory Committee meeting, a remaining pool officer may serve as his/her alternate.

Overlying (Agricultural) Pool	Chair	_____
Overlying (Non-Agricultural) Pool	Vice-Chair	_____
Appropriative Pool	2 nd Vice-Chair	_____

D. Calendar-Year 2003 Pool Representation on Watermaster Board

The Pool members will be asked to select one representative to serve on the Watermaster Board during Calendar-Year 2003 and one alternate representative.

Member: _____ Alternate: _____

II. CONSENT CALENDAR

Note: All matters listed under the Consent Calendar are considered to be routine and non-controversial and will be acted upon by one motion in the form listed below. There will be no separate discussion on these items prior to voting unless any members, staff, or the public requests specific items be discussed and/or removed from the Consent Calendar for separate action.

A. MINUTES

1. Minutes of the Joint Meeting of the Non-Agricultural Pool, Appropriative Pool and Advisory Committee held December 12, 2002

B. FINANCIAL REPORTS

1. Cash Disbursement Report - December 2002 (page 1)
2. Combining Schedule of Revenue, Expenses and Changes in Working Capital for the Period July 1, 2002 through November 30, 2002 (page 5)
3. Treasurer's Report of Financial Affairs for the Period November 1 through November 30, 2002 (page 7)
4. 2002-03 Actual YTD Revenues and Expenses Compared with Adopted 2002-03 Budget (page 9)

C. INDEPENDENT AUDITOR'S REPORT ON FINANCIAL STATEMENTS FOR YEAR ENDED JUNE 30, 2002 (page 11)

**D. NOTICE OF INTENT TO CHANGE OPERATING SAFE YIELD OF CHINO BASIN (pursuant to Judgment Exhibit 1 Paragraph 2(b))
Submitted annually as a placeholder (page 27)**

**E. RESOLUTION 03-01, AUTHORIZING AND DESIGNATING SIGNATORIES OF DEPOSITORY AGREEMENTS, DEPOSITORY CARDS AND DEPOSITS, TRANSFERS AND WITHDRAWALS OF FUNDS
Annual resolution authorizing and designating signatories of financial agreements and transactions (page 31)**

F. WATER TRANSACTION

Lease of Water Production Rights from the City of Pomona to the Fontana Water Company in the amount of 2,500 acre-feet for fiscal year 2002-03 (Noticed December 11, 2002) (page 35)

G. DRAFT TWENTY-FIFTH ANNUAL REPORT

Included separately for filing with the court by January 31, 2003 (page 41)

III. BUSINESS ITEMS

A. MAXIMUM BENEFIT ANALYSIS

Fees for contract with Risk Sciences to perform Maximum Benefit Analysis plus contract administration costs through the Santa Ana Watershed Project Authority (page 43)

IV. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. Attorney/Managers Meeting(s)
2. Colonies Project, Recharge Related Issues
3. Niagra Bottling Company
4. Chino Land & Water, SBSC Case No. RCV 064284

B. CEO/STAFF REPORT

1. Watermaster Project Meeting Updates
 - MZ1 Program
 - MWD Dry Year Yield Program
2. Watermaster Administrative Updates
 - Montclair Basins-Spreading (6500 AF)
3. Other Updates
 - Senator Soto's Legislation

V. POOL MEMBER COMMENTS

VI. OTHER BUSINESS

VII. FUTURE MEETINGS

February 13, 2003	10:00 a.m.	Joint Meeting of the Non-Agricultural & Appropriative Pool
	1:00 p.m.	Agricultural Pool Meeting
February 27, 2003	10:00 a.m.	Advisory Committee Meeting
	1:00 p.m.	Watermaster Board Meeting

Meeting Adjourn



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool

10:00 a.m. - Appropriative Pool

1:00 p.m. - Agricultural Pool

I. ANNUAL ELECTIONS

Resolution No. 01-05, Amending the
Overlying (Non-Agricultural) Pool
Rules & Regulations in Regard to
What Constitutes a Quorum for
the Transaction of its Affairs

RESOLUTION NO. 01-05
A RESOLUTION OF THE CHINO BASIN WATERMASTER
AMENDING THE OVERLYING (NON-AGRICULTURAL) POOL RULES & REGULATIONS
IN REGARD TO WHAT CONSTITUTES A QUORUM FOR THE TRANSACTION OF ITS AFFAIRS

WHEREAS, pursuant to Judgment entered on January 27, 1978, Chino Basin Municipal Water District v. City of Chino, et al, Case No RCV 51010 (formerly 164326), Exhibit "G", Overlying (Non-Agricultural) Pool Pooling Plan, "The Pool Committee shall adopt rules for administering its program..."; and

WHEREAS, pursuant to adopted Rules and Regulations, Article 2, Paragraph 2.03, "The Pool Committee shall meet... for purpose of conducting the business of the pool and to make such recommendations as may be necessary to properly advise Watermaster"; and

WHEREAS, pursuant to adopted Rules and Regulations, Article 2, Paragraph 2.08, "A majority of the voting power of the Pool Committee shall constitute a quorum for the transaction of its affairs"; and

WHEREAS, an annual meeting of the Overlying (Non-Agricultural) Pool was noticed to occur on January 25, 2001 for the purpose of electing a pool committee chairperson and a vice chairperson from its membership in accordance with Judgment Paragraph 37(a), and

WHEREAS, the annual meeting was cancelled due to less than a quorum (a majority of the voting power) being present, and

WHEREAS, it has become increasingly difficult for a majority of the voting power of the Overlying (Non-Agricultural) Pool to attend meetings and the current escalated meeting schedule is anticipated to continue in order to facilitate implementation of the Optimum Basin Management Program.

NOW, THEREFORE, BE IT RESOLVED that in order to assure the regular business of the Overlying (Non-Agricultural) Pool is conducted and its collective interests are represented at Advisory Committee and Board meetings, Paragraph 2.08 of the Overlying (Non-Agricultural) Pool Rules and Regulations is amended to "The members of the Overlying (Non-Agricultural) Pool in attendance at meetings shall constitute a quorum for the transaction of its affairs and will represent the collective interest of the entire Pool membership." On February 2, 2001, the members of the Overlying (Non-Agricultural) Pool were sent a copy of this Resolution via facsimile and provided an opportunity to approve or oppose its adoption in writing.

BE IT FURTHER RESOLVED that upon execution of Resolution 01-05 amended Paragraph 2.08 shall become effective and remain in effect until amended or rescinded by subsequent resolution.

THE FOREGOING RESOLUTION NO. 01-05 was approved by a majority of the Overlying (Non-Agricultural) Pool voting power on this 21st day of March 2001.

By: _____
Chairman, Overlying (Non-Agricultural) Pool

Attest:

Secretary, Overlying (Non-Agricultural) Pool



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool

10:00 a.m. - Appropriative Pool

1:00 p.m. - Agricultural Pool

II. CONSENT CALENDAR

- A. Minutes of the Joint Meeting of the Non-Agricultural Pool, the Appropriative Pool, and the Advisory Committee held December 12, 2002

Draft Minutes
CHINO BASIN WATERMASTER
JOINT MEETING OF THE
APPROPRIATIVE POOL, NON-AGRICULTURAL POOL
& ADVISORY COMMITTEE
December 12, 2002

A joint meeting of the Appropriative Pool, Non-Agricultural Pool and Advisory Committee was held at the offices of the Chino Basin Watermaster, 8632 Archibald Ave., Suite 109, Rancho Cucamonga, CA, on December 12, 2002 at 10:00 a.m.

NON-AGRICULTURAL POOL MEMBER PRESENT

James Jenkins	San Bernardino County Department of Airports
Les Richter	California Speedway
Michael Thies	Space Center Mira Loma

APPROPRIATIVE POOL MEMBERS PRESENT

Ray Wellington, Chair	San Antonio Water Company
Rich Atwater	Inland Empire Utilities Agency
Gerald J. Black	Fontana Union Water Company
Jim Bryson	Fontana Water Company
Ron Craig	City of Chino Hills
Robert DeLoach	Cucamonga County Water District
Jim Hill	City of Chino
Ken Jeske	City of Ontario
Mark Kinsey	Monte Vista Water District
Carole McGreevy	Jurupa Community Services District
Henry Pepper	City of Pomona
J. Arnold Rodriguez	Santa Ana River Water Company
Bill Stafford	Marygold Mutual Water Company
Rob Turner	City of Upland

AGRICULTURAL POOL MEMBERS PRESENT

Robert DeBerard	Crops
Jack Hagerman	State of California Institute for Men
Dana Oldenkamp	Milk Producers Council

Watermaster Staff Present

John Rossi	Chief Executive Officer
Traci Stewart	Chief of Watermaster Services
Sheri Rojo	Accountant/Office Manager
Michelle Lauffer	Water Resources Specialist
Mary Staula	Recording Secretary/Administrative Assistant

Watermaster Consultants Present

Dave Argo	Black & Veatch
Michael Fife	Hatch & Parent
Mark Wildermuth	Wildermuth Environmental, Inc.

Others Present

Dave Crosley	City of Chino
Raul Garibay	City of Pomona
David Hill	Inland Empire Utilities Agency
Barrett Kehl	Chino Basin Water Conservation District
Rita Kurth	Cucamonga County Water District
Garth Morgan	Inland Empire Utilities Agency

The joint meeting was called to order by Advisory Committee Chair Jeske at 10:07 a.m.

AGENDA - ADDITIONS/REORDER

None

II. BUSINESS ITEMS

A. MINUTES

1. Minutes of the Joint Meeting of the Appropriative Pool, Non-Agricultural Pool and Advisory Committee held November 14, 2002

B. FINANCIAL REPORTS

1. Cash Disbursement Report - November 2002
2. Combining Schedule Of Revenue, Expenses And Changes In Working Capital For The Period July 1, 2002 through October 31, 2002
3. Treasurer's Report of Financial Affairs For The Period October 1 through October 31, 2002
4. 2002-03 Actual YTD Revenues And Expenses Compared With Adopted 2002-03 Budget

C. ALLOCATION OF VOLUME VOTE

1. Appropriative Pool Allocation of Volume Vote effective Calendar Year 2003
2. Non-Agricultural Pool Allocation of Volume Vote effective Calendar Year 2003
3. Advisory Committee Allocation of Volume Vote effective Calendar Year 2003

D. RESOLUTION NO. 02-05

A Resolution of Commendation for Anne Dunihue, IEUA Board Member and former Chino Basin Watermaster Board Member

Appropriative Pool

Motion by Maestas, second by McGreevy, and by unanimous vote

Moved, to approve Consent Calendar Items A through D, as presented.

Non-Agricultural Pool

Richter, Non-Agricultural Pool

The Non-Agricultural Pool concurs with action taken by the Appropriative Pool to approve Consent Calendar Items A through D, as presented.

Advisory Committee

Motion by Wellington, second by Black, and by unanimous vote

Moved, to approve Consent Calendar Items A through D, as presented.

II. BUSINESS ITEMS - POSSIBLE ACTION

A. RECHARGE OPERATIONS AGREEMENT

Mr. Rossi stated that a draft copy of the Recharge Operations Agreement "Agreement" was presented in detail at the November meetings and is before them today for approval. The Agreement between Watermaster, San Bernardino County Flood Control District (SBCFCD), Chino Basin Water Conservation District (CBWCD) and Inland Empire Utilities Agency (IEUA) is intended to provide detail to the basic Memorandum of Agreement reached in December 2001 by setting the framework for construction improvements to basins owned by CBWCD and SBCFCD for the purpose of using the basins to recharge imported water, recycled water and increased quantities of stormwater. Additionally, the Agreement creates a Groundwater Recharge Coordinating Committee to serve as a forum in which the four parties to the Agreement can meet to coordinate operation issues and resolve any disagreements. CBWCD approved the Agreement December 11 and it has been agendized for approval by SBCFCD December 17 and by IEUA December 18. There were no questions or comments by the committee members.

Appropriative Pool

Motion by Hill, second by Rodriguez, and by unanimous vote

Moved, to recommend approval and execution of the Recharge Operations Agreement, with a authorization for staff and legal counsel to make minor non-substantive edits as necessary.

Non-Agricultural Pool

Richter, Non-Agricultural Pool

The Non-Agricultural Pool concurs with action taken by the Appropriative Pool to recommend approval and execution of the Recharge Operations Agreement, with non-substantive edits by staff and legal counsel as necessary.

Advisory Committee

Motion by McGreevy, second by Bryson, and by unanimous vote

Moved, to recommend approval and execution of the Recharge Operations Agreement and authorize staff and legal counsel to make minor non-substantive edits as necessary.

B. MEMORANDUM OF UNDERSTANDING FOR TASK FORCE

Mr. Rossi reported the Memorandum of Understanding (MOU) between Watermaster, Orange County Water District (OCWD) and Inland Empire Utilities Agency (IEUA) resulted from discussions with OCWD regarding the Maximum Benefit Demonstration for the Basin Plan Amendment. Both OCWD and IEUA have sent letters to the Regional Water Quality Control Board (RWQCB) in support of the Maximum Benefit Demonstration.

The MOU establishes a Task Force to focus specifically on areas of interface between the basins. Reference was made to page 66 of the agenda package for review of six activities defined in the MOU. The Task Force will establish goals and coordinate watershed planning and management for a period of five years from the date of its signing with an option to renew if mutually agreed to. The OCWD and IEUA governing bodies have approved the MOU.

Mr. Wellington asked if additional resources would be needed. Mr. Rossi responded that staff time will be required but in general, resources are in place to accomplish this activity.

Appropriative Pool

Motion by Black, second by Pepper, and by unanimous vote

Moved, to recommend approval and authorize execution of the Memorandum of Understanding between Watermaster, OCWD, IEUA to form a Task Force to coordinate Santa Ana River Watershed planning and management.

Non-Agricultural Pool

Richter, Non-Agricultural Pool

The Non-Agricultural Pool concurs with action taken by the Appropriative Pool to recommend approval and authorize execution of the Memorandum of Understanding to form a Task Force to coordinate Santa Ana River Watershed planning and management.

Advisory Committee

Motion by Atwater, second by Wellington, and by unanimous vote

Moved, to recommend approval and authorize execution of the Memorandum of Understanding between Watermaster, OCWD, IEUA to form a Task Force to coordinate Santa Ana River Watershed planning and management.

D. STATUS REPORT #5

Status Report #5 covers Watermaster activities for the months of October and November 2002. Status Report #6 will cover December 2002 as well as January and February 2003 activities. Status Report #4 served as a baseline for the format used, reporting by OBMP Program Elements, and the same format will be used for future quarterly status reports.

Mr. Rossi highlighted a few specific items and requested the Committees forward a recommendation for approval allowing staff to make non-substantive edits as necessary and file the report with the Court.

A recommendation was heard to include a reference under Program Element 4 (PE-4), Management Zone 1, page 11, relative to the formation of a Technical Committee and the meetings that have been held.

Appropriative Pool

Motion by Kinsey, second by Craig, and by unanimous vote

Moved, to approve Status Report #5, as amended to include additional information under PE-4 regarding the Technical Committee, authorizing staff and legal counsel to make non-substantive edits as necessary and file it with the Court by December 31.

Non-Agricultural Pool

Richter, Non-Agricultural Pool

The Non-Agricultural Pool concurs with action taken by the Appropriative Pool to approve Status Report #5, with an amendment to include information in PE-4 regarding the Technical Committee, authorizing staff and legal counsel to make non-substantive edits as necessary.

Advisory Committee

Motion by Pepper, second by Kinsey, and by unanimous vote

Moved, to approve Status Report #5, as amended to include additional information under PE-4 regarding the Technical Committee, authorizing staff and legal counsel to make non-substantive edits as necessary and file it with the Court prior to December 31.

II. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

Items 1 & 2 below were combined for the purpose of reporting.

1. Chino Land & Water Co., Inc., Case No. RCV 064284 (Greening Case)
2. Attorney/Managers Meeting(s)

General Legal Counsel Fife (Counsel) reported that Watermaster was served in the Greening Case in September, along with a number of appropriators and non-agricultural parties. In October, Counsel was told that additional defendants, including Watermaster, were dismissed from the case, however, this information turned out to be incorrect. In November, Counsel filed a "Demurrer" stating that the Plaintiff's complaint is inadequate and should be dismissed. As of November 27, all defendants other than Lewis Investment Co. have been dismissed without prejudice. Counsel attended the "Case Management Conference" held in court November 8 and the hearing held December 11, where Lewis Investment Co. indicated they plan to file a Demurrer by January 10 for a February hearing. On December 11, the court acknowledged that the additionally named defendants were dismissed, however, none of the parties have received conformed copies of the dismissals. This matter will be discussed in confidential session at the Watermaster Board Meeting. Counsel Fife suggested that discussion should also occur at an Attorney/Managers Meeting.

Appropriative Pool

Motion by Crosley, second by Black, and by unanimous vote

Moved, to schedule a meeting of the Attorney/Managers in January to continue discussing Watermaster's options in the Greening Case.

Non-Agricultural Pool

Richter, Non-Agricultural Pool

The Non-Agricultural Pool concurs with the action taken by the Appropriative Pool to schedule a meeting of the Attorney/Managers in January to continue discussing Watermaster's options in the Greening Case.

Advisory Committee

Motion by Wellington, second by Turner, and by unanimous vote

Moved, to schedule a meeting of the Attorney/Managers in January to continue discussing Watermaster's options in the Greening Case.

Items 3 and 4 were reordered to later in the meeting.

3. Colonies Project Recharge-Related Issues
4. Niagara Bottling Company Well Production

B. CEO/STAFF REPORT

1. Maximum Benefit Demonstration Update/RWQCB Basin Plan Objectives

Mr. Rossi referred to letters of support written by IEUA and OCWD included on pages 95 and 97 in the agenda package. These letters were presented at the RWQCB meeting on December 3. At that meeting, Mr. Wildermuth and Mr. Moore presented the concept and details of the Maximum Benefit Demonstration and it is now going to be integrated into the Basin Plan Amendment. It is anticipated the Basin Plan Amendment will be presented to the State Water Resource Control Board for consideration in March or April 2003. Mr. Wildermuth pointed out that the peer review group is currently reviewing basin plan objectives based on anti-degradation, Executive Order 6816, which is unrelated to the Maximum Benefit Demonstration. The decision to use the Maximum Benefit Demonstration was a policy decision by the RWQCB. Watermaster has developed a lot of credibility with the RWQCB due to a multitude of good things being accomplished in the Basin. Mr. Kinsey announced that Monte Vista Water District is currently reviewing the Basin Plan Amendment relative to the Peace Agreement for consistency with regard to salt credits.

2. Desalter Mitigation & Operations Recovery Plan

Mr. Rossi reported that he, Ms. Stewart and Mr. Wildermuth met with Ms. McGreevy, General Manager of Jurupa Community Services District regarding the Draft Desalter Mitigation & Operations Recovery Plan (Plan). After a few edits to the draft Plan, it will be reviewed with the staff of Milk Producers Counsel for input on plumbing and alternative plans for supply should emergencies and shortages arise relative to pumping. Following that review, the Plan will go to the Operating Committee and in February or March it should be ready to go through the Watermaster process for approval.

3. AGWA, Mr. Rossi Elected Vice-Chair

Mr. Rossi stated that AGWA took action to set up their system of governance whereby the officers will serve for two years. He was elected Vice-Chair and Mr. Mallory will continue his term and serve as Chair during 2003. In 2004, Mr. Rossi will begin to serve a two-year term as Chair of AGWA. Additionally, AGWA and the Water Education Foundation tentatively set up the annual conference at the Double Tree Inn in Ontario either the week before or after Easter in April 2003.

4. Recharge of Stormwater - New Yield (Appropriative Pool)

Mr. Rossi reported that he and Mr. Wildermuth have discussed this item and they will come back with some ideas for continued discussion with the appropriators in January or February.

5. Minority Pumpers Designation of Board Member (Appropriative Pool)

Since this item was placed on the agenda as a reminder, there has been discussion among the minority pumpers about their designation to the Watermaster Board in 2003. Additionally, Mr. Rossi reported that the Agricultural Pool acted on December 11 to continue with Mr. Hofer and Mr. Vanden Heuvel representing the agricultural producers on the Watermaster Board during 2003.

C. INLAND EMPIRE UTILITIES AGENCY REPORT

1. Proposition 50 Objectives & Priorities for Funding

Mr. Atwater reported that Proposition 50 is a high priority among all water agencies throughout California. Metropolitan will be going to their Board in February with requests for Proposition 50 funding. He made suggestions for consideration such as wellhead treatment, OBMP facilities, primarily enhancing dry-year yield capabilities (conjunctive-use), recycled water program, and possibly a modest amount of money to augment the Recharge Master Plan. Mr. Argo was asked to put together a primary list of OBMP projects, planning and engineering studies, as well as individual agency capital improvement projects for packaging into a prioritized list for review and submittal for funds.

2. MWD Dry Year Program Agreement
Mr. Atwater reported that the Findings of Consistency with CEQA were distributed this week for review. IEUA is being asked to approve the CEQA document next Wednesday. Mr. Dodson has requested comments on the CEQA document by the close of business December 16. IEUA has drafts of individual retail agreements and Mr. Rossi offered to schedule a meeting to review them. Mr. Kinsey asked if participant review could be streamlined by asking Watermaster General Legal Counsel to assist rather than each agency involving their individual legal counsels. Counsel Fife advised that it would be in their best interest to hire an appropriator attorney for that purpose. Mr. Wellington recommended this matter be discussed at the Attorney/Managers Meeting in January. Mr. Jeske suggested that the parties who are signatory to a user agreement with IEUA consider amending the existing contract with Special Counsel Markman to include this task.
3. Conservation Programs
Mr. Hill discussed IEUA's proposal submitted to the Department of Water Resources for a conservation program at the two prisons and the youth authority facilities in Chino valued at \$2.3 million. Estimated water savings would be around 1100 acre-feet water per year. About \$18 million is available under Proposition 13. The Washing Machine Rebate Program funds through CalFED ran out much quicker than anticipated. IEUA was able to obtain an appropriation in the amount of \$3 million through Metropolitan Water District to continue funding this program through June 30. Pool Cover Rebate and Toilet Rebate applications are available. The Ontario Convention Center has agreed to use IEUA's Table Tents relaying a message to conserve water resources and it is hopeful the local restaurants will do the same. Lastly, on December 11, the California Urban Water Conservation Council welcomed the City of Ontario as the latest signatory to their MOU.
4. Legislative Update
Mr. Atwater gave a brief update regarding the legislative action on the State Budget. Discussion ensued regarding Senator Soto's Spot Bill for the Inland Empire Water Quality Control Authority. It was suggested that Watermaster staff look into the pros and cons of the San Gabriel Water Quality Authority and defer further discussion to the January 16 meetings. Unrelated, Mr. Atwater announced that Senator Feinstein would be meeting to discuss perchlorate issues in Los Angeles on December 19, 2:00 p.m.
5. Communication Programs
Ms. Elrod reported that the Dolphin Group is preparing an outreach message in case a drought is officially declared in 2003. This should be available for review in January 2003. Mr. Wellington suggested inclusion of the fact that drought occurs when there is not sufficient participation to recharge the groundwater and water availability continues to decline. One or two days of rainfall will not alleviate drought conditions. Discussion followed regarding IID's position on the 4.4 Resolution and if drought occurs on the Colorado River Watershed, how that will impact Southern California.
6. Other
None

A break was taken at this time.

Following the break, Items II.A.3 and 4 were discussed.

II. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

3. Colonies Project Recharge-Related Issues
Last month, Counsel was asked to look into the legal aspects of this matter, specifically to recharge related elements. Counsel Fife provided an outline of four primary forums in which issues surrounding the recharge basin are being heard. The first three are lawsuits and the fourth is the permitting process described below.
 - Colonies -v- San Antonio Water Company (SAWCO) and San Bernardino County Flood Control District (SBCFCD) (unofficial title). The Colonies brought this lawsuit brought to determine effects of the 1966 SAWC deed to the property containing the recharge facilities. SAWC no longer holds the deed, however, the SBCFCD easement in the deed enables SAWC to continue performing recharge related activities on the property.

The Colonies have stated that the deed restrictions are no longer valid and they should not have to abide by them.

- The Colonies -v- CalTRANS (unofficial title). The Colonies brought this lawsuit to determine the severance damages due to the condemnation of property for the 210 Freeway. The Colonies was compensated for the property taken by CalTRANS, however they claim that the additional stormwater runoff from the freeway is placing an additional burden on the recharge basins and they are asking for more money for damages.
- Cucamonga County Water District (CCWD) -v- City of Upland (Upland) and SAWCO (unofficial title). The CCWD brought this lawsuit challenging the sufficiency of the EIR certified by Upland for the project. A recent stipulation was circulated and signed by the parties in this case to stay the litigation pending negotiations over the recharge basin issues. The lawsuit will be stayed until June 30, 2003. CCWD has asked for Watermaster's participation in this case.
- Regional Water Quality Control Board (RWQCB) Permitting Process. The RWQCB has issued a "Stop Work Order" to the Colonies pending the issuance of a Waste Discharge Permit. Recharge issues will be a part of this process and the RWQCB has asked for Watermaster's participation in the permitting process.

Should this development continue as designed, it would reduce recharge in Basin #6 by the average annual amount (6,000 acre-feet) which would impact the Chino Basin as recharge is a critical component to maintaining the Basin's safe yield and to fulfilling Watermaster's recharge obligation under the Optimum Basin Management Program (OBMP). If the third lawsuit becomes active again, Watermaster may want to consider filing an amicus brief and/or Watermaster may want to consider participating in the RWQCB permitting process. A lengthy discussion ensued. It was determined that Watermaster needs to stay current on activities surrounding this development and the issues and be prepared should future involvement become necessary.

4. Niagara Bottling Company Well Production

Counsel Fife showed photos of the location of Niagara Bottling Company (Niagara) and their well. Watermaster has requested Niagara intervene into the Judgment but thus far, they have been unwilling to. Niagara produces approximately 300 to 400 acre-feet per year.

Appropriative Pool

Motion by DeLoach, second by Black, and by unanimous vote

Moved, to add this as an action item on the agenda.

Motion by DeLoach, second by Black, and by unanimous vote

Moved, to recommend General Legal Counsel to explore the most appropriate methods to ensure that Niagara Water Company intervenes into the Chino Basin Judgment or ceases pumping activities.

Non-Agricultural Pool

Richter, Non-Agricultural Pool

The Non-Agricultural Pool concurred with the Appropriative Pool action.

Advisory Committee

Motion by Wellington, second by DeLoach, and by unanimous vote

Moved, to add this as an action item on the agenda.

Motion by Wellington, second by DeLoach, and by unanimous vote

Moved, that the Advisory Committee forward the action taken by the Appropriative Pool to recommend the Board direct General Legal Counsel to explore the most appropriate methods to ensure that Niagara Water Company intervenes into the Chino Basin Judgment or cease pumping.

IV. COMMITTEE MEMBER COMMENTS

None

V. OTHER BUSINESS

None

VI. FUTURE MEETINGS

January 16, 2003	8:30 a.m.	ANNUAL MEETING of the Non-Agricultural Pool
	10:00 a.m.	ANNUAL MEETING of the Appropriative Pool
	1:00 p.m.	ANNUAL MEETING of the Agricultural Pool
January 30, 2003	10:00 a.m.	ANNUAL MEETING of the Advisory Committee
	1:00 p.m.	ANNUAL MEETING of the Watermaster Board

The meeting adjourned at 12:20 p.m.

Secretary

Minutes Approved: _____



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool

10:00 a.m. - Appropriative Pool

1:00 p.m. - Agricultural Pool

APPROPRIATIVE POOL AGENDA

AGENDA
CHINO BASIN WATERMASTER
ANNUAL MEETING -
APPROPRIATIVE POOL
10:00 a.m. - January 16, 2003

CALL TO ORDER

AGENDA - ADDITIONS/REORDER

I. ANNUAL ELECTIONS – Action

A. Calendar Year 2003 Appropriative Pool Officers

Nominations will be heard for Pool Chair, followed by nominations for Pool Vice-Chair, to serve during calendar year 2003.

Chair	
Vice-Chair	
Secretary/Treasurer	<u>Watermaster Chief Executive Officer</u>

B. Calendar Year 2003 Non-Major Appropriators on the Advisory Committee

Non-Major Appropriators will be asked to elect two representatives to serve on the Advisory Committee during calendar year 2003.

- Arrowhead Mountain Springs Water Company
- Inland Empire Utilities Agency
- Los Serranos Country Club
- Marygold Mutual Water Company
- Monte Vista Irrigation Company
- Nicholson Trust
- Norco, City of
- San Antonio Water Company
- Santa Ana River Water Company
- San Bernardino, County of (Prado Shooting Park)
- Southern California Water Company
- Upland, City of
- West End Consolidated Water Company
- West San Bernardino County Water District

C. Calendar Year 2003 Advisory Committee Members & Officers

According to the rotation sequence established among the pools, the appropriators be asked to appoint the Appropriative Pool Chair, or a designated representative, to serve as 2nd Vice-Chair of the Advisory Committee during calendar year 2003.

Chair	Agricultural Pool	
Vice-Chair	Non-Agricultural Pool	
2 nd Vice-Chair	Appropriative Pool	

D. Calendar Year 2003 Pool Representation on the Watermaster Board

Based on the Court-adopted Rotation Schedule for Representatives to the Watermaster, during calendar year 2003, the City of Chino, the City of Pomona and a Non-Major Appropriator will represent the Appropriative Pool on the Watermaster Board. The Non-Major Appropriators will be asked to elect a representative and an alternate to the Board, effective January 30, 2003.

Member: _____ Alternate: _____

II. CONSENT CALENDAR

Note: All matters listed under the Consent Calendar are considered to be routine and non-controversial and will be acted upon by one motion in the form listed below. There will be no separate discussion on these items prior to voting unless any members, staff, or the public requests specific items be discussed and/or removed from the Consent Calendar for separate action.

A. MINUTES

1. Minutes of the Joint Meeting of the Non-Agricultural Pool, Appropriative Pool and Advisory Committee held December 12, 2002

B. FINANCIAL REPORTS

1. Cash Disbursement Report - December 2002 *(page 1)*
2. Combining Schedule of Revenue, Expenses and Changes in Working Capital for the Period July 1, 2002 through November 30, 2002 *(page 5)*
3. Treasurer's Report of Financial Affairs for the Period November 1 through November 30, 2002 *(page 7)*
4. 2002-03 Actual YTD Revenues and Expenses Compared with Adopted 2002-03 Budget *(page 9)*

C. INDEPENDENT AUDITOR'S REPORT ON FINANCIAL STATEMENTS FOR YEAR ENDED JUNE 30, 2002 *(page 11)*

**D. NOTICE OF INTENT TO CHANGE OPERATING SAFE YIELD OF CHINO BASIN (pursuant to Judgment Exhibit 1 Paragraph 2(b))
Submitted annually as a placeholder *(page 27)***

E. RESOLUTION 03-01, AUTHORIZING AND DESIGNATING SIGNATORIES OF DEPOSITORY AGREEMENTS, DEPOSITORY CARDS AND DEPOSITS, TRANSFERS AND WITHDRAWALS OF FUNDS

Annual resolution authorizing and designating signatories of financial agreements and transactions *(page 31)*

F. WATER TRANSACTION

Lease of Water Production Rights from the City of Pomona to the Fontana Water Company in the amount of 2,500 acre-feet for fiscal year 2002-03 (Noticed December 11, 2002) *(page 35)*

G. DRAFT TWENTY-FIFTH ANNUAL REPORT

Included separately for filing with the court by January 31, 2003 *(page 41)*

III. BUSINESS ITEMS

A. MAXIMUM BENEFIT ANALYSIS

Fees for contract with Risk Sciences to perform Maximum Benefit Analysis plus contract administration costs through the Santa Ana Watershed Project Authority

IV. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. Attorney/Managers Meeting(s)
2. Colonies Project, Recharge Related Issues
3. Niagra Bottling Company
4. Chino Land & Water, SBSC Case No. RCV 064284

B. CEO/STAFF REPORT

1. Watermaster Project Meeting Updates
 - MZ1 Program
 - MWD Dry Year Yield Program
2. Watermaster Administrative Updates
 - Montclair Basins-Spreading (6500 AF)
 - Proposition 50 Priorities for Funding (Appropriative Pool Only)
 - Public Relations - Dolphin Group (Appropriative Pool Only)
3. Other Updates
 - Senator Soto's Legislation

V. POOL MEMBER COMMENTS

VI. OTHER BUSINESS

VII. FUTURE MEETINGS

February 13, 2003	10:00 a.m.	Joint Meeting of the Non-Agricultural & Appropriative Pool
	1:00 p.m.	Agricultural Pool Meeting
February 27, 2003	10:00 a.m.	Advisory Committee Meeting
	1:00 p.m.	Watermaster Board Meeting

Meeting Adjourn



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool

10:00 a.m. - Appropriative Pool

1:00 p.m. - Agricultural Pool

II. CONSENT CALENDAR

- A. Minutes of the Joint Meeting of
the Non-Agricultural Pool, the
Appropriative Pool, and the
Advisory Committee
held December 12, 2002

Draft Minutes
CHINO BASIN WATERMASTER
JOINT MEETING OF THE
APPROPRIATIVE POOL, NON-AGRICULTURAL POOL
& ADVISORY COMMITTEE
December 12, 2002

A joint meeting of the Appropriative Pool, Non-Agricultural Pool and Advisory Committee was held at the offices of the Chino Basin Watermaster, 8632 Archibald Ave., Suite 109, Rancho Cucamonga, CA, on December 12, 2002 at 10:00 a.m.

NON-AGRICULTURAL POOL MEMBER PRESENT

James Jenkins	San Bernardino County Department of Airports
Les Richter	California Speedway
Michael Thies	Space Center Mira Loma

APPROPRIATIVE POOL MEMBERS PRESENT

Ray Wellington, Chair	San Antonio Water Company
Rich Atwater	Inland Empire Utilities Agency
Gerald J. Black	Fontana Union Water Company
Jim Bryson	Fontana Water Company
Ron Craig	City of Chino Hills
Robert DeLoach	Cucamonga County Water District
Jim Hill	City of Chino
Ken Jeske	City of Ontario
Mark Kinsey	Monte Vista Water District
Carole McGreevy	Jurupa Community Services District
Henry Pepper	City of Pomona
J. Arnold Rodriguez	Santa Ana River Water Company
Bill Stafford	Marygold Mutual Water Company
Rob Turner	City of Upland

AGRICULTURAL POOL MEMBERS PRESENT

Robert DeBerard	Crops
Jack Hagerman	State of California Institute for Men
Dana Oldenkamp	Milk Producers Council

Watermaster Staff Present

John Rossi	Chief Executive Officer
Traci Stewart	Chief of Watermaster Services
Sheri Rojo	Accountant/Office Manager
Michelle Lauffer	Water Resources Specialist
Mary Staula	Recording Secretary/Administrative Assistant

Watermaster Consultants Present

Dave Argo	Black & Veatch
Michael Fife	Hatch & Parent
Mark Wildermuth	Wildermuth Environmental, Inc.

Others Present

Dave Crosley	City of Chino
Raul Garibay	City of Pomona
David Hill	Inland Empire Utilities Agency
Barrett Kehl	Chino Basin Water Conservation District
Rita Kurth	Cucamonga County Water District
Garth Morgan	Inland Empire Utilities Agency

The joint meeting was called to order by Advisory Committee Chair Jeske at 10:07 a.m.

AGENDA - ADDITIONS/REORDER

None

II. BUSINESS ITEMS

A. MINUTES

1. Minutes of the Joint Meeting of the Appropriative Pool, Non-Agricultural Pool and Advisory Committee held November 14, 2002

B. FINANCIAL REPORTS

1. Cash Disbursement Report - November 2002
2. Combining Schedule Of Revenue, Expenses And Changes In Working Capital For The Period July 1, 2002 through October 31, 2002
3. Treasurer's Report of Financial Affairs For The Period October 1 through October 31, 2002
4. 2002-03 Actual YTD Revenues And Expenses Compared With Adopted 2002-03 Budget

C. ALLOCATION OF VOLUME VOTE

1. Appropriative Pool Allocation of Volume Vote effective Calendar Year 2003
2. Non-Agricultural Pool Allocation of Volume Vote effective Calendar Year 2003
3. Advisory Committee Allocation of Volume Vote effective Calendar Year 2003

D. RESOLUTION NO. 02-05

A Resolution of Commendation for Anne Dunihue, IEUA Board Member and former Chino Basin Watermaster Board Member

Appropriative Pool

Motion by Maestas, second by McGreevy, and by unanimous vote

Moved, to approve Consent Calendar Items A through D, as presented.

Non-Agricultural Pool

Richter, Non-Agricultural Pool

The Non-Agricultural Pool concurs with action taken by the Appropriative Pool to approve Consent Calendar Items A through D, as presented.

Advisory Committee

Motion by Wellington, second by Black, and by unanimous vote

Moved, to approve Consent Calendar Items A through D, as presented.

II. BUSINESS ITEMS - POSSIBLE ACTION

A. RECHARGE OPERATIONS AGREEMENT

Mr. Rossi stated that a draft copy of the Recharge Operations Agreement "Agreement" was presented in detail at the November meetings and is before them today for approval. The Agreement between Watermaster, San Bernardino County Flood Control District (SBCFCD), Chino Basin Water Conservation District (CBWCD) and Inland Empire Utilities Agency (IEUA) is intended to provide detail to the basic Memorandum of Agreement reached in December 2001 by setting the framework for construction improvements to basins owned by CBWCD and SBCFCD for the purpose of using the basins to recharge imported water, recycled water and increased quantities of stormwater. Additionally, the Agreement creates a Groundwater Recharge Coordinating Committee to serve as a forum in which the four parties to the Agreement can meet to coordinate operation issues and resolve any disagreements. CBWCD approved the Agreement December 11 and it has been agendaized for approval by SBCFCD December 17 and by IEUA December 18. There were no questions or comments by the committee members.

Appropriative Pool

Motion by Hill, second by Rodriguez, and by unanimous vote

Moved, to recommend approval and execution of the Recharge Operations Agreement, with a authorization for staff and legal counsel to make minor non-substantive edits as necessary.

Non-Agricultural Pool

Richter, Non-Agricultural Pool

The Non-Agricultural Pool concurs with action taken by the Appropriative Pool to recommend approval and execution of the Recharge Operations Agreement, with non-substantive edits by staff and legal counsel as necessary.

Advisory Committee

Motion by McGreevy, second by Bryson, and by unanimous vote

Moved, to recommend approval and execution of the Recharge Operations Agreement and authorize staff and legal counsel to make minor non-substantive edits as necessary.

B. MEMORANDUM OF UNDERSTANDING FOR TASK FORCE

Mr. Rossi reported the Memorandum of Understanding (MOU) between Watermaster, Orange County Water District (OCWD) and Inland Empire Utilities Agency (IEUA) resulted from discussions with OCWD regarding the Maximum Benefit Demonstration for the Basin Plan Amendment. Both OCWD and IEUA have sent letters to the Regional Water Quality Control Board (RWQCB) in support of the Maximum Benefit Demonstration.

The MOU establishes a Task Force to focus specifically on areas of interface between the basins. Reference was made to page 66 of the agenda package for review of six activities defined in the MOU. The Task Force will establish goals and coordinate watershed planning and management for a period of five years from the date of its signing with an option to renew if mutually agreed to. The OCWD and IEUA governing bodies have approved the MOU.

Mr. Wellington asked if additional resources would be needed. Mr. Rossi responded that staff time will be required but in general, resources are in place to accomplish this activity.

Appropriative Pool

Motion by Black, second by Pepper, and by unanimous vote

Moved, to recommend approval and authorize execution of the Memorandum of Understanding between Watermaster, OCWD, IEUA to form a Task Force to coordinate Santa Ana River Watershed planning and management.

Non-Agricultural Pool

Richter, Non-Agricultural Pool

The Non-Agricultural Pool concurs with action taken by the Appropriative Pool to recommend approval and authorize execution of the Memorandum of Understanding to form a Task Force to coordinate Santa Ana River Watershed planning and management.

Advisory Committee

Motion by Atwater, second by Wellington, and by unanimous vote

Moved, to recommend approval and authorize execution of the Memorandum of Understanding between Watermaster, OCWD, IEUA to form a Task Force to coordinate Santa Ana River Watershed planning and management.

D. STATUS REPORT #5

Status Report #5 covers Watermaster activities for the months of October and November 2002. Status Report #6 will cover December 2002 as well as January and February 2003 activities. Status Report #4 served as a baseline for the format used, reporting by OBMP Program Elements, and the same format will be used for future quarterly status reports.

Mr. Rossi highlighted a few specific items and requested the Committees forward a recommendation for approval allowing staff to make non-substantive edits as necessary and file the report with the Court.

A recommendation was heard to include a reference under Program Element 4 (PE-4), Management Zone 1, page 11, relative to the formation of a Technical Committee and the meetings that have been held.

Appropriative Pool

Motion by Kinsey, second by Craig, and by unanimous vote

Moved, to approve Status Report #5, as amended to include additional information under PE-4 regarding the Technical Committee, authorizing staff and legal counsel to make non-substantive edits as necessary and file it with the Court by December 31.

Non-Agricultural Pool

Richter, Non-Agricultural Pool

The Non-Agricultural Pool concurs with action taken by the Appropriative Pool to approve Status Report #5, with an amendment to include information in PE-4 regarding the Technical Committee, authorizing staff and legal counsel to make non-substantive edits as necessary.

Advisory Committee

Motion by Pepper, second by Kinsey, and by unanimous vote

Moved, to approve Status Report #5, as amended to include additional information under PE-4 regarding the Technical Committee, authorizing staff and legal counsel to make non-substantive edits as necessary and file it with the Court prior to December 31.

II. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

Items 1 & 2 below were combined for the purpose of reporting.

1. Chino Land & Water Co., Inc., Case No. RCV 064284 (Greening Case)
2. Attorney/Managers Meeting(s)

General Legal Counsel Fife (Counsel) reported that Watermaster was served in the Greening Case in September, along with a number of appropriators and non-agricultural parties. In October, Counsel was told that additional defendants, including Watermaster, were dismissed from the case, however, this information turned out to be incorrect. In November, Counsel filed a "Demurrer" stating that the Plaintiff's complaint is inadequate and should be dismissed. As of November 27, all defendants other than Lewis Investment Co. have been dismissed without prejudice. Counsel attended the "Case Management Conference" held in court November 8 and the hearing held December 11, where Lewis Investment Co. indicated they plan to file a Demurrer by January 10 for a February hearing. On December 11, the court acknowledged that the additionally named defendants were dismissed, however, none of the parties have received conformed copies of the dismissals. This matter will be discussed in confidential session at the Watermaster Board Meeting. Counsel Fife suggested that discussion should also occur at an Attorney/Managers Meeting.

Appropriative Pool

Motion by Crosley, second by Black, and by unanimous vote

Moved, to schedule a meeting of the Attorney/Managers in January to continue discussing Watermaster's options in the Greening Case.

Non-Agricultural Pool

Richter, Non-Agricultural Pool

The Non-Agricultural Pool concurs with the action taken by the Appropriative Pool to schedule a meeting of the Attorney/Managers in January to continue discussing Watermaster's options in the Greening Case.

Advisory Committee

Motion by Wellington, second by Turner, and by unanimous vote

Moved, to schedule a meeting of the Attorney/Managers in January to continue discussing Watermaster's options in the Greening Case.

Items 3 and 4 were reordered to later in the meeting.

3. Colonies Project Recharge-Related Issues
4. Niagara Bottling Company Well Production

B. CEO/STAFF REPORT

1. Maximum Benefit Demonstration Update/RWQCB Basin Plan Objectives

Mr. Rossi referred to letters of support written by IEUA and OCWD included on pages 95 and 97 in the agenda package. These letters were presented at the RWQCB meeting on December 3. At that meeting, Mr. Wildermuth and Mr. Moore presented the concept and details of the Maximum Benefit Demonstration and it is now going to be integrated into the Basin Plan Amendment. It is anticipated the Basin Plan Amendment will be presented to the State Water Resource Control Board for consideration in March or April 2003. Mr. Wildermuth pointed out that the peer review group is currently reviewing basin plan objectives based on anti-degradation, Executive Order 6816, which is unrelated to the Maximum Benefit Demonstration. The decision to use the Maximum Benefit Demonstration was a policy decision by the RWQCB. Watermaster has developed a lot of credibility with the RWQCB due to a multitude of good things being accomplished in the Basin. Mr. Kinsey announced that Monte Vista Water District is currently reviewing the Basin Plan Amendment relative to the Peace Agreement for consistency with regard to salt credits.
2. Desalter Mitigation & Operations Recovery Plan

Mr. Rossi reported that he, Ms. Stewart and Mr. Wildermuth met with Ms. McGreevy, General Manager of Jurupa Community Services District regarding the Draft Desalter Mitigation & Operations Recovery Plan (Plan). After a few edits to the draft Plan, it will be reviewed with the staff of Milk Producers Counsel for input on plumbing and alternative plans for supply should emergencies and shortages arise relative to pumping. Following that review, the Plan will go to the Operating Committee and in February or March it should be ready to go through the Watermaster process for approval.
3. AGWA, Mr. Rossi Elected Vice-Chair

Mr. Rossi stated that AGWA took action to set up their system of governance whereby the officers will serve for two years. He was elected Vice-Chair and Mr. Mallory will continue his term and serve as Chair during 2003. In 2004, Mr. Rossi will begin to serve a two-year term as Chair of AGWA. Additionally, AGWA and the Water Education Foundation tentatively set up the annual conference at the Double Tree Inn in Ontario either the week before or after Easter in April 2003.
4. Recharge of Stormwater - New Yield (Appropriative Pool)

Mr. Rossi reported that he and Mr. Wildermuth have discussed this item and they will come back with some ideas for continued discussion with the appropriators in January or February.
5. Minority Pumpers Designation of Board Member (Appropriative Pool)

Since this item was placed on the agenda as a reminder, there has been discussion among the minority pumpers about their designation to the Watermaster Board in 2003. Additionally, Mr. Rossi reported that the Agricultural Pool acted on December 11 to continue with Mr. Hofer and Mr. Vanden Heuvel representing the agricultural producers on the Watermaster Board during 2003.

C. INLAND EMPIRE UTILITIES AGENCY REPORT

1. Proposition 50 Objectives & Priorities for Funding

Mr. Atwater reported that Proposition 50 is a high priority among all water agencies throughout California. Metropolitan will be going to their Board in February with requests for Proposition 50 funding. He made suggestions for consideration such as wellhead treatment, OBMP facilities, primarily enhancing dry-year yield capabilities (conjunctive-use), recycled water program, and possibly a modest amount of money to augment the Recharge Master Plan. Mr. Argo was asked to put together a primary list of OBMP projects, planning and engineering studies, as well as individual agency capital improvement projects for packaging into a prioritized list for review and submittal for funds.

2. MWD Dry Year Program Agreement

Mr. Atwater reported that the Findings of Consistency with CEQA were distributed this week for review. IEUA is being asked to approve the CEQA document next Wednesday. Mr. Dodson has requested comments on the CEQA document by the close of business December 16. IEUA has drafts of individual retail agreements and Mr. Rossi offered to schedule a meeting to review them. Mr. Kinsey asked if participant review could be streamlined by asking Watermaster General Legal Counsel to assist rather than each agency involving their individual legal counsels. Counsel Fife advised that it would be in their best interest to hire an appropriator attorney for that purpose. Mr. Wellington recommended this matter be discussed at the Attorney/Managers Meeting in January. Mr. Jeske suggested that the parties who are signatory to a user agreement with IEUA consider amending the existing contract with Special Counsel Markman to include this task.

3. Conservation Programs

Mr. Hill discussed IEUA's proposal submitted to the Department of Water Resources for a conservation program at the two prisons and the youth authority facilities in Chino valued at \$2.3 million. Estimated water savings would be around 1 100 acre-feet water per year. About \$18 million is available under Proposition 13. The Washing Machine Rebate Program funds through CalFED ran out much quicker than anticipated. IEUA was able to obtain an appropriation in the amount of \$3 million through Metropolitan Water District to continue funding this program through June 30. Pool Cover Rebate and Toilet Rebate applications are available. The Ontario Convention Center has agreed to use IEUA's Table Tents relaying a message to conserve water resources and it is hopeful the local restaurants will do the same. Lastly, on December 11, the California Urban Water Conservation Council welcomed the City of Ontario as the latest signatory to their MOU.

4. Legislative Update

Mr. Atwater gave a brief update regarding the legislative action on the State Budget. Discussion ensued regarding Senator Soto's Spot Bill for the Inland Empire Water Quality Control Authority. It was suggested that Watermaster staff look into the pros and cons of the San Gabriel Water Quality Authority and defer further discussion to the January 16 meetings. Unrelated, Mr. Atwater announced that Senator Feinstein would be meeting to discuss perchlorate issues in Los Angeles on December 19, 2:00 p.m.

5. Communication Programs

Ms. Elrod reported that the Dolphin Group is preparing an outreach message in case a drought is officially declared in 2003. This should be available for review in January 2003. Mr. Wellington suggested inclusion of the fact that drought occurs when there is not sufficient participation to recharge the groundwater and water availability continues to decline. One or two days of rainfall will not alleviate drought conditions. Discussion followed regarding IID's position on the 4.4 Resolution and if drought occurs on the Colorado River Watershed, how that will impact Southern California.

6. Other

None

A break was taken at this time.

Following the break, Items II.A.3 and 4 were discussed.

II. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

3. Colonies Project Recharge-Related Issues

Last month, Counsel was asked to look into the legal aspects of this matter, specifically to recharge related elements. Counsel Fife provided an outline of four primary forums in which issues surrounding the recharge basin are being heard. The first three are lawsuits and the fourth is the permitting process described below.

- Colonies -v- San Antonio Water Company (SAWCO) and San Bernardino County Flood Control District (SBCFCD) (unofficial title). The Colonies brought this lawsuit brought to determine effects of the 1966 SAWC deed to the property containing the recharge facilities. SAWC no longer holds the deed, however, the SBCFCD easement in the deed enables SAWC to continue performing recharge related activities on the property.

The Colonies have stated that the deed restrictions are no longer valid and they should not have to abide by them.

- The Colonies -v- CalTRANS (unofficial title). The Colonies brought this lawsuit to determine the severance damages due to the condemnation of property for the 210 Freeway. The Colonies was compensated for the property taken by CalTRANS, however they claim that the additional stormwater runoff from the freeway is placing an additional burden on the recharge basins and they are asking for more money for damages.
- Cucamonga County Water District (CCWD) -v- City of Upland (Upland) and SAWCO (unofficial title). The CCWD brought this lawsuit challenging the sufficiency of the EIR certified by Upland for the project. A recent stipulation was circulated and signed by the parties in this case to stay the litigation pending negotiations over the recharge basin issues. The lawsuit will be stayed until June 30, 2003. CCWD has asked for Watermaster's participation in this case.
- Regional Water Quality Control Board (RWQCB) Permitting Process. The RWQCB has issued a "Stop Work Order" to the Colonies pending the issuance of a Waste Discharge Permit. Recharge issues will be a part of this process and the RWQCB has asked for Watermaster's participation in the permitting process.

Should this development continue as designed, it would reduce recharge in Basin #6 by the average annual amount (6,000 acre-feet) which would impact the Chino Basin as recharge is a critical component to maintaining the Basin's safe yield and to fulfilling Watermaster's recharge obligation under the Optimum Basin Management Program (OBMP). If the third lawsuit becomes active again, Watermaster may want to consider filing an amicus brief and/or Watermaster may want to consider participating in the RWQCB permitting process. A lengthy discussion ensued. It was determined that Watermaster needs to stay current on activities surrounding this development and the issues and be prepared should future involvement become necessary.

4. Niagara Bottling Company Well Production

Counsel Fife showed photos of the location of Niagara Bottling Company (Niagara) and their well. Watermaster has requested Niagara intervene into the Judgment but thus far, they have been unwilling to. Niagara produces approximately 300 to 400 acre-feet per year.

Appropriative Pool

Motion by DeLoach, second by Black, and by unanimous vote

Moved, to add this as an action item on the agenda.

Motion by DeLoach, second by Black, and by unanimous vote

Moved, to recommend General Legal Counsel to explore the most appropriate methods to ensure that Niagara Water Company intervenes into the Chino Basin Judgment or ceases pumping activities.

Non-Agricultural Pool

Richter, Non-Agricultural Pool

The Non-Agricultural Pool concurred with the Appropriative Pool action.

Advisory Committee

Motion by Wellington, second by DeLoach, and by unanimous vote

Moved, to add this as an action item on the agenda.

Motion by Wellington, second by DeLoach, and by unanimous vote

Moved, that the Advisory Committee forward the action taken by the Appropriative Pool to recommend the Board direct General Legal Counsel to explore the most appropriate methods to ensure that Niagara Water Company intervenes into the Chino Basin Judgment or cease pumping.

IV. COMMITTEE MEMBER COMMENTS

None

V. OTHER BUSINESS

None

VI. FUTURE MEETINGS

January 16, 2003	8:30 a.m.	ANNUAL MEETING of the Non-Agricultural Pool
	10:00 a.m.	ANNUAL MEETING of the Appropriative Pool
	1:00 p.m.	ANNUAL MEETING of the Agricultural Pool
January 30, 2003	10:00 a.m.	ANNUAL MEETING of the Advisory Committee
	1:00 p.m.	ANNUAL MEETING of the Watermaster Board

The meeting adjourned at 12:20 p.m.

Secretary

Minutes Approved: _____

A decorative border of watermelons surrounds the text. The watermelons are arranged in a rectangular frame, with some at the corners and others along the edges.

CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool

10:00 a.m. - Appropriative Pool

1:00 p.m. - Agricultural Pool

AGRICULTURAL POOL AGENDA

AGENDA
CHINO BASIN WATERMASTER
ANNUAL MEETING -
AGRICULTURAL POOL
1:00 p.m. - January 16, 2003

CALL TO ORDER

AGENDA - ADDITIONS/REORDER

I. ANNUAL ELECTIONS – Action

A. Calendar-Year 2003 Agricultural Pool Members

The Agricultural Pool membership shall consist of not less than ten representatives selected at large by members of the pool. Calendar year 2002 pool members will be asked to make any necessary changes to the following list in order to establish pool membership and alternates during calendar year 2003:

Current Agricultural Pool Members

Crops: Robert DeBerard
Jeff Pierson
Dairy: Robert Feenstra
Gene Koopman
Ron LaBrucherie
Dana Oldenkamp
State: Jack Hagerman
Patsy Hamilton
Marilyn Levin
Carlos Lozano

Current Alternates:

Crops: Glen Durrington
Mary Parente
Dairy: Nathan deBoom
Jenny DeBoer
Dick Dykstra
Rob Quincey
State: Pete Hall
Frank Warren
Peter Van Haam
Rob Kettle/Fred Hector

B. Calendar Year 2003 Agricultural Pool Officers

Nominations will be heard for Pool Chair, followed by nominations for Pool Vice-Chair.

Chair _____
Vice-Chair _____
Secretary/Treasurer Watermaster Chief Executive Officer

C. Calendar Year 2003 Advisory Committee Members & Officers

The pool members will be asked to determine the ten agricultural representatives to serve on the Advisory Committee and, according to the rotation sequence established among the pools, appoint a representative to serve as Chair of the Advisory Committee during calendar year 2003.

Chair _____ Agricultural Pool _____
Vice-Chair _____ Non-Agricultural Pool _____
2nd Vice-Chair _____ Appropriative Pool _____

D. Calendar Year 2003 Pool Representation on the Watermaster Board - Information Only

The following motion passed by unanimous vote of the Agricultural Pool on December 11, 2002:

“Moved, that the current Agricultural Pool representatives continue to serve on the Watermaster Board during Calendar-Year 2003 and the appointment of a State representative be deferred to Calendar-Year 2004.”

Calendar Year 2003 Agricultural Pool Board Members:

Dairy: Geoffrey Vanden Heuvel Crops: Paul Hofer

II. CONSENT CALENDAR

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1. Minutes of the Joint Meeting of the Agricultural Pool meeting held December 11, 2002

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4. 2002-03 Actual YTD Revenues and Expenses Compared with Adopted 2002-03 Budget (*page 9*)

C. INDEPENDENT AUDITOR'S REPORT ON FINANCIAL STATEMENTS FOR YEAR ENDED JUNE 30, 2002 (*page 11*)

D. NOTICE OF INTENT TO CHANGE OPERATING SAFE YIELD OF CHINO BASIN (pursuant to Judgment Exhibit 1 Paragraph 2(b))
Submitted annually as a placeholder (*page 27*)

E. RESOLUTION 03-01, AUTHORIZING AND DESIGNATING SIGNATORIES OF DEPOSITORY AGREEMENTS, DEPOSITORY CARDS AND DEPOSITS, TRANSFERS AND WITHDRAWALS OF FUNDS
Annual resolution authorizing and designating signatories of financial agreements and transactions (*page 31*)

F. WATER TRANSACTION
Lease of Water Production Rights from the City of Pomona to the Fontana Water Company in the amount of 2,500 acre-feet for fiscal year 2002-03 (Noticed December 11, 2002) (*page 35*)

G. DRAFT TWENTY-FIFTH ANNUAL REPORT
Included separately for filing with the court by January 31, 2003 (*page 41*)

III. BUSINESS ITEMS

A. MAXIMUM BENEFIT ANALYSIS

Fees for contract with Risk Sciences to perform Maximum Benefit Analysis plus contract administration costs through the Santa Ana Watershed Project Authority (*page 43*)

IV. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. Attorney/Managers Meeting(s)
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3. Niagra Bottling Company
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B. CEO/STAFF REPORT

1. Watermaster Project Meeting Updates
 - MZ1 Program
 - MWD Dry Year Yield Program
2. Watermaster Administrative Updates
 - Montclair Basins-Spreading (6500 AF)
3. Other Updates
 - AB599 Public Advisory Committee (Agricultural Pool Only)
 - Senator Soto's Legislation

V. POOL MEMBER COMMENTS

VI. OTHER BUSINESS

VII. FUTURE MEETINGS

February 13, 2003	10:00 a.m.	Joint Meeting of the Non-Agricultural & Appropriative Pool
	1:00 p.m.	Agricultural Pool Meeting
February 27, 2003	10:00 a.m.	Advisory Committee Meeting
	1:00 p.m.	Watermaster Board Meeting

Meeting Adjourn



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool

10:00 a.m. - Appropriative Pool

1:00 p.m. - Agricultural Pool

II. CONSENT CALENDAR

- A. Minutes of the Agricultural Pool Meeting
held December 11, 2002

Draft Minutes
CHINO BASIN WATERMASTER
AGRICULTURAL POOL MEETING
December 11, 2002

A meeting of the Agricultural Pool was held at the offices of the Chino Basin Watermaster, 8632 Archibald Ave., Suite 109, Rancho Cucamonga, CA, on December 11, 2002 at 1:00 p.m.

AGRICULTURAL POOL MEMBERS PRESENT

Robert DeBerard, Chair	Crops
Nathan deBoom	Milk Producers Council
Jack Hagerman	State of California Institution for Men
Gene Koopman	Milk Producers Council
Dana Oldenkamp	Milk Producers Council
Ron LaBrucherie	Crops

Watermaster Board Members Present

Paul Hofer	Agricultural Pool
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Watermaster Staff Present

John Rossi	Chief Executive Officer
Traci Stewart	Chief of Watermaster Services
Sheri Rojo	Accountant/Office Manager
Michelle Lauffer	Water Resources Specialist
Mary Staula	Recording Secretary/Administrative Assistant

Watermaster Consultants Present

Michael Fife	Hatch & Parent
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Others Present

Dan McKinney	Reid & Hellyer
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Chair DeBerard called the meeting to order at 1:15 p.m.

AGENDA - ADDITIONS/REORDER

None

I. CONSENT CALENDAR

A. MINUTES

1. Minutes of the Agricultural Pool meeting held November 13, 2002

B. FINANCIAL REPORTS

1. Cash Disbursement Report - November 2002
2. Combining Schedule Of Revenue, Expenses And Changes In Working Capital For The Period July 1, 2002 through October 31, 2002
3. Treasurer's Report of Financial Affairs For The Period October 1 through October 31, 2002
4. 2002-03 Actual YTD Revenues And Expenses Compared With Adopted 2002-03 Budget

C. RESOLUTION NO. 02-05

A Resolution of Commendation for Anne Dunihue, IEUA Board Member and former Chino Basin Watermaster Board Member.

Motion by Koopman, second by LaBrucherie, and by unanimous vote

Moved, to approve Consent Calendar Items A through C, as presented.

II. BUSINESS ITEMS

Item C was reordered at this time

C. DESIGNATION OF POOL REPRESENTATION ON THE BOARD

The Agricultural Pool members were asked to discuss pool representation on the Watermaster Board during Calendar-Year 2003 for formal action in January. Mr. Rossi stated that according to the schedule for rotation of the Watermaster Board Members, the State would appoint a representative to serve in Calendar-Year 2003. He asked Mr. Hagerman if this matter had been discussed among the State representatives.

Mr. Hagerman reported that the State representatives request their appointment to the Watermaster Board be deferred to Calendar-Year 2004 and recommended the current Agricultural Pool representatives remain on the Board during Calendar-Year 2003.

Mr. Rossi explained that the significance between the State deferring rather than skipping their turn to serve on the Board is that if the State decides to appoint someone next year, they will serve with a Dairy representative and the Crop representative will rotate off. For the record, the State is actually suspending what would have occurred in Calendar-Year 2002, to Calendar-Year 2004.

Motion by Koopman, second by LaBrucherie, and by unanimous vote

Moved, that the current Agricultural Pool representatives continue to serve on the Watermaster Board during Calendar-Year 2003 and the appointment of a State representative be deferred to Calendar-Year 2004.

A. RECHARGE OPERATIONS AGREEMENT

Mr. Rossi explained that the Recharge Operations Agreement between Watermaster, San Bernardino County Flood Control District, Chino Basin Water Conservation District and Inland Empire Utilities Agency sets the framework for operating facilities that are currently being improved to the extent that Watermaster is going to recharge imported water, storm water and recycled water. The premise is that the budget for the increased activities will be picked-up by IEUA and the Watermaster Appropriative Pool and any new yield generated by the additional capture of stormwater above the baseline amounts will accrue to the Appropriative Pool.

For 6-7 months, the agencies have worked together on this agreement, which will improve Watermaster's ability to put water into the ground by approximately 150,000 acre-feet each year.

Motion by Koopman, second by LaBrucherie, and by unanimous vote

Moved, to approve the Recharge Operations Agreement, as presented.

B. MEMORANDUM OF UNDERSTANDING FOR TASK FORCE

Mr. Rossi reported that the Orange County Water District (OCWD) and Inland Empire Utilities Agency (IEUA) governing bodies have approved this Memorandum of Understanding (MOU) establishing goals and a Task Force to coordinate watershed planning and management between the agencies. The MOU came out of discussions with OCWD regarding the Maximum Benefit Demonstration; subsequently, OCWD and IEUA sent letters to the RWQCB supporting the Maximum Benefit Demonstration. The MOU establishes the Task Force for a term of five years to look at issues of interests between the agencies. Any major issues or decisions will continue to come back through the Watermaster process for approval.

Motion by Koopman, second by deBoom, and by unanimous vote

Moved, to approve the Memorandum of Understanding between Orange County Water district, Inland Empire Utilities Agency and Chino Basin Watermaster to establish goals and a Task Force to coordinate certain aspects of water resources management.

D. OBMP STATUS REPORT #5

Mr. Rossi pointed out a few specific items being reported in Status Report #5. Quarterly status reports filed with the Court update accomplishments and highlight key activities by OBMP program element. There were no questions or comments from the pool members.

Motion by Oldenkamp, second by Koopman, and by unanimous vote

Moved, to recommend approval of Status Report #5 for filing with the Court by December 31, 2002.

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

Items 1 and 2 were combined for discussion.

1. Chino Land & Water Co., Inc., Case No. RCV 064284 (Greening Case)
2. Attorney/Managers Meeting(s)

Counsel Fife reported that all of the parties named in this case have been dismissed without prejudice with the exception of Lewis Investment Company. Lengthy discussion ensued whether Watermaster should remain involved. Counsel Fife advised that an Attorney/Managers Meeting would be scheduled in January to discuss this matter in more detail.

3. Colonies Project Recharge-Related Issues

Counsel Fife stated that the RWQCB has issued a Stop Work Order that has halted construction on the Colonies Project at this time. Legal Counsel has investigated the recharge-related issues surrounding the project and the prospect of Watermaster intervening into the case. Counsel will continue to follow this project and report through the Watermaster process until resolution has been reached on the recharge-related issues.

4. Niagara Water Company Well Production

Counsel Fife reported that Niagara has been a reoccurring issue because they continue to pump from the Chino Basin, however they refuse to intervene into the Judgment. Ms. Stewart reported that they are pumping approximately 300 acre-feet each year.

B. CEO/STAFF REPORT

1. AB599 Public Advisory Committee Update

Mr. Rossi handed out a copy of the AB599 Public Advisory Committee's "Findings and Recommendations". He discussed a few of the Committee's recommendations but pointed out that the key element will be getting the State departments to work together on this effort integrating data bases and making them accessible to people who want and need the data. Proposition 50 passed with \$50 million toward this program. However, it will be funded at \$5 million each year over a 10-year period.

A brief discussion ensued regarding Senator Soto's proposed spot bill authorizing the creation of an Inland Empire Water Quality Authority.

2. Maximum Benefit Demonstration Update/Basin Plan Objectives

Mr. Rossi referred earlier to the letter OCWD wrote to the Regional Water Quality Control Board (RWQCB) on December 3 supporting Watermaster's Maximum Benefit Demonstration. OCWD, IEUA and Watermaster had a very positive meeting with the RWQCB staff last Tuesday. There is a process that must be followed before the proposed Maximum Benefit and Basin Plan Objectives can receive State Water Resources Control Board approval.

3. Desalter Mitigation & Operations Recovery Plan

Mr. Rossi, Ms. Stewart, Mr. Wildermuth and Mr. Argo met with Jurupa Community Services

District yesterday to discuss the Desalter Mitigation & Operations Recovery Plan. They plan to schedule a meeting with Milk Producer's Council to review the draft Plan and hope to bring it through the Watermaster approval process in February 2003.

4. AGWA, Mr. Rossi Elected Vice-Chair

AGWA will be implementing a two-year cycle for rotating officers and Mr. Rossi was elected as Vice-Chair for Year 2003. Mr. Mallory will continue to Chair AGWA through 2003 and Mr. Rossi will assume the duties of Chair in 2004 through 2005.

5. Proposition 50 Objectives & Priorities for Funding

Mr. Rossi reported Watermaster and IEUA are working together to get objectives and projects lined up as soon as possible in order to apply for Proposition 50 funds. He will provide an update at the meetings in January.

IV. COMMITTEE MEMBER COMMENTS

Mr. LaBrucherie expressed appreciation of the hard work that has been done and continues to be done by the Watermaster staff and about his previous request regarding monetary recognition.

Mr. Rossi advised that a third Personnel Committee meeting has been scheduled for December 12 following the Watermaster Board Meeting. At that meeting, they will discuss the Employee Handbook and within the Handbook, he has recommended a Merit Program.

V. OTHER BUSINESS

None

VI. FUTURE MEETINGS

January 16, 2003	8:30 a.m.	ANNUAL MEETING of the Non-Agricultural Pool
	10:00 a.m.	ANNUAL MEETING of the Appropriative Pool
	1:00 p.m.	ANNUAL MEETING of the Agricultural Pool
January 30, 2003	10:00 a.m.	ANNUAL MEETING of the Advisory Committee
	1:00 p.m.	ANNUAL MEETING of the Watermaster Board

The meeting adjourned at 2:25 p.m.

Secretary

Minutes Approved: _____

A decorative border consisting of a repeating pattern of water rudders, arranged in a rectangular frame around the central text.

CHINO BASIN WATERMASTER

January 16, 2003

10:00 a.m. - Appropriative Pool Annual Meeting

1:00 p.m. - Agricultural Pool Annual Meeting

AGENDA PACKAGE MATERIALS

A decorative border consisting of a repeating pattern of watermaster tools, which are long-handled, oval-shaped devices used for measuring water flow. The tools are arranged in a rectangular frame around the central text.

CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool Annual Meeting

10:00 a.m. - Appropriative Pool Annual Meeting

1:00 p.m. - Agricultural Pool Annual Meeting

CONSENT CALENDAR

B. FINANCIAL REPORTS

1. Cash Disbursements - December 2002



CHINO BASIN WATERMASTER

8632 Archibald Avenue, Suite 109, Rancho Cucamonga, Ca 91730
Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

JOHN V. ROSSI
Chief Executive Officer

TRACI STEWART
Chief of Watermaster Services

STAFF REPORT

DATE: January 16, 2003
January 30, 2003

TO: Watermaster Committee Members
Watermaster Board Members

SUBJECT: CASH DISBURSEMENT REPORT – December 2002

SUMMARY

Issue – Record of cash disbursements for the month of December 2002.

Recommendation – It is recommended the Committees and Board receive and file the Cash Disbursement Report for December 2002 as presented.

Fiscal Impact – All funds disbursed were included in the FY 2002-03 Watermaster Budget.

BACKGROUND

A monthly cash disbursement report is provided to keep all members apprised of Watermaster expenditures.

DISCUSSION

Total cash disbursements during the month of November were \$922,671.16. The most significant expenditures during the month of December were Inland Empire Utilities Agency in the amount of \$638,727.05; Wildermuth Environmental, Inc. in the amount of \$71,811.44; and Hatch & Parent in the amount of \$36,672.75.

CHINO BASIN WATERMASTER
Cash Disbursement Detail Report
December 2002

Type	Date	Num	Name	Amount
Dec 02				
Bill Pmt -Check	12/4/2002	5176	ARROWHEAD MOUNTAIN SPRING WATER	-15.09
Bill Pmt -Check	12/4/2002	5177	BANK OF AMERICA	-2,056.28
Bill Pmt -Check	12/4/2002	5178	BILL NAPOLI	-120.00
Bill Pmt -Check	12/4/2002	5179	BLACK & VEATCH CORPORATION	-15,005.11
Bill Pmt -Check	12/4/2002	5180	CITIZENS CONFERENCING	-170.56
Bill Pmt -Check	12/4/2002	5181	COLONIAL LIFE & ACCIDENT INSURANCE CO	-93.15
Bill Pmt -Check	12/4/2002	5182	COSTCO	-390.64
Bill Pmt -Check	12/4/2002	5183	ELLISON, SCHNEIDER & HARRIS, LLP	-27,009.02
Bill Pmt -Check	12/4/2002	5184	FEDEX	-12.00
Bill Pmt -Check	12/4/2002	5185	INLAND EMPIRE UTILITIES AGENCY	-632,060.05
Bill Pmt -Check	12/4/2002	5186	INLAND SURGICAL SUPPLY	-75.43
Bill Pmt -Check	12/4/2002	5187	MCCALL'S METER SALES & SERVICE	-3,431.02
Bill Pmt -Check	12/4/2002	5188	MWH LABORATORIES	-549.00
Bill Pmt -Check	12/4/2002	5189	NEXTEL COMMUNICATIONS	-434.57
Bill Pmt -Check	12/4/2002	5190	OFFICE DEPOT	-43.06
Bill Pmt -Check	12/4/2002	5191	PARK PLACE COMPUTER SOLUTIONS, INC	-1,350.00
Bill Pmt -Check	12/4/2002	5192	PAYCHEX	-134.80
Bill Pmt -Check	12/4/2002	5193	PITNEY BOWES CREDIT CORPORATION	-468.72
Bill Pmt -Check	12/4/2002	5194	POWERS ELECTRIC PRODUCTS CO.	-600.60
Bill Pmt -Check	12/4/2002	5195	PUBLIC EMPLOYEES' RETIREMENT SYSTEM	-3,981.29
Bill Pmt -Check	12/4/2002	5196	PUMP CHECK	-701.97
Bill Pmt -Check	12/4/2002	5197	PURCHASE POWER	-1,200.00
Bill Pmt -Check	12/4/2002	5198	RANCHO TECH LLC	-4,368.00
Bill Pmt -Check	12/4/2002	5199	RAUCH COMMUNICATION CONSULTANTS, LLC	-2,372.50
Bill Pmt -Check	12/4/2002	5200	REID & HELLYER	-4,848.35
Bill Pmt -Check	12/4/2002	5201	RICOH BUSINESS SYSTEMS-Maintenance	-730.37
Bill Pmt -Check	12/4/2002	5202	RIVERA WATER PUMP & WELL SERVICE	-48.00
Bill Pmt -Check	12/4/2002	5203	SANTA ANA WATERSHED PROJECT AUTHORITY	-1,000.00
Bill Pmt -Check	12/4/2002	5204	SESSIONWARE INC	-88.95
Bill Pmt -Check	12/4/2002	5205	SOUTHERN CALIFORNIA EDISON	-596.78
Bill Pmt -Check	12/4/2002	5206	STANDARD INSURANCE CO.	-466.45
Bill Pmt -Check	12/4/2002	5207	STATE COMPENSATION INSURANCE FUND	-604.31
Bill Pmt -Check	12/4/2002	5208	VELASQUEZ JANITORIAL	-175.00
Bill Pmt -Check	12/4/2002	5209	VERIZON	-484.76
Bill Pmt -Check	12/4/2002	5210	WHEELER METER MAINTENANCE	-16,093.53
Bill Pmt -Check	12/4/2002	5211	WILDERMUTH ENVIRONMENTAL INC	-1,546.04
Bill Pmt -Check	12/4/2002	5212	WORLDCOM	-945.95
Bill Pmt -Check	12/4/2002	5213	CITISTREET	-7,754.82
Bill Pmt -Check	12/4/2002	5214	PUBLIC EMPLOYEES' RETIREMENT SYSTEM	-3,981.29
Bill Pmt -Check	12/5/2002	5215	PUBLIC EMPLOYEES' RETIREMENT SYSTEM	-3,981.29
Check	12/6/2002	5216	P.C. CLUB	-2,969.30
Check	12/6/2002	5217	ROJO, SHERI M	-862.60
Check	12/10/2002	5218	DJZ AUTOMOTIVE REPAIR	-175.00
Bill Pmt -Check	12/12/2002	5219	ACWA SERVICES CORPORATION	-74.46
Bill Pmt -Check	12/12/2002	5220	APPLIED COMPUTER TECHNOLOGIES	-1,660.10
Bill Pmt -Check	12/12/2002	5221	ARBELBIDE, STEPHEN	-125.00
Bill Pmt -Check	12/12/2002	5222	ASSOCIATION OF CALIFORNIA WATER AGENCIES	-6,715.00
Bill Pmt -Check	12/12/2002	5223	CATLIN, TERRY	-250.00
Bill Pmt -Check	12/12/2002	5224	CHEVRON	-358.40
Bill Pmt -Check	12/12/2002	5225	CHINO BASIN WATER CONSERVATION DISTRICT	-373.50
Bill Pmt -Check	12/12/2002	5226	DU BOIS, GERALD ALLEN	-125.00
Bill Pmt -Check	12/12/2002	5227	FIRST AMERICAN REAL ESTATE SOLUTIONS	-125.00
Bill Pmt -Check	12/12/2002	5228	HATCH AND PARENT	-36,672.75
Bill Pmt -Check	12/12/2002	5229	IDEAL GRAPHICS	-624.00
Bill Pmt -Check	12/12/2002	5230	INLAND COUNTIES INSURANCE SERVICES, INC.	-413.97
Bill Pmt -Check	12/12/2002	5231	INLAND EMPIRE UTILITIES AGENCY	-6,667.00
Bill Pmt -Check	12/12/2002	5232	LAB SAFETY SUPPLY, INC.	-187.85
Bill Pmt -Check	12/12/2002	5233	MCCALL'S METER SALES & SERVICE	-5,391.99
Bill Pmt -Check	12/12/2002	5234	MCGRAW, MICHAEL	-250.00
Bill Pmt -Check	12/12/2002	5235	MWH LABORATORIES	-1,590.00
Bill Pmt -Check	12/12/2002	5236	POWERS ELECTRIC PRODUCTS CO.	-858.00
Bill Pmt -Check	12/12/2002	5237	RAUCH COMMUNICATION CONSULTANTS, LLC	-357.50
Bill Pmt -Check	12/12/2002	5238	RICOH BUSINESS SYSTEMS-Lease	-3,591.31
Bill Pmt -Check	12/12/2002	5239	RICOH BUSINESS SYSTEMS-Maintenance	-648.47
Bill Pmt -Check	12/12/2002	5241	UNITED PARCEL SERVICE	-182.35
Bill Pmt -Check	12/12/2002	5242	VANDEN HEUVEL, GEOFFREY	-125.00
Bill Pmt -Check	12/12/2002	5243	WILDERMUTH ENVIRONMENTAL INC	-70,265.40
Bill Pmt -Check	12/12/2002	5244	YATES, DENNIS	-250.00
Check	12/12/2002	5245	HOMETOWN BUFFET	-340.00



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool Annual Meeting
10:00 a.m. - Appropriative Pool Annual Meeting
1:00 p.m. - Agricultural Pool Annual Meeting

CONSENT CALENDAR

B. FINANCIAL REPORTS

2. Combining Schedule of Revenue, Expenses & Changes
in Working Capital for the period July 1 - November 30, 2002
3. Treasurer's Report of Financial Affairs for the Period
November 1 - November 30, 2002
4. FY 02-03 Actual YTD Revenues & Expenses Compared
with Adopted FY 02-03 Budget

CHINO BASIN WATERMASTER
 COMBINING SCHEDULE OF REVENUE, EXPENSES AND CHANGES IN WORKING CAPITAL
 FOR THE
 PERIOD JULY 1, 2002 THROUGH NOVEMBER 30, 2002

	WATERMASTER ADMINISTRATION	OPTIMUM BASIN MANAGEMENT	POOL ADMINISTRATION AND SPECIAL PROJECTS APPROPRIATIVE POOL	AGRICULTURAL POOL	NON-AGRIC. POOL	GROUNDWATER OPERATIONS GROUNDWATER REPLENISHMENT	SB222 FUNDS	EDUCATION FUNDS	GRAND TOTALS	BUDGET 2002-03
Administrative Revenues									\$0.00	\$3,797,572
Administrative Assessments										
Interest Revenue			19,959.95	\$3,094.48	1,272.06			\$18.86	24,345.35	132,890
Mutual Agency Project Revenue	26,628.93								26,628.93	0
Grant Income									0.00	0
Miscellaneous Income									0.00	0
Total Revenues	26,628.93	\$0.00	19,959.95	3,094.48	1,272.06	\$0.00	\$0.00	18.86	50,974.28	3,930,462
Administrative & Project Expenditures										
Watermaster Administration	240,266.80								240,266.80	752,208
Watermaster Board-Advisory Committee	11,810.07								11,810.07	60,392
Pool Administration			5,938.46	27,385.86	2,105.36				35,429.68	139,782
Optimum Basin Mgmt Administration		420,091.75							420,091.75	891,634
OBMP Project Costs		1,471,651.69							1,471,651.69	3,324,257
Education Funds Use									0.00	375
Mutual Agency Project Costs	38,156.30								38,156.30	2,500
Total Administrative/OBMP Expenses	290,233.17	1,891,743.44	5,938.46	27,385.86	2,105.36				2,217,406.29	5,171,148
Net Administrative/OBMP Income	(263,604.24)	(1,891,743.44)								
Allocate Net Admin Income To Pools	263,604.24		192,033.44	62,754.54	8,816.26				0.00	0
Allocate Net OBMP Income To Pools		1,891,743.44	1,378,118.98	450,355.00	63,269.46				0.00	0
Agricultural Expense Transfer			537,870.40	(537,870.40)					0.00	0
Total Expenses			2,113,961.28	2,625.00	74,191.08	-	-	-	2,217,406.29	5,171,148
Net Administrative Income			(2,094,001.33)	469.48	(72,919.02)			18.86	(2,166,432.01)	(1,240,686)
Other Income/Expense										
MZ1 Assigned Water Sales									0.00	615,000
MZ1 Supplemental Water Assessments						1,586,000.00			1,586,000.00	1,670,049
Water Purchases									0.00	0
MZ1 Imported Water Purchase									0.00	(699,000)
Groundwater Replenishment						(1,333,066.90)			(1,333,066.90)	(1,586,049)
Net Other Income			0.00	0.00	0.00	252,933.10	0.00	0.00	252,933.10	0
Net Transfers To/(From) Reserves			(2,094,001.33)	469.48	(72,919.02)	252,933.10	-	18.86	(1,913,498.91)	(1,240,686)
Working Capital, July 1, 2002			2,916,003.13	468,150.31	175,804.57	204,947.95	158,250.86	2,845.07	3,926,001.89	
Working Capital, End Of Period			\$ 822,001.80	\$ 468,919.79	\$ 102,865.55	\$ 457,881.05	\$ 158,250.86	\$ 2,863.93	\$ 2,012,502.98	
01/02 Production			120,855.574	39,494,349	5,548,481				165,898,404	
01/02 Production Percentages			72.849%	23.806%	3.345%				100.000%	

CHINO BASI .TERMASTER
 TREASURER'S REPORT OF FIN. ...CIAL AFFAIRS FOR THE PERIOD
 NOVEMBER 1 THROUGH NOVEMBER 30, 2002

SUMMARY at 11/30/2002

DEPOSITORIES:			
Cash on Hand - Petty Cash		\$	500.00
Bank of America			
Governmental Checking-Demand Deposits	\$163,714.46		
Savings Deposits	9,568.59		
Zero Balance Account - Payroll	0.00		173,283.05
Local Agency Investment Fund - Sacramento			<u>2,500,580.04</u>
TOTAL CASH IN BANKS AND ON HAND	11/30/2002	\$	2,674,363.09
TOTAL CASH IN BANKS AND ON HAND	10/31/2002		2,257,145.59
PERIOD INCREASE (DECREASE)		\$	<u>417,217.50</u>

CHANGE IN CASH POSITION DUE TO:

Decrease/(Increase) in Assets:	Accounts Receivable	(6,883.41)
	Assessments Receivable	1,079,368.16
	Prepaid Expenses, Deposits & Other Current Assets	(2,209.73)
(Decrease)/Increase in Liabilities:	Accounts Payable	311,016.60
	Accrued Payroll, Payroll Taxes & Other Current Liabilities	234.94
	Transfer to/(from) Reserves	<u>(964,309.06)</u>
PERIOD INCREASE (DECREASE)		<u>\$ 417,217.50</u>

SUMMARY OF FINANCIAL TRANSACTIONS:

	Petty Cash	Govt'l Checking Demand	Zero Balance Account Payroll	Savings	Local Agency Investment Funds	Totals
Balances as of 10/31/2002	\$500.00	(\$3,503.04)	\$0.00	\$9,568.59	\$2,250,580.04	\$2,257,145.59
Deposits		1,079,633.04	0.00	0.00	950,000.00	2,029,633.04
Transfers		700,000.00	37,013.32	0.00	(700,000.00)	37,013.32
Withdrawals/Checks		(1,612,415.54)	(37,013.32)	0.00	0.00	(1,649,428.86)
Balances as of 11/30/2002	<u>\$500.00</u>	<u>\$163,714.46</u>	<u>\$0.00</u>	<u>\$9,568.59</u>	<u>\$2,500,580.04</u>	<u>\$2,674,363.09</u>
PERIOD INCREASE OR (DECREASE)	<u>\$0.00</u>	<u>\$167,217.50</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$250,000.00</u>	<u>\$417,217.50</u>

CHINO BASIN WATERMASTER
2002/2003 ACTUAL YEAR TO DATE REVENUES AND EXPENSES
COMPARED WITH ADOPTED 2002/2003 BUDGET

	<u>Jul - Nov 02</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
Ordinary Income/Expense				
Income				
4010 · Local Agency Subsidies	26,628.93	20,000.00	6,628.93	133.15%
4110 · Admin Asmnts-Approp Pool	0.00	3,580,590.00	-3,580,590.00	0.0%
4120 · Admin Asmnts-Non-Agri Pool	0.00	196,982.00	-196,982.00	0.0%
4200 · Grants	0.00	0.00	0.00	0.0%
4700 · Non Operating Revenues	24,345.35	132,890.00	-108,544.65	18.32%
4900 · Miscellaneous income	0.00	0.00	0.00	0.0%
Total Income	<u>50,974.28</u>	<u>3,930,462.00</u>	<u>-3,879,487.72</u>	<u>1.3%</u>
Gross Profit	50,974.28	3,930,462.00	-3,879,487.72	1.3%
Expense				
6010 · Salary Costs	156,136.01	414,173.00	-258,036.99	37.7%
6020 · Office Building Expense	33,766.60	123,845.00	-90,078.40	27.27%
6030 · Office Supplies & Equip.	13,118.93	27,500.00	-14,381.07	47.71%
6040 · Postage & Printing Costs	25,559.04	72,450.00	-46,890.96	35.28%
6050 · Information Services	34,875.68	101,800.00	-66,924.32	34.26%
6061 · Other Consultants	9,483.24	29,000.00	-19,516.76	32.7%
6062 · Audit Services	0.00	5,000.00	-5,000.00	0.0%
6063 · Public Relations Consultan	0.00	12,000.00	-12,000.00	0.0%
6065 · MWD Connection Fee	6,500.00	15,600.00	-9,100.00	41.67%
6066 · Engineering Services	0.00	90,000.00	-90,000.00	0.0%
6067.1 · General Counsel	27,841.46	71,000.00	-43,158.54	39.21%
6067.2 · Legal Services -Markot	90.36	5,000.00	-4,909.64	1.81%
6080 · Insurance	5,974.65	11,210.00	-5,235.35	53.3%
6110 · Dues and Subscriptions	10,166.15	13,500.00	-3,333.85	75.31%
6140 · Other WM Admin Expenses	801.43	2,300.00	-1,498.57	34.85%
6150 · Field Supplies	1,677.00	3,950.00	-2,273.00	42.46%
6170 · Travel & Transportation	9,719.85	25,500.00	-15,780.15	38.12%
6190 · Conferences & Seminars	6,636.31	14,500.00	-7,863.69	45.77%
6200 · Advisory Comm · WM Board	6,203.36	17,870.00	-11,666.64	34.71%
6300 · Watermaster Board Expenses	11,810.07	42,522.00	-30,711.93	27.77%
8300 · Appr PI-WM & Pool Admin	5,938.46	16,310.00	-10,371.54	36.41%
8400 · Agri Pool-WM & Pool Admin	7,542.76	18,710.00	-11,167.24	40.31%
8467 · Agri-Pool Legal Services	17,218.10	83,000.00	-65,781.90	20.75%
8470 · Ag Meeting Attend -Special	2,625.00	17,300.00	-14,675.00	15.17%
8500 · Non-Ag PI-WM & Pool Admin	2,105.36	4,462.00	-2,356.64	47.18%
6500 · Education Funds Use Expens	0.00	375.00	-375.00	0.0%
9500 · Allocated G&A Expenditures	-108,283.27	-286,120.00	177,836.73	37.85%
Subtotal Administrative Expenses	<u>287,506.55</u>	<u>952,757.00</u>	<u>-665,250.45</u>	<u>30.18%</u>
6900 · Optimum Basin Mgmt Plan	391,389.56	810,777.00	-419,387.44	48.27%
6950 · Mutual Agency Projects	38,156.30	2,500.00	35,656.30	1,526.25%
9501 · G&A Expenses Allocated-OBMP	28,702.19	80,857.00	-52,154.81	35.5%
Subtotal OBMP Expenses	<u>458,248.05</u>	<u>894,134.00</u>	<u>-435,885.95</u>	<u>51.25%</u>



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool Annual Meeting

10:00 a.m. - Appropriative Pool Annual Meeting

1:00 p.m. - Agricultural Pool Annual Meeting

CONSENT CALENDAR

C. INDEPENDENT AUDITOR'S REPORT
FINANCIAL STATEMENTS
YEAR ENDED JUNE 2002



CHINO BASIN WATERMASTER

8632 Archibald Avenue, Suite 109, Rancho Cucamonga, Ca 91730

Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

JOHN V. ROSSI
Chief Executive Officer

TRACI STEWART
Chief of Watermaster Services

STAFF REPORT

DATE: January 16, 2003
January 30, 2003

TO: Watermaster Committee Members
Watermaster Board Members

SUBJECT: ANNUAL AUDIT REPORT - FISCALYEAR 2001-2002

SUMMARY

Issue - Fiscal Year 2001-02 Independent Audit Report

Recommendation – Receive and file the FY 2001-02 Independent Auditor's Report as prepared by Conrad and Associates, L.L.P

Fiscal Impact - None

BACKGROUND

Pursuant to the Judgment, Paragraph 48, Watermaster Reports and Accounting, Watermaster's Annual Report shall contain "a certified audit of all assessments and expenditures pursuant to this Physical Solution".

DISCUSSION

Conrad and Associates, L.L.P. performed Watermaster's annual audit and their Independent Auditor's Report dated September 11, 2002 concludes that the financial statements "present fairly, in all material respects, the financial position of the Chino Basin Watermaster as of June 30, 2002 and the results of its operations for the year then ended in conformity with accounting principles generally accepted in the United States of America."

CHINO BASIN WATERMASTER

Financial Statements

Year Ended June 30, 2002
(With Independent Auditor's Report Thereon)

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Board of Directors
Chino Basin Watermaster
Rancho Cucamonga, California

Independent Auditors' Report

We have audited the accompanying financial statements of the Chino Basin Watermaster as of and for the year ended June 30, 2002, as listed in the accompanying table of contents. These financial statements are the responsibility of the Chino Basin Watermaster's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Chino Basin Watermaster as of June 30, 2002 and the results of its operations for the year then ended in conformity with accounting principles generally accepted in the United States of America.

Our audit was made for the purpose of forming an opinion on the financial statements taken as a whole. The supplementary information listed in the accompanying table of contents is presented for purposes of additional analysis and is not a required part of the financial statements. Such information has been subjected to the auditing procedures applied in the audit of the financial statements, and, in our opinion, is fairly stated in all material respects in relation to the financial statements taken as a whole.

Conrad and Associates, L.L.P.

September 11, 2002

LAKE HANO BASIN WATERMASTER
Balance Sheet - All Fund Types and Account Groups
June 30, 2002

<u>Assets</u>	General Fund	General Fixed Assets Account Group	Totals (Memorandum Only)	
			2002	2001
Cash (note 2)	\$ 85,082		\$ 85,082	\$ 47,538
Short-term investments (note 2)	4,045,244		4,045,244	2,931,513
Accounts receivable	108,905		108,905	49,125
Prepaid expenses	30,976		30,976	26,614
Property and equipment, at cost (note 3)		\$ 237,434	237,434	237,434
Total assets	\$4,270,207	\$ 237,434	\$4,507,641	\$3,292,224
 <u>Liabilities and Fund Equity</u>				
Accounts payable and accrued liabilities	\$ 261,958		\$ 261,958	\$ 313,435
Compensated absences payable (Note 4)	82,248		82,248	72,561
Total liabilities	344,206		344,206	385,996
 Fund Equity				
Investment in general fixed assets		\$ 237,434	237,434	237,434
Fund balance:				
Reserved for:				
SB222 expenditures (Note 6)	158,251		158,251	158,251
Groundwater replenishment	204,948		204,948	192,972
Appropriative pool	2,936,186		2,936,186	1,778,081
Agricultural pool (Note 7)	448,150		448,150	447,193
Non-agricultural pool	175,621		175,621	89,179
Educational programs	2,845		2,845	3,118
Total fund equity	3,926,001	237,434	4,163,435	2,906,228
Total liabilities and fund equity	\$4,270,207	\$ 237,434	\$4,507,641	\$3,292,224

**CHINO BASIN WATERMASTER
NOTES TO THE FINANCIAL STATEMENTS
FOR THE FISCAL YEAR ENDED JUNE 30, 2002**

NOTE 1 – REPORTING ENTITY AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Description of Reporting Entity

The Chino Basin Watermaster ("Watermaster") was established under a judgment entered in Superior Court of the State of California for the County of San Bernardino as a result of Case No. RCV 51010 (formerly Case No. SCV 164327) entitled "Chino Basin Municipal Water District v. City of Chino et al", signed by the Honorable Judge Howard B. Wiener on January 27, 1978. The effective date of this Judgment for accounting and operations was July 1, 1977.

Pursuant to the Judgment, the Chino Basin Municipal Water District (CBMWD) five (5) member Board of Directors was initially appointed "Watermaster". Their term of appointment as Watermaster was for five (5) years, and the Court, by subsequent orders, provides for successive terms or for a successor Watermaster. Pursuant to a recommendation of the Advisory Committee, the Honorable J. Michael Gunn appointed a nine-member board as Watermaster on September 28, 2000.

Under the Judgment, three (3) Pool committees were formed: (1) Overlying (Agricultural) Pool which includes the State of California and all producers of water for overlying uses other than industrial or commercial purposes; (2) Overlying (Non-Agricultural) Pool which represents producers of water for overlying industrial or commercial (non-agricultural) purposes; and (3) Appropriative Pool which represents cities, districts, other public or private entities and utilities. The three Pools act together to form the "Advisory Committee".

The Watermaster provides the Chino Groundwater Basin service area with services which primarily include: accounting for water appropriations and components of acre-footage of stored water by agency, purchase of replenishment water, groundwater monitoring and implementation of special projects.

Watermaster expenditures are allocated to the Pools based on the prior year's production volume (or the same percentage used to set the annual assessments). Allocations for fiscal year 2001-02 expenses are based on the 2000-01 production volume.

	2000-01	
	Acre Feet	%
Appropriative Pool	113,437	70.251
Agricultural Pool	39,954	24.743
Non-Agricultural Pool	8,084	5.006
Total Production	161,475	100.000

The Agricultural Pool members ratified an agreement with the Appropriative Pool at their meeting of June 16, 1988, wherein the Appropriative Pool assumes Agricultural Pool administrative expenses and special project cost allocations in exchange for an accelerated transfer of unpumped agricultural water to the Appropriative Pool. In addition the Agricultural Pool transferred all pool administrative reserves at June 30, 1988 to the Appropriative Pool effective July 1, 1988.

In July of 2000, the principal parties in the Basin signed an agreement, known as the Peace Agreement, which among other things formalized the commitment of the Basin parties to implement an Optimum Basin Management Program. The Peace Agreement was signed by all of the parties, and the Court has approved the agreement and ordered the Watermaster to proceed in accordance with the terms of the agreement. The Court has approved revisions to the Chino Basin Watermaster Rules and Regulations.

The accounting policies of the Watermaster conform to generally accepted accounting principles as applicable to governmental units. The following is a summary of the more significant policies.

Category 3

- Includes uncollateralized deposits or deposits with collateralized securities held by the pledging financial institution or by its trust department or agent, but not in the Watermaster's name.
- Includes uninsured and unregistered investments for which securities are held by the broker or dealer or by its trust department or agent but not in the Watermaster's name.

In accordance with Government Accounting Standards Board Statement Number 3 ("GASB 3") criteria, the Watermaster's deposits and investments are categorized as follows for the year ended June 30, 2002:

	Categories			Bank Balance	Carrying Amount
	1	2	3		
DEPOSITS					
Demand deposits	\$179,494	\$0	\$0	\$179,494	\$85,082
INVESTMENTS					
Pooled funds:					
Local Agency Investment Funds (LAIF)*	0	0	0	4,045,244	4,045,244
Total deposits and investments	<u>\$179,494</u>	<u>\$0</u>	<u>\$0</u>	<u>\$4,224,738</u>	<u>\$4,130,326</u>

*Monies pooled with the State Treasurer in the Local Agency Investment Fund (LAIF) are not subject to risk categorization.

The bank balance reflects the amount credited by a financial institution to the Watermaster's account as opposed to the Watermaster's own ledger balance for the account. The carrying value reflects the ledger value, which includes checks written by the Watermaster, which have not cleared the bank as of June 30, 2002. As of June 30, 2002, \$79,494 of the amount carried at Bank of America was in excess of federally insured limits.

The Watermaster is a voluntary participant in the Local Agency Investment Fund (LAIF) that is regulated by California Government Code Section 16429 under the oversight of the Treasurer of the State of California. The fair value of Watermaster's investment in this pool is reported in the accompanying financial statements at amounts based upon Watermaster's pro-rata share of the fair value provided by LAIF for the entire LAIF portfolio (in relation to the amortized cost of that portfolio). The balance available for withdrawal is based on the investment accounting records maintained by LAIF, which are recorded on an amortized cost basis. Included in LAIF's investment portfolio are collateralized mortgage obligations, mortgage-backed securities, other asset-backed securities, loans to certain state funds, and floating rate securities issued by federal agencies, government-sponsored enterprises and corporations.

NOTE 3 -- CHANGES IN GENERAL FIXED ASSETS

A summary of changes in general fixed assets for the year ended June 30, 2002 is as follows:

General fixed assets at June 30, 2001	\$237,434
Additions	0
Deletions	<u>(0)</u>
General fixed assets at June 30, 2002	<u>\$237,434</u>

NOTE 10 – EMPLOYEE RETIREMENT PLAN

Plan Description and Provision

The Watermaster contributes to the California Public Employees' Retirement System (PERS), an agent multiple-employer public employee defined benefit pension plan. PERS provides retirement, disability benefits, annual cost-of-living adjustments, and death benefits to plan members and beneficiaries. PERS acts as a common investment and administrative agent for participating public entities within the State of California. Benefit provisions and all other requirements are established by state statute and Watermaster resolutions. Copies of PERS' annual financial report may be obtained from its executive office at 400 "P" Street, Sacramento, California 95814.

Funding Policy

Participants are required to contribute 7% of their annual covered salary. The Watermaster makes the contribution required by the employees on their behalf and for their account. The Watermaster is required to contribute at an actuarially determined rate. The current rate is 12.754% of annual covered payroll. The contribution requirements of plan members and the Watermaster are established and may be amended by PERS.

Annual Pension Cost

For the fiscal year ended June 30, 2002, Watermaster's annual pension cost (APC) of \$96,279 was equal to the Watermaster's required and actual contributions. The contribution required for the year ended June 30, 2002 was based upon the June 30, 1999 actuarial valuation using the entry age normal cost method. The actuarial assumptions included (a) 8.25% investment rate of return (net of administrative expenses), (b) projected annual salary increases that vary by duration of service, and (c) 2% per year cost-of-living adjustments. Both (a) and (b) included an inflation component of 3.5%.

The actuarial value of PERS assets was determined using techniques that smooth the effects of short-term volatility in the market value of investments over a four-year period (smoothed market value). PERS' unfunded actuarial accrued liability is being amortized as a level percentage of projected payroll on a closed basis with an average remaining amortization period of 19 years as of June 30, 2001.

Three-Year Trend Information for PERS

Three-Year Trend Information

<u>Fiscal Year</u>	<u>Annual Pension Cost (APC) (Employer Contribution)</u>	<u>Percentage of APC Contributed</u>	<u>Net Pension Obligation</u>
6/30/99	\$ 65,493	100%	-0-
6/30/00	58,089	100%	-0-
6/30/01	96,279	100%	-0-

Required Supplementary Information

<u>Valuation Date</u>	<u>Entry Age Normal Accrued Liability</u>	<u>Actuarial Value of Assets</u>	<u>Unfunded Liability</u>	<u>Funded Status</u>	<u>Annual Covered Payroll</u>	<u>*UAAL As a % of Payroll</u>
6/30/99	\$ 42,110	41,962	148	99.6%	258,820	(0.1%)
6/30/00	124,832	116,301	8,531	93.2%	333,316	(2.6%)
6/30/01	192,890	178,838	14,052	92.7%	291,502	(4.8%)

*UAAL refers to unfunded actuarial accrued liability.

CHINO BASIN WATERMASTER
COMBINING SCHEDULE OF REVENUE, EXPENSES AND CHANGES IN WORKING CAPITAL
FOR THE
PERIOD JULY 1, 2001 THROUGH JUNE 30, 2002

	WATERMASTER ADMINISTRATION	OPTIMUM BASIN MANAGEMENT	POOL ADMINISTRATION AND SPECIAL PROJECTS APPROPRIATIVE POOL	AGRICULTURAL POOL	NON-AGRIC. POOL	GROUNDWATER OPERATIONS GROUNDWATER REPLENISHMENT	SB222 FUNDS	EDUCATION FUNDS	GRAND TOTALS	Amended BUDGET 2001-02
Administrative Revenues			\$4,241,553.41		\$241,960.00				\$4,483,513.41	\$3,740,487
Administrative Assessments								\$101.31	118,608.12	117,225
Interest Revenue			97,379.97	\$15,982.97	5,143.87				8,974.13	
Mutual Agency Project Revenue	\$8,974.13								70,150.87	
Grant Income	70,150.87								43.45	0
Miscellaneous Income	43.45									
Total Revenues	85,188.45	\$0.00	4,338,933.38	15,982.97	247,104.03	\$0.00	\$0.00	101.31	4,607,290.94	3,863,712
Administrative & Project Expenditures									836,650.25	881,742
Watermaster Administration	836,650.25								82,463.89	83,858
Watermaster Board-Advisory Committee	62,463.89								142,213.77	143,058
Pool Administration			15,238.27	120,311.10	6,688.40				808,674.88	802,131
Optimum Basin Mgmt Administration		808,674.88							1,438,482.28	2,884,944
OBMP Project Costs		1,438,482.28							-375.00	0
Education Funds Use							375.00		103,504.00	100,504
Mutual Agency Project Costs	103,504.00								3,480,334.07	4,804,237
Total Administrative/OBMP Expenses	1,102,608.14	2,245,137.16	15,238.27	120,311.10	6,688.40		375.00			
Net Administrative/OBMP Income	(1,017,439.69)	(2,245,137.16)								
Allocate Net Admin Income To Pools	1,017,439.69		714,761.59	251,746.10	50,933.93				0.00	
Allocate Net OBMP Income To Pools		2,245,137.16	1,577,231.31	555,614.29	112,391.57				0.00	
Agricultural Expense Transfer			912,545.49	(912,545.49)					0.00	
Total Expenses			3,219,774.62	15,025.00	169,991.00	-	0.00	375.00	3,480,334.07	4,804,237
Net Administrative Income			1,119,168.78	957.97	77,113.03			(273.69)	1,190,956.87	(940,525)
Other Income/Expense										
Replenishment Water Assessments			38,946.40		9,329.20	0.00			48,276.60	48,276.00
MZ1 Supplemental Water Assessments						1,579,500.04			1,579,500.04	1,579,500
Water Purchases									0.00	50
SB222 Cyclic Storage Program									0.00	
Pre-purchased Replenishment Water									0.00	
MZ1 Supplemental Water						(1,597,524.10)	0.00		(1,597,524.10)	(1,827,788)
Net Other Income			38,946.40	0.00	9,329.20	11,975.94	0.00	0.00	80,251.54	58
Net Income			1,158,105.18	957.97	86,443.03	11,975.94	-	(273.69)	1,257,208.41	(940,407)
Working Capital, July 1, 2001			1,767,897.97	407,182.34	89,301.54	192,972.01	158,250.88	3,118.76	2,668,703.46	
Working Capital, End Of Period			\$ 2,916,003.13	\$ 488,150.31	\$ 175,804.57	\$ 204,947.95	\$ 158,250.88	\$ 2,845.07	\$ 3,928,001.89	
10/01 Production			113,437,249	39,954,400	8,083,777				161,475,488	
10/01 Production Percentages			70.251%	24.743%	5.006%				100.000%	



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool Annual Meeting

10:00 a.m. - Appropriative Pool Annual Meeting

1:00 p.m. - Agricultural Pool Annual Meeting

CONSENT CALENDAR

D. NOTICE OF INTENT
CHANGE OPERATING SAFE YIELD



CHINO BASIN WATERMASTER

8632 Archibald Avenue, Suite 109, Rancho Cucamonga, Ca 91730
Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

JOHN V. ROSSI
Chief Executive Officer

TRACI STEWART
Chief of Watermaster Services

STAFF REPORT

DATE: January 16, 2003
January 30, 2003

TO: Watermaster Committee Members
Watermaster Board Members

SUBJECT: Annual Filing Of Notice Of Intent Regarding the Determination Of Operating Safe Yield

Summary

Issue – Record keeping to remain in compliance with the Chino Basin Watermaster Judgment.

Recommendation - Approve the filing of Watermaster's "Notice of Intent to Change the Operating Safe Yield of the Chino Groundwater Basin" as part of its Twenty-Fifth Annual Report.

Fiscal Impact - None

Background

The Watermaster has closed its twenty-fifth year of operation under the Judgment (for accounting purposes, the Judgment became effective July 1, 1977). Pursuant to Exhibit I, Paragraph 2b of the Judgment, Quantitative Limits, "Operating Safe Yield shall not be changed upon less than (5) years' notice by Watermaster."

Discussion

In an effort to comply with the Judgment requirement that a five-year notice of change be provided should a re-determined of the safe yield of the Chino Basin be made, Watermaster has approved inclusion of its Notice of Intent in each annual report of Watermaster activities since 1982.

**WATERMASTER'S "NOTICE OF INTENT"
TO CHANGE THE OPERATING SAFE YIELD
OF THE CHINO GROUNDWATER BASIN**

PLEASE TAKE NOTICE that on this 30th day of January 2003, Chino Basin Watermaster hereby files this 'NOTICE OF INTENT' to change the operating safe yield of the Chino Groundwater Basin pursuant to the Judgment entered in Chino Basin Municipal Water District v. City of Chino, et al., San Bernardino Superior Court, Case No. RCV 51010 (formerly Case No. 164327) (Exhibit I, Paragraph 2b, Page 80).

Approved by:

**CHINO BASIN WATERMASTER
ADVISORY COMMITTEE**

**CHINO BASIN WATERMASTER
BOARD OF DIRECTORS**

By: _____
Chair

By: _____
Chair

**ATTEST:
CHINO BASIN WATERMASTER
BOARD OF DIRECTORS**

By: _____
Secretary/Treasurer



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool Annual Meeting
10:00 a.m. - Appropriative Pool Annual Meeting
1:00 p.m. - Agricultural Pool Annual Meeting

CONSENT CALENDAR

E. RESOLUTION 03-01,
AUTHORIZING & DESIGNATING
SIGNATORIES FINANCIAL TRANSACTIONS



CHINO BASIN WATERMASTER

8632 Archibald Avenue, Suite 109, Rancho Cucamonga, Ca 91730
Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

JOHN V. ROSSI
Chief Executive Officer

TRACI STEWART
Chief of Watermaster Services

STAFF REPORT

DATE: January 16, 2003
January 30, 2003

TO: Watermaster Committee Members
Watermaster Board Members

SUBJECT: Resolution 03-01, a Resolution Authorizing and Designating Signatories

Summary

Issue – Annual Signature Designations

Recommendations - Approve Resolution 03-01 authorizing and designating signatories of depository agreements, depository cards and deposits, transfers and withdrawals of funds, for annual record keeping purposes.

Fiscal Impact – None.

Background

The Watermaster Board adopted Resolution 01-08 on June 28, 2001 to include the Chief Executive Officer as an authorized designated signatory. There have been no changes to the signature resolution since that time.

DISCUSSION

Resolution 03-01 is presented for annual record keeping purpose only and will rescind Resolution 01-08.

**RESOLUTION 03-01
RESOLUTION OF THE CHINO BASIN WATERMASTER,
AUTHORIZING AND DESIGNATING SIGNATORIES OF
DEPOSITORY AGREEMENTS, DEPOSITORY CARDS AND
DEPOSITS, TRANSFERS AND WITHDRAWALS OF FUNDS**

WHEREAS, certain Depository Agreements and Depository Signatories were authorized which now need to be revised; and

WHEREAS, Watermaster proposes to hire an outside firm to provide payroll services, using a separate bank checking account established for this purpose; and

WHEREAS, two separate checking accounts and one savings account will be required in order to maintain the proper controls over all liquid assets.

NOW, THEREFORE, BE IT RESOLVED, by the Watermaster as follows:

- Section 1. Depository Agreements - Checking Accounts. The Watermaster Office Manager/Accountant is hereby authorized to enter into and execute agreements for deposit of Watermaster funds in two (2) bank accounts. In so doing Watermaster Office Manager/Accountant will act in accordance with Section 53630 et seq. of the Government Code as applicable.
- A. Regular Checking Account - all receipts of Watermaster funds will be deposited in this Checking Account; and all checks, other than payroll or payroll-related checks, will be drawn against this account.
- B. Payroll Account - funds sufficient to cover bi-weekly payroll costs including net wages, related payroll taxes and employee authorized deductions, will be deposited bi-weekly in this account in accordance with the agreement entered into between Watermaster and the contractor.
- Section 2. Depository Cards - All Accounts. That the persons authorized and directed to execute depository cards for all bank accounts of the Chino Basin Watermaster (including LAIF) are designated as follows:
- A. Watermaster Officers:
- Chairman
Vice-Chairman
Secretary/Treasurer
- B. Watermaster Services Representatives:
- Chief Executive Officer
Chief of Watermaster Services
Controller
Office Manager/Accountant
- Section 3. Signing of Checks. That checks of the Chino Basin Watermaster may be signed by certain persons as follows. Facsimile signatures are not acceptable.
- A. Any check up to \$1,000 may be signed by any one person authorized under Section 2 above.



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool Annual Meeting

10:00 a.m. - Appropriative Pool Annual Meeting

1:00 p.m. - Agricultural Pool Annual Meeting

CONSENT CALENDAR

F. WATER TRANSACTION



CHINO BASIN WATERMASTER

8632 Archibald Avenue, Suite 109, Rancho Cucamonga, Ca 91730
Tel: (909) 484.3888 Fax: (909) 484-3890 www.cbwm.org

JOHN V. ROSSI
Chief Executive Officer

TRACI STEWART
Chief of Watermaster Services

DATE: January 16, 2003
TO: Watermaster Committee Members
SUBJECT: Summary and Analysis of Application for Water Transaction

Summary

There does not appear to be a potential material physical injury to a party or to the basin from the proposed transaction as presented.

Issue - Lease of Water Production Rights from the City of Pomona to the Fontana Water Company in the amount of 2,500 acre-feet for fiscal year 2002-03.

Recommendation –

1. Continue monitoring as planned in the Optimum Basin Management Program.
2. Use all new or revised information when analyzing the hydrologic balance and report to Watermaster if a potential for material physical injury is discovered, and
3. Approve the transaction as presented.

Fiscal Impact –

- None
- Reduces assessments under the 85/15 rule
- Reduce desalter replenishment costs

Background

The Court approved the Peace Agreement, the Implementation Plan and the goals and objectives identified in the OBMP Phase I Report on July 13, 2000 and ordered Watermaster to proceed in a manner consistent with the Peace Agreement. Under the Peace Agreement, Watermaster approval is required for applications to store, recapture, recharge or transfer water, as well as for applications for credits or reimbursements and storage and recovery programs.

Where there is no material physical injury, Watermaster must approve the transaction. Where the request for Watermaster approval is submitted by a party to the Judgment, there is a rebuttable presumption that most of the transactions do not result in Material Physical Injury to a party to the Judgment or the Basin (Storage and Recovery Programs do not have this presumption).

The following application for a water transaction is attached with the notice of application.

- Lease of Water Production Rights from the City of Pomona to the Fontana Water Company in the amount of 2,500 acre-feet for fiscal year 2002-03.
-

Notice of the water transaction(s) identified above was mailed December 11, 2002 along with the materials submitted by the requestors.

DISCUSSION

This transfer occurs between a producer located primarily in Management Zone 1 to a producer located primarily in Management Zone 3. The transfer is consistent with maintaining the hydrologic balance in MZ1.

Water transactions occur each year and are included as production by the respective entity (if produced) in any relevant analyses conducted by Wildermuth Environmental pursuant to the Peace Agreement and the Rules & Regulations. There is no indication additional analysis regarding these transactions is necessary at this time. As part of the OBMP Implementation Plan, continued measurement of water levels and the installation of extensometers are planned. Based on no real change in the available data, we cannot conclude that the proposed water transaction will cause material physical injury to a party or to the Basin.

NOTICE OF APPLICATION(S) RECEIVED

Date of Applications: **December 3, 2002** Date of this notice: **December 11, 2002**

Please take notice that the following Application has been received by Watermaster:

- A. Lease of water production rights from the City of Pomona to the Fontana Water Company in the amount of 2,500.000 acre-feet .

This *Application* will first be considered by each of the respective pool committees on the following dates:

Agricultural Pool:	January 16, 2002
Appropriative Pool:	January 16, 2002
Non-Agricultural Pool:	January 16, 2002

This *Application* will be scheduled for consideration by the Advisory Committee *no earlier than thirty days from the date of this notice and a minimum of twenty-one calendar days* after the last pool committee reviews it.

After consideration by the Advisory Committee, the *Application* will be considered by the Board.

Unless the *Application* is amended, parties to the Judgment may file *Contests* to the *Application* with Watermaster *within seven calendar days* of when the last pool committee considers it. Any *Contest* must be in writing and state the basis of the *Contest*.

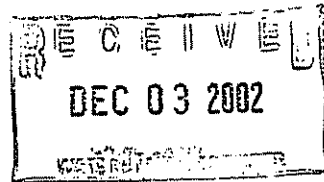
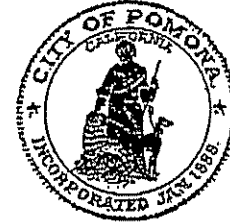
Watermaster address:

Chino Basin Watermaster
8632 Archibald Ave., Suite 109
Rancho Cucamonga, CA 91730

Tel: (909) 484-3888
Fax: (909) 484-3890

THE CITY OF
POMONA

Utility Services Department



HENRY PEPPER
Utility Services Director

VIA TELEFAX (909) 484-3890 AND U.S. MAIL

December 3, 2002

Ms. Traci Stewart
Chief of Watermaster Services
Chino Basin Watermaster
8632 Archibald Avenue, Suite 109
Rancho Cucamonga, CA 91730

RE: Lease of Water Production Rights in Chino Basin, FY 2002/2003

Dear Traci:

This letter is to notify Watermaster of the lease of 2,500 acre feet of water from the City of Pomona's production rights to Fontana Water Company. This lease is made first from the City of Pomona's net underproduction in FY 2002/2003, with any remainder to be recaptured from storage. Enclosed are executed Chino Basin Watermaster Form Nos. 5 and 7. Please advise Mike McGraw and me as to when this matter will be scheduled on the appropriate Watermaster agendas.

Sincerely,


Henry Pepper
Utility Services Director

HP:gc

Enclosures: Chino Basin Watermaster Form Nos. 5 and 7

cc: Michael J. McGraw, General Manager, Fontana Water Company
Jim Taylor, Water/Wastewater Operations Manager

I:\usadmin\henry\TS FY 02/03 Lease to Fontana Water Co.

APPLICATION
TO
ASSIGN, TRANSFER OR LEASE WATER RIGHTS

Fiscal Year 2002 - 2003

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
The City of Pomona ("Lessor") has leased to Fontana Water Company ("Lessee"), commencing
on July 1, 2002 and terminating on June 30, 2003 the quantity of 2,500 acre-feet of
corresponding shares of Initial Operating Safe Yield (Appropriative Pool) or Safe Yield (Non-Agricultural
Pool) adjudicated to Lessor or its predecessor in interest in Judgment rendered in the Case of "CHINO
BASIN MUNICIPAL WATER DISTRICT vs. CITY OF CHINO; et al.," RCV 51010 (formerly Case No. SCV
164327).

Said lease was conditioned upon:

- (1) Lessee shall exercise said right on behalf of Lessor under the terms of the Judgment and for the period described above. The first water produced in any year shall be that produced pursuant to carry-over rights defined in the Judgment. After production of its carry-over rights, if any, the next (or first if no carry-over rights) water produced by Lessee from the Chino Basin shall be that produced hereunder.
- (2) Lessee shall put all waters utilized pursuant to said assignment to reasonable beneficial use.
- (3) Lessee shall pay all Watermaster assessments on account of the water production hereby leased.
- (4) Any Lessee not already a party must intervene and become a party to the Judgment.

TO BE EXECUTED by both Lessor and Lessee and if separately requested by Watermaster, to be accompanied by a map of the service area where the water was used by Lessor, and if separately requested by Watermaster, a map of the service area where the water is intended to be used by Lessee.

*FORM 10 - SUPPLEMENT TO APPLICATIONS MUST BE SUBMITTED WITH ALL APPLICATIONS

DATED: 11/8/02

LESSOR

The City of Pomona

505 S. Garey Avenue, P.O. Box 660

Pomona, CA 91769

By: 

Henry Pepper, Utility Services Director
(print or type above name)

LESSEE

Fontana Water Company

5440 Nueva Avenue

Fontana, CA 92335

By: 

Michael L. Whitehead, President
(print or type above name)
San Gabriel Water Company dba
Fontana Water Company

Watermaster Approval

APPROVAL CONDITIONED Yes [] No []

APPLICATION FOR
SALE OR TRANSFER OF RIGHT TO WATER IN STORAGE
UNDER LOCAL STORAGE AGREEMENT # 15

TRANSFER FROM

City of Pomona

11/8/02

Date Approved

Name of Party

Date Requested

505 S. Garey Avenue, Box 600

2,500 AF

Amount Approved

Street Address

Amount Requested

Pomona

CA

91769

City

State

Zip Code

Telephone: 909-620-2283

Facsimile: 909-620-2090



Authorized Signature of Party
Henry Pepper, Utility Services Director

TRANSFER TO LOCAL STORAGE AGREEMENT # _____

TRANSFER TO

Fontana Water Company

Attach Recapture Form 6

Name of Party

8440 Nuevo Avenue

Street Address

Fontana

CA

92335

City

State

Zip Code

Telephone: 909-822-2201

Facsimile: 909-823-5046

Have any other transfers been approved by Watermaster
between these parties covering the same fiscal year?

Yes [] No [X]

*FORM 10 - SUPPLEMENT TO APPLICATIONS MUST BE SUBMITTED WITH THIS APPLICATION
Attach additional documentation requested by Watermaster, if any



Authorized Signature of Party

Michael L. Whitehead, President, San Gabriel Valley Water Company dba Fontana Water Company

Watermaster Approval

APPROVAL CONDITIONED Yes [] No []



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool Annual Meeting

10:00 a.m. - Appropriative Pool Annual Meeting

1:00 p.m. - Agricultural Pool Annual Meeting

CONSENT CALENDAR

G. TWENTY-FIFTH ANNUAL REPORT

(Included separately)



CHINO BASIN WATERMASTER

8632 Archibald Avenue, Suite 109, Rancho Cucamonga, Ca 91730
Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

JOHN V. ROSSI
Chief Executive Officer

TRACI STEWART
Chief of Watermaster Services

STAFF REPORT

DATE: January 16, 2003
January 30, 2003

TO: Pool Committee Members
Advisory Committee Members
Watermaster Board Members

SUBJECT: Twenty-Fifth Annual Report

SUMMARY

Issue - Preparation of Twenty-Fifth Annual Report covering fiscal year 2001-02 for filing with the Court by January 31, 2003.

Recommendation – File the Report as presented, with the understanding it will be professionally formatted prior to distribution after being received by the Court.

Fiscal Impact - Minimal.

BACKGROUND

This Annual Report, covering the 2001-2002 fiscal year, is the Twenty-Fifth Annual Report of Watermaster. It is included separately and represents a proposed new format that would ultimately contain more useful information presented in a more professional, higher quality manner. Rauch Communications will be assisting staff once the basic material is fully assembled.

DISCUSSION

One of the goals of Watermaster is to improve communication of the Watermaster activities to the Producers and Interested Parties. The current format of the Annual Report was developed over 25 years ago, and has remained essentially unchanged since that time. With all the progress made with development and implementation of the OBMP, staff recommends filing the Twenty-Fifth Annual Report as presented, with the understanding some of the "histories" will be tabulated for inclusion prior to the Advisory and Board meetings, and the final report will be professionally formatted prior to distribution after being received by the Court.



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool Annual Meeting
10:00 a.m. - Appropriative Pool Annual Meeting
1:00 p.m. - Agricultural Pool Annual Meeting

BUSINESS ITEMS

A. MAXIMUM BENEFIT ANALYSIS



CHINO BASIN WATERMASTER

8632 Archibald Avenue, Suite 109, Rancho Cucamonga, Ca 91730
Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

JOHN V. ROSSI
Chief Executive Officer

TRACI STEWART
Chief of Watermaster Services

STAFF REPORT

DATE: January 16, 2003
January 30, 2003

TO: Watermaster Committee Members
Watermaster Board Members

SUBJECT: Nitrogen TDS Task Force and Maximum Benefit Analysis

SUMMARY

Issue – Payment of Invoice for Maximum Benefit Analysis and Associated Administrative Costs

Recommendations – Approve payment of Santa Ana Watershed Project Authority (SAWPA) Invoice No. 50041 in the amount of \$31,220 for work performed by Risk Sciences for the maximum benefit analysis and associated administrative costs incurred by SAWPA.

Fiscal Impact – Funds are available from the OBMP budget for \$17,000 in excess of the \$14,220 previously approved for the Risk Sciences' contract.

BACKGROUND

Watermaster participated in TDS/TIN activities for several years in anticipation of helping to establish groundwater basin management zones and evaluate the need for developing objectives based on maximum benefit rather than ambient water quality. When it was brought to the attention of staff that the RWQCB would be updating the Basin Plan and changing the objectives, staff was asked to give a presentation to discuss demonstrating the maximum benefit concept with the RWQCB. At that time, it was determined that objectives based on ambient water quality criteria would not facilitate implementation of the OBMP as much as objectives based on maximum benefit, especially when hydraulic control of the basin is part of the OBMP and the criteria for maximum benefit can be demonstrated. In May 2002, Watermaster approved a contract with Mr. Tim Moore of Risk Sciences to assist in the development of a maximum benefit concept and with the TIN/TDS Task Force and Regional Board adoption of this change to the Basin Plan relative to Chino Basin objectives.

DISCUSSION

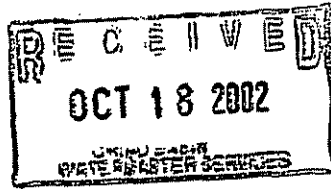
The contract with Risk Sciences was for a not-to-exceed amount of \$14,220. SAWPA's administrative costs associated with the additional meetings are \$5,000 and additional costs by the RWQCB staff in its advisory role to review the maximum benefit analysis on behalf of Watermaster are \$10,000. Additionally, the Watermaster has been billed \$2,000 for this year's portion of the TIN/TDS analysis. Therefore, staff recommends authorization to remit \$17,000 to SAWPA related to the Maximum Benefit proposal.



Santa Ana Watershed Project Authority

SAWPA

October 17, 2002



COMMISSION FOR THE PROJECT AUTHORITY
EASTERN MUNICIPAL WATER DISTRICT
INLAND EMPIRE UTILITIES AGENCY
ORANGE COUNTY WATER DISTRICT
SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT
WESTERN MUNICIPAL WATER DISTRICT

Mr. John Rossi
Chino Basin Watermaster
8632 Archibald Avenue, Suite 109
Rancho Cucamonga, CA 91730-4665

GENERAL MANAGER
P. JOSEPH GRINDSTAFF

Subject: Nitrogen TDS Budget and Invoice

Dear Mr. Rossi:

The Nitrogen TDS Task Force work is nearing the completion of its core activities and a basin plan amendment with new TIN and TDS groundwater basin objectives along with new subbasin boundaries will be incorporated into the Santa Ana Regional Water Quality Control Board Basin Plan as an amendment for RWQCB approval by January 2003. Over the next two years, the RWQCB staff has indicated that the Basin Plan amendment will go through review by the State Office of Administrative Law and U.S. EPA. Consequently, the primary tasks and deliverables of the Nitrogen TDS Task Force are nearing completion.

At the February 2002 Task Force meeting, the Nitrogen TDS Task Force approved a budget for FY 02-03. The budget is attached herein. Subsequent to the approved budget by the Task Force, Chino Basin Watermaster expressed a desire to initiate a maximum benefit analysis. SAWPA agreed to administer the contract with Risk Sciences for the maximum benefit analysis. The Risk Sciences contract was for a not-to-exceed amount of \$14,220. Further, Chino Basin Watermaster agreed to pay SAWPA for the administrative costs associated with the additional meetings of \$5,000 and \$10,000 for additional costs by the RWQCB staff in its advisory role to review the maximum benefit analysis on Chino Basin Watermaster's behalf.

We anticipate at this time that upon acceptance by the RWQCB Board, the consultant work and frequency of task force meetings along with associated administrative costs will decrease after January 2003. Some work by the two consultants is also expected to continue after January 2003 in responding to technical questions by OAL and EPA.

An invoice for your agency's contribution for FY 02-03 is attached. We appreciate your prompt payment to the invoice. On behalf of SAWPA and the Task Force, we wish to thank you for your support of the previous study work effort and for your continued support as we move into the final work phase. If you have any questions or concerns regarding the study, please feel free to discuss them with me at any time.

Very truly yours,

Mark R. Norton, P.E.
Planning Department Manager

Enclosures

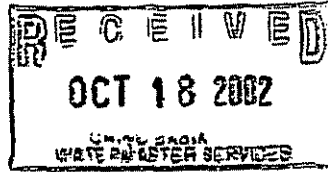


Santa Ana Watershed Project Authority

11615 Sterling Avenue

Riverside, CA 92503
(951) 785-5411 Ext. 0000

To: Chino Basin Watermaster
8632 Archibald Avenue
Suite 109
Rancho Cucamonga, CA 91730



Invoice No. 60041
Date: 10/16/2002

FY 02-03 TIN TDS Taskforce Contribution

F E E S:

Other Agency Contributions

\$31,220.00

Fees:

\$31,220.00

OK FOR PAYMENT _____
ACCOUNT NUMBER 7503

TOTAL DUE THIS INVOICE:
OUTSTANDING AMOUNT:

\$31,220.00
\$0.00

TRAILS FY 02-03 Cost by Agency

October 8, 2002

CONSULTANTS

Wildermuth Environmental Inc. \$45,000
Risk Sciences \$45,000

RWQCB \$70,000
SAWPA MGT. \$40,000

Subtotal \$200,000
Carryover (\$80,000)
\$120,000
Contingency \$5,000
\$125,000

Distribution of Costs Among SAWPA, SARDA & Others

Agency	SAWPA Costs	SARDA Costs ⁽¹⁾ buy-in flow based subtotal	Other	Max. Benefit SAWPA Admin.	Max. Benefit Risk Sciences	Total
IEUA	\$10,600					
EMWD	\$10,600					
OCWD	\$10,600					
SBVMWD	\$10,600					
WMWD	\$10,600					
	\$53,000					
CORONA	\$5,000	\$1,061	\$6,061			
EVMWD	\$5,000	\$493	\$5,493			
REDLANDS	\$5,000	\$867	\$5,867			
RIALTO	\$5,000	\$911	\$5,911			
RIVERSIDE	\$5,000	\$4,542	\$9,542			
RIX JPA	\$5,000	\$4,468	\$9,468			
YVWD	\$5,000	\$359	\$5,359			
WRRCRWA	\$5,000	\$299	\$5,299			
	\$40,000	\$13,000	\$53,000			
CBWCD			\$2,000			
CBWM			\$2,000	\$15,000	\$14,220	\$31,220
OCSD			\$2,000			
WSBCWD			\$2,000			
SBVWCD			\$2,000			
RHWC			\$2,000			
JCSD			\$2,000			
CIM			\$5,000	Invoiced FY 01-02		
			\$19,000			
Totals	\$53,000	\$53,000	\$19,000			
		Total	\$125,000			

Note: CIM's contribution covers past study efforts and deliverables

1. SARDA Costs based on a base amount and % of discharge flow.
%s used are as follows: Corona 8.16%; EVMWD 3.79%; Redlands 6.67%; Rialto 7.01%; Riverside 34.94%; RIX JPA 34.37%; YVWD 2.76%; and WRRCRWA 2.3%



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool Annual Meeting

10:00 a.m. - Appropriative Pool Annual Meeting

1:00 p.m. - Agricultural Pool Annual Meeting

REPORTS/UPDATES

A. GENERAL LEGAL COUNSEL REPORT

3. Niagara Bottling Company



CHINO BASIN WATERMASTER

8632 Archibald Avenue, Suite 109, Rancho Cucamonga, Ca 91730
Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

JOHN V. ROSSI
Chief Executive Officer

TRACI STEWART
Chief of Watermaster Services

December 20, 2002

Mr. Andrew Peykoff, President
Niagara Bottling, LLC
5675 E. Concours
Ontario, CA 91761

Subject: Niagara Bottling, LLC Production of Groundwater from the Chino Groundwater Basin

Dear Mr. Peykoff,

I am writing you concerning your company's production of groundwater from the Chino Groundwater Basin. In June 2001, you contacted the Chino Basin Watermaster to inquire about pumping water from the Chino Groundwater Basin for the purpose of bottling and retail sale. At that time, Watermaster staff informed you that production of water from the Chino Basin is only allowed within the confines of the 1978 stipulated judgment in the case *Chino Basin Municipal Water District v. City of Chino*, San Bernardino Superior Court Case No. RCV 51010 (the "Judgment").

In July 2001, Niagara Bottling, LLC was offered the opportunity to voluntarily intervene in the Judgment and thereby be permitted to lawfully produce water from the Basin. However, our records indicate that to date, you have not so intervened. In fact, we have been informed that your production from the Basin is increasing.

Such unauthorized production threatens to upset the delicate balance established by the Judgment and occurs at the financial detriment of the public and private entities who pump water from the Basin. Most of this pumping is done by public entities who provide for the public domestic water supply.

The Chino Basin is a hydraulically unified groundwater resource. That is, pumping from one part of the Basin can have a direct impact on others who also pump from the Basin. Due to such impacts, the Basin was the subject of a comprehensive adjudication in the mid 1970's which resulted in the Judgment. Based upon extensive technical information, the Court found that the Chino Basin "is and has been for more than five years in a continuous state of overdraft. The production constituting said overdraft has been open, notorious, continuous, adverse, hostile and under claim of right." (Judgment, ¶ 7.) Because of this prescriptive situation, production limitations were placed upon all producers from the Basin. The Court also mandated the development of a physical solution, which would mitigate the negative effect on the Basin of any production in excess of the limitations articulated in the Judgment.

Currently, any production of water from the Chino Basin that does not occur pursuant to the Judgment's physical solution causes a material physical injury to all of the other producers from the Basin. The Judgment charges Watermaster to implement and administer the physical solution, and one component of this role is to enforce the continued integrity of the physical solution on behalf of the parties to the Judgment.


Mr. Andrew Peykoff
December 20, 2002
Page 2

For your convenience we are providing a completed stipulation through which you may request to intervene into the Judgment. The terms of this proposed intervention match those of the intervention in 1992 of Arrowhead Spring Water, a water bottler similarly situated to Niagara. If you will sign this agreement and submit it to Watermaster within 10 days, then we will place your intervention request on the agenda for the Watermaster meetings in January.

If, however, we do not hear from you within 10 days, we will have no choice except to recommend to the Watermaster Board that our legal counsel be directed to seek an injunction prohibiting any further production by Niagara from the Chino Basin.

If you have any questions about this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "John V. Rossi", with a long horizontal line extending to the right.

John V. Rossi
Chief Executive Officer

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

CHINO BASIN MUNICIPAL WATER DISTRICT v. City of Chino, et. al. San Bernardino Superior Court Case No. RCV 51010.

PETITION IN INTERVENTION: STIPULATION

NIAGARA BOTTLING, LLC

WHEREAS, pursuant to Section 60 of the Judgment herein, any non-party assignee of the adjudicated rights of any producer, or any other person newly proposing to produce water from Chino Basin may become a party to this Judgment upon filing a Petition in Intervention; and

WHEREAS, Niagara Bottling, LLC (herein "Petitioner"), is proposing to produce water from a well(s) located on property within the Chino Groundwater Basin; and

WHEREAS, Petitioner desires to intervene in the instant action and to have its production assigned to the Appropriative Pool and become bound by all benefits and burdens of the Judgment; and

WHEREAS, Chino Basin Watermaster consents to and approves of the intervention by Petitioner.

NOW, THEREFORE, the parties signatory hereto agree that Watermaster shall petition the Court for an order authorizing intervention by Petitioner and determining Petitioner to be bound by all benefits and burdens of the Judgment. The Petition in Intervention shall request that Petitioner be assigned to the Appropriative Pool with an adjudicated production right of zero (0) acre-feet per year.

CHINO BASIN WATERMASTER

NIAGARA BOTTLING, LLC

Chairman

Date: _____

Date: _____

ATTEST:

Secretary



Pure Quality Since 1963

NIAGARA

WATER

17842 Cowan Street

Irvine, CA 92614

(949) 863-1400, (949) 955-0758 Facsimile

www.niagarawater.com

December 31, 2002

VIA FACSIMILE (909) 484-3890

John Rossi
CEO
Chino Basin Watermaster
8632 Archibald Ave., Suite 109
Rancho Cucamonga, CA 91730

RE: NIAGARA BOTTLING, LLC, GENERAL BUSINESS MATTERS

Subject: Your correspondence of December 20, 2002

Dear John:

Please allow this correspondence to confirm our receipt of your December 20, 2002, correspondence. I apologize for not getting back to you right away. I did not receive your correspondence until our Director of Production forwarded it to me today. In the future, please address all correspondence to the address set forth above.

I will give you a call on January 2, 2003, to discuss. In the interim, if you have any questions or concerns, please do not hesitate to contact me on my cell phone at (949) 735-4045.

Very Truly Yours,

Brian M. Hess
General Counsel for
Niagara Bottling, LLC

(bhess@niagarawater.com)

BMHA

JAN 13 2003

2393 Townsgate Road • Suite 201 • Westlake Village • California 91361 • Tel: 805-495-4770 • Fax: 805-495-2787

January 10, 2003

John V. Rossi, Chief Executive Officer
Chino Basin Watermaster
8632 Archibald Ave., Suite 109
Rancho Cucamonga, CA 91730

RE: Niagara Bottling Company

On December 20, 2002, you wrote to Niagara Bottling, LLC, in care of its president, Andrew Peykoff, to demand Niagara's agreement to be bound by the judgment in *Chino Basin Municipal Water District v. City of Chino* (SBSC No. RCV51010). You said Niagara's production outside of the Judgment's physical solution causes material injury to other producers and the Watermaster is empowered to seek an injunction against Niagara on behalf of the other producers. We would like you to reconsider your position for the reasons stated below.

Niagara was not a party to the action which resulted in the Judgment. As far as we have been able to determine, Niagara's predecessor was likewise not a party to the action. Neither Niagara nor its predecessor has had a day in court. As a result, the Judgment has no effect on Niagara. Niagara *could* voluntarily intervene in the action and become bound by the Judgment. However, the Judgment does not permit the court to overlook the lack of jurisdiction to add new parties once Judgment was entered. In short, a new action must be filed before Niagara's overlying rights can be diminished. Presumably, there will be an attempt to establish prescription against Niagara. However, you must recognize establishing prescription requires proof of overdraft for five continuous years and notice of hostile claims. By your own account, the Basin has not been overdrafted during the term of Niagara's ownership of the property.


We are disturbed by your conclusion the Watermaster may enforce the rights of producers to assert claims against Niagara. Under section 17 of the Judgment, Watermaster "may exercise the express powers, and shall perform the duties, as provided in this Judgment." Express does not mean implied. The Watermaster may act only if the Judgment authorizes it to act and the Judgment does not authorize the Watermaster to commence actions, against persons who are not party to the Judgment. (Part E of the Judgment would not empower Watermaster to raise money to pay for litigation of this sort.) The Judgment does not authorize the Watermaster to file lawsuits against outsiders because the Watermaster is not an

entity with power to sue or be sued. The Watermaster is a attaché of the Superior Court. The Watermaster is empowered to speak for the court in limited circumstances. The court has no jurisdiction over Niagara. Therefore, the Watermaster has no jurisdiction over Niagara. (We express no opinion as to whether a producer may acquire jurisdiction over Niagara, provided the producer is not financed by money raised by the court through its attaché.)

We would appreciate learning whether you have reconsidered your earlier conclusions based on the foregoing.

Very truly yours,

LEMIEUX & O'NEILL

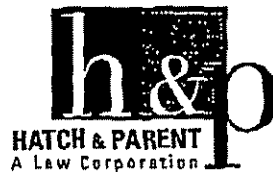


Wayne K. Lemieux

WKL/lms

cc: Brian Hess, Esq., General Counsel,
Niagara Bottling Company LLC

21 East Camillo Street
Santa Barbara, CA 93101
Telephone: (805) 963-7000
Fax: (805) 965-4333



Michael T. Fifa

Direct Dial: (805) 882-1453
MFifa@hatchparent.com

January 14, 2003

Mr. Wayne Lemieux, Esq.
Lemieux & O'Neill
2393 Townsgate Road, Suite 201
Westlake Village, CA 91361

Re: Intervention of Niagara Bottling Company

Dcar Mr. Lemieux,

We are in receipt of your letter dated January 10, 2003 concerning Watermaster's request that Niagara Bottling Company voluntarily intervene into the Chino Basin Adjudication.

Your letter raises several issues concerning the ability of Watermaster to successfully sue Niagara to enjoin its production from the Chino Groundwater Basin should Niagara refuse to intervene in the Judgment. The implication of your letter is clear: Niagara has no intention to join the community of water producers in the Chino Basin unless it is forced to do so. We are disappointed that as a former Watermaster General Counsel yourself, that you have chosen to advise your client to adopt an adversarial approach that no other person or entity has chosen to adopt in the 25 years that the Chino Basin Judgment has been in effect.

Groundwater pumping in the Chino Basin must only occur within the established terms of the Judgment. As you are well aware, the current quantity of water that is pumped from the Basin exceeds the established safe yield of 140,000 acre-feet per year. This over production is mitigated only because the public entities in the Basin, at great expense, purchase imported water. The groundwater pumping by Niagara increases the amount of water that must be imported to the Basin, and consequently it is the public entities in the Basin that are currently paying to mitigate Niagara's pumping.

This situation cannot continue; the public entities in the Chino Basin will not continue to subsidize the Niagara Bottling Company. It was our hope that Niagara would be a good citizen and join the established institutional community, but if this is not to be the case, then we will be forced to seek to enjoin Niagara's production.

Your advice to Niagara to not seek intervention puts your current client in an adversarial position with respect to Watermaster, your former client. As indicated above, your refusal to intervene leaves Watermaster with no other option except to defend the integrity of the Judgment by seeking to halt Niagara's pumping. We believe that you are presently in a conflicted situation, and your client's current course of conduct will soon put you in a litigation setting in which there will be no doubt of your conflict.

Mr. Wayne Lemieux, Esq.
January 14, 2003
Page 2

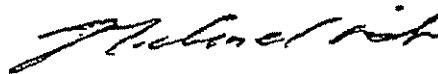
An attorney may not, without the informed written consent of the client or former client, accept employment adverse to the client or former client where, by reason of the representation of the client or former client, the attorney has obtained confidential information material to the employment. (Rules of Professional Conduct, Rule 3-310(E).) Under Rule 3-310(E), a former client may seek to disqualify a former attorney from representing an adverse party by showing that the former attorney possesses confidential information adverse to the former client. (*Henriksen v. Great American Savings & Loan* (1992) 11 Cal.App.4th 109, 113.) The former client need not establish that the attorney actually possesses confidential information; it is enough to show that there was a "substantial relationship" between the former and current representation. If this is established the court will conclusively presume that the attorney possesses confidential information adverse to the former client. (*Id.* at 114.)

Watermaster has not and will not provide a waiver of this conflict.

You apparently have concluded that no conflict exists in your representation since, according to your letter, "[t]he Judgment does not authorize the Watermaster to file lawsuits against outsiders because the Watermaster is not an entity with the power to sue or be sued." This is a curious position for you to take since during your tenure as General Counsel, the Watermaster was an active party in the case of Markot, et al. v. San Bernardino County Flood Control District et al., San Bernardino Superior Court Case No. RCV 06884. As you know, the plaintiff's in that case are not parties to the Judgment. Watermaster has incurred great expense in the defense of that case, both at the trial court and at the appellate level, and, in fact, is about to expend a large sum of money to settle the case. We have searched our records and have not found any instance where you, as General Counsel, advised Watermaster that the expenditure of these sums of money were unnecessary since Watermaster is not an entity with the power to sue or be sued. We would be very interested to hear your thoughts on this matter.

Again, we are disappointed that Niagara has chosen to turn away from the spirit of cooperation that has come to characterize the water community in the Chino Basin over the last few years. We will share your letter with the parties at their meetings this month, and will inform them that we will be proceeding to a litigated resolution of this matter.

Sincerely,



Michael T. Fife
For HATCH & PARENT
A Law Corporation

:mxf

cc: Mr. John Rossi, Chief Executive Officer
Chino Basin Watermaster

Mr. Brian Hess, Esq., General Counsel
Niagara Bottling Company LLC



CHINO BASIN WATERMASTER

January 16, 2003

8:30 a.m. - Non-Agricultural Pool Annual Meeting

10:00 a.m. - Appropriative Pool Annual Meeting

1:00 p.m. - Agricultural Pool Annual Meeting

REPORTS/UPDATES

A. GENERAL LEGAL COUNSEL REPORT

4. Chino Land & Water

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Jeffrey V. Dunn, Bar No. 131926
Eric L. Garner, Bar No. 130665
Jill N. Willis, Bar No. 200121
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TELECOPIER: (909) 686-3083

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT

JAN 10 2003

BY *Randee P. [Signature]* DEPUTY

Attorneys for Defendant
Lewis Investment Company, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA BRANCH

CHINO LAND & WATER CO., INC.,
Plaintiff,

v.

LEWIS INVESTMENT COMPANY, LLC,
a California Limited Liability Company; all
Persons Unknown, Claiming Any Legal or
Equitable Right, Title, Estate, Lien, or
Interest in the Property Described in the
Complaint Adverse to Plaintiff's Title, or
Any Cloud upon Plaintiff's Title Thereto; and
DOES 1 through 100,000, inclusive,
Defendants.

Case No. RCV 064284
Judge: Honorable Peter H. Norell

**NOTICE OF HEARING OF
DEMURRER; DEMURRER;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

Date: February 6, 2003
Time: 8:30 a.m.
Dept: R3

Date action filed: June 20, 2002
Date set for trial: Not yet set

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NOTICE OF HEARING ON DEMURRER

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that the demurrer served and filed herewith is set for hearing on February 6, 2003 at 8:30 a.m., or as on thereafter as the matter may be heard in Department R-3 of the above-entitled court, at 8303 North Haven Avenue, Rancho Cucamonga, California.

Dated: January 10, 2003

BEST BEST & KRIEGER LLP

By: 
Jeffrey V. Dunn
Eric L. Garner
Jill N. Willis
Attorneys for Defendant
Lewis Investment Company, LLC

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DEMURRER

Defendant Lewis Investment Company, LLC ("Lewis") hereby demurs to plaintiff's Complaint on each of the following grounds:

Demurrer to First Cause of Action

- 1. The first cause of action fails to state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10(e).)
- 2. There is a defect misjoinder of parties. (Code Civ. Proc., §§ 389, 430.10(d).)

Demurrer to Second Cause of Action

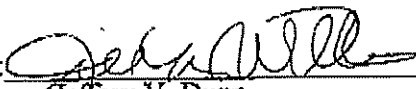
- 3. The second cause of action fails to state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10(e).)
- 4. There is a defect of misjoinder of parties. (Code Civ. Proc. §§ 389, 430.10(d).)

Demurrer to Third Cause of Action

- 5. The third cause of action fails to state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10(e).)
- 6. There is a defect of misjoinder of parties. (Code Civ. Proc., §§ 389, 430.10(d).)

Dated: January 10, 2003

BEST BEST & KRIEGER LLP

By: 
 Jeffrey V. Dunn
 Eric L. Garner
 Jill N. Willis
 Attorneys for Defendant
 Lewis Investment Company, LLC

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MEMORANDUM OF POINTS AND AUTHORITIES

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MEMORANDUM OF POINTS AND AUTHORITIES

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I. INTRODUCTION

The demurrer should be sustained for each of the following reasons:

- Plaintiff fails to name indispensable parties including the Chino Basin Watermaster and water agency defendants dismissed by plaintiff. Plaintiff claims water in the Chino Groundwater Basin, an adjudicated basin with a Judgment and court-appointed Watermaster.
- Plaintiff pleads causes of action not yet ripe for judicial review. Plaintiff judicially admits Lewis' water and land "use is consistent with plaintiff's reserved water right."
- Plaintiff pleads reserved water rights that violate both the Uniform Statutory Rule Against Perpetuities and the Marketable Title Act.
- Plaintiff fails to plead a legally-recognizable water right. Plaintiff does not plead any overlying, appropriative or prescriptive right.

II. ALLEGED FACTS

Lewis owns certain real property in San Bernardino County. Plaintiff, however, claims certain water rights and easements over the Lewis property under two quitclaim deeds recorded in 2000. (Complaint ¶¶ 7, 8, 10.) These quitclaim deeds are based upon an alleged unbroken chain of title beginning in 1908. (Complaint ¶¶ 9, 19A.)

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1 Plaintiff's alleged reservation of rights, in pertinent part, provides:
2

3 The party of the first part (plaintiff) reserves the right of way over and
4 across the premises for laying pipes and aqueducts, and to inspect,
5 replace and control the same; and water shall not be developed on the
6 land to be used on other lands or in excess of the requirements of the
7 lands hereby granted for irrigation and domestic purposes; if such
8 development is made by the party on the second part (Lewis), then the
9 water developed in excess of the requirements of the lands described
10 in the deed shall become the property of the first part, and may be
11 sold, leased or used or conveyed to other lands for sale, lease or use.
12 (Complaint ¶ 8; emphasis added.)

13 It is important to note that plaintiff alleges that Lewis and its predecessors have always used
14 water on the property in a manner consistent with the alleged reservation above. (Complaint ¶ 11)
15

16 Although plaintiff admits Lewis has not violated the alleged reservation of rights, plaintiff
17 alleges that Lewis is "proposing" a change in water use inconsistent with the reservation. (Complaint
18 ¶ 12.) Plaintiff alleges that Lewis proposes to construct buildings or other structures on the property
19 for uses inconsistent with the alleged reservation. (Complaint ¶ 13.) Thus, plaintiff's causes of action
20 for quiet title, declaratory relief and injunctive relief are based on nothing more than mere "proposed"
21 changes in land and water use that plaintiff speculates might happen at some uncertain future time.
22 (Complaint ¶ 14.)
23

24 Besides naming Lewis as a defendant, plaintiff named approximately 46 defendants, including
25 certain water agencies and special districts, several cities, and other parties with an interest in the
26 Basin ("Dismissed Defendants") and the Chino Basin Watermaster. Plaintiff, however, dismissed all
27 defendants except Lewis.
28

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1 **III. ANALYSIS**

2
3 **A. THE DEMURRER SHOULD BE SUSTAINED BECAUSE THE CHINO**
4 **BASIN WATERMASTER DISMISSED DEFENDANTS AND OTHER**
5 **PARTIES TO THE CHINO BASIN JUDGMENT ARE INDISPENSABLE**
6 **PARTIES**
7

8 Code of Civil Procedure section 389 establishes a two-part test for determining whether a
9 case should be dismissed for failure to name an indispensable party.¹ (*County of San Joaquin v. State*
10 *Water Resources Control Bd.* (1997) 54 Cal.App.4th 1144, 1149.) First, the court determines
11 whether an absent party is a necessary party under section 389, subdivision (a). (*San Joaquin*, 54
12 Cal.App.4th at 1149.) Second, the court determines "whether in equity and good conscience the
13 action should proceed among the parties before it, or should be dismissed without prejudice, the
14 absent person being thus regarded as indispensable." (*Ibid.*, quoting § 389(b).)

15
16 1. The Chino Basin Watermaster, Dismissed Defendants and Other Parties to the
17 Chino Basin Judgment Are Necessary Parties under Section 389, Subdivision
18 (a)
19

20 Section 389 mandates that "[w]henever feasible, the persons materially interested in the
21 subject of an action . . . should be joined as parties so that they may be heard and a complete
22 disposition made." (Cal. Law Revision Comm. Comment, 14 West's Ann. Code Civ. Proc., § 389;
23 see also *Bank of California v. Superior Court* (1940) 16 Cal. 2d 516, 523.) Section 389, subdivision
24 (a), has three distinct clauses, each of which provides an alternative basis for necessary joinder:

25
26 A person who is subject to service of process and whose joinder will
27 not deprive the court of jurisdiction over the subject matter of the

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¹ All section references are to the Code of Civil Procedure unless otherwise indicated.

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action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. (§ 389(a).)

The first clause focuses on whether complete relief can be afforded if the case proceeds with only the named parties participating in the action. (*Countrywide Home Loans, Inc. v. Superior Court* (1999) 69 Cal.App.4th 785, 793-94.) This clause requires joinder when nonjoinder will prevent the court from effecting relief between the existing parties: "[c]lause (1) stresses the desirability of joining those persons in whose absence the court would be obliged to grant partial or 'hollow' rather than complete relief to the parties before the court. The interests that are being furthered here are not only those of the parties, but also that of the public in avoiding repeated lawsuits on the same essential subject matter." (*Id.* at 792-793; emphasis added.)

The second clause recognizes the importance of protecting the person whose joinder is in question against the practical prejudice that may arise through a disposition of the action in the person's absence. (*Countrywide*, 69 Cal.App.4th at 793.)

Under both clause (1) and clause (2)(i) of subdivision (a), the Chino Basin Watermaster, as well as the Dismissed Defendants and other parties to the Judgment, are necessary parties to this action. Plaintiff alleges that "defendants, and each of them, will convey or transfer to the Chino Basin Watermaster or some unknown third party the water and easement rights . . . in the property at issue." (Complaint ¶ 28.) Moreover, plaintiff also alleges that its rights "are not subject to the Chino Basin Watermasters stipulated Judgment."² (Complaint ¶ 23(B).) Finally, plaintiff seeks injunctive

² Although it is unclear from the vague allegations of the Complaint, Lewis assumes for purposes of this demurrer that plaintiff refers to the Judgment dated January 30, 1978 in *Chino Basin Municipal Water District v. City of Chino, et al.*, San Bernardino County Superior Court Case No. 51010 (formerly Case No. 164327) ("Judgment"). A copy of the Judgment is attached (continued...)

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1 relief to "avoid a multiplicity of judicial proceedings . . . against the Chino Basin Watermaster."
 2 (Complaint ¶ 29.) Thus, plaintiff contests the process by which agricultural water is appropriated for
 3 urban use under the Judgment.

4
 5 Under the Judgment, property owners do not transfer or convey water rights when they end
 6 their agricultural water use. Instead, the Judgment allows parties to continue to use available
 7 groundwater. The Judgment further provides that the Chino Basin Watermaster manages water use
 8 in the Chino Basin. Additionally, rights to water used on Lewis' land are regulated by the Judgment.

9
 10 In this case, the court cannot afford complete relief because plaintiff puts at issue the water
 11 rights held by the Chino Basin Watermaster, Dismissed Defendants and other parties under the
 12 Judgment. Unless these entities are parties in this case, they cannot protect their interests in the
 13 Chino Basin.

14
 15 2. The Chino Basin Watermaster, Dismissed Defendants and Other Parties to the
 16 Judgment Are Indispensable Parties

17
 18 After a party is deemed necessary, the court determines whether that party is indispensable.
 19 To determine whether a necessary party is indispensable, the court considers four factors:

- 20
 21 (1) to what extent a judgment rendered in the person's absence
 22 might be prejudicial to him or those already parties;
 23 (2) the extent to which, by protective provisions in the judgment, by the
 24 shaping of relief, or other measures, the prejudice can be lessened or
 25 avoided;
 26 (3) whether a judgment rendered in the person's absence will be adequate;
 27 and

28 ² (...continued)
 as Exhibit "A" to Lewis' Request For Judicial Notice.

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(4) whether the plaintiff or cross-complainant will have an adequate remedy if the action is dismissed for nonjoinder. (§ 389(b).)

These factors "are not arranged in a hierarchical order, and no factor is determinative or necessarily more important than another." (*San Joaquin*, 54 Cal.App.4th at 1149.)

Under the above four factors, the Chino Basin Watermaster, the Dismissed Defendants and other parties to the Judgment are indispensable parties to this action. Proceeding to judgment in this case could interfere with the ability of the Chino Basin Watermaster, Dismissed Defendants and other parties to the Judgment to protect their interests under the terms of the Judgment. Additionally, in the absence of these entities, it would be impossible for the court to afford complete relief or render an adequate judgment. Because plaintiff alleges that its rights are not subject to the Judgment, and because plaintiff challenges the manner in which the water agency appropriators receive water under the Judgment, there is no way to afford relief without prejudice to the rights of the Watermaster and the other parties the Judgment. Thus, the alleged facts of this case mandate finding the Chino Basin Watermaster and the Judgment parties are indispensable parties in this case.³

B. A GENERAL DEMURRER TO EACH CAUSE OF ACTION SHOULD BE SUSTAINED BECAUSE PLAINTIFF DOES NOT ALLEGE FACTS SHOWING A JUSTICIABLE CONTROVERSY

It is a well-established principle that courts will not decide a case that is not founded on an actual controversy that is "ripe" for judicial review. Generally speaking, a controversy is not "ripe" until it has reached the point at which "the facts have sufficiently congealed to permit an intelligent

³ Both Louise Mickel and Elizabeth Rohrs, the former owners of the Lewis property, were parties to the Judgment and, thus, any water rights acquired by Lewis are subject to the Judgment. Plaintiff must therefore seek to intervene in the Judgment and obtain declaratory relief that the Judgment does not apply to plaintiff's alleged water rights before plaintiff pursues its claims against Lewis. The foregoing is yet another reason the Chino Basin Watermaster is an indispensable party.

1 and useful decision to be made.” (*California Water & Telephone Co. v. County of Los Angeles*
 2 (1967) 253 Cal. App. 2d 16, 22.) The California Supreme Court described the ripeness doctrine as
 3 being “primarily bottomed on the recognition that judicial decision making is best conducted in the
 4 context of an actual set of facts so that the issues will be framed with sufficient definiteness to enable
 5 the court to make a decree finally disposing of the controversy.” (*Pacific Legal Foundation v.*
 6 *California Coastal Commission* (1982) 33 Cal. 3d 158, 170.)

7
 8 1. Plaintiff’s Cause of Action For Declaratory Relief Is Not Ripe For Judicial
 9 Review

10
 11 In the context of an action for declaratory relief, section 1060 provides that “[a]ny person .
 12 . . who desires a declaration of his rights or duties with respect to another, or in respect to . . .
 13 property . . . may, in cases of actual controversy relating to the legal rights and duties of the
 14 respective parties, bring an original action . . . in the superior court . . . for a declaration of his rights
 15 and duties in the premises” (§ 1060; emphasis added.) In *Selby Realty Co. v. City of San*
 16 *Buenaventura*, the California Supreme Court stated that “[t]he ‘actual controversy’ referred to in this
 17 statute is one which admits of definitive and conclusive relief by judgment within the field of judicial
 18 administration, as distinguished from an advisory opinion upon a particular or hypothetical state of
 19 facts. The judgment must decree, not suggest, what the parties may or may not do.” (*Selby Realty*
 20 *Co. v. City of San Buenaventura* (1973) 10 Cal. 3d 110, 117; see also *Wilson v. The Transit*
 21 *Authority of the City of Sacramento* (1962) 199 Cal. App. 2d 716, 722 [noting that an essential
 22 requirement of a cause of action for declaratory relief is a “real controversy between parties, involving
 23 justiciable questions relating to their rights and obligations. Facts and not conclusions of law must
 24 be pleaded which show a controversy of concrete actuality as opposed to one which is merely
 25 academic or hypothetical.”]; *Wilson, supra*, 199 Cal.App.2d at 722 [“A difference of opinion does
 26 not give rise to a justiciable case until an actual concrete controversy arises.”].)

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1 In determining whether a declaratory relief action is ripe for adjudication, courts generally
2 employ a two-part test: (1) whether the dispute is sufficiently concrete to make declaratory relief
3 appropriate; and (2) whether the withholding of judicial consideration will result in a hardship to the
4 parties. (*Pacific Legal Foundation, supra*, 33 Cal. 3d at 171-173.) Under the first test, "courts will
5 decline to adjudicate a dispute if 'the abstract posture of [the] proceeding makes it difficult to
6 evaluate . . . the issues,' if the court is asked to speculate on the resolution of hypothetical situations,
7 or if the case presents a 'contrived inquiry.'" (*Farm Sanctuary, Inc. v. Department of Food and*
8 *Agriculture* (1998) 63 Cal. App. 4th 495, 502 [quoting *Pacific Legal Foundation, supra*, 33 Cal. 3d
9 at 172].) Under the second test, "courts will not intervene merely to settle a difference of opinion;
10 there must be an imminent and significant hardship inherent in further delay." (*Farm Sanctuary,*
11 *supra*, 63 Cal. App. 4th at 502 [citing *Pacific Legal Foundation, supra*, 33 Cal. 3d at 172-73].)
12

13 Here, plaintiff's Complaint fails to allege facts indicating the existence of a present and actual
14 controversy regarding the parties' rights and/or duties with respect to the property described in the
15 Complaint. Indeed, plaintiff concedes that at the present time, "defendant Lewis and its predecessors
16 in title to the property at issue have produced and used water from the property at issue only for
17 irrigation and domestic, i.e., agricultural, purposes as required on the property at issue. The use is
18 consistent with plaintiff's reserved water right as set forth in paragraph 8." (Complaint ¶ 8; emphasis
19 added.) Rather, plaintiff alleges only that Lewis may, at some point in the future, use water on other
20 lands or use water for purposes other than irrigation and domestic use and may, at some point in the
21 future, construct buildings on the property for other than domestic purposes. (See Complaint ¶¶ 12,
22 13.) Although it is not clear from the vague and ambiguous allegations of the Complaint, it appears
23 that plaintiff alleges that Lewis' possible "new use" of water, and Lewis' possible "new use" of the
24 property itself might be inconsistent with plaintiff's claimed reservation of rights. (*Ibid.*)
25

26 These allegations cannot establish appropriate declaratory relief. Plaintiff asks the court to
27 speculate as to the rights and/or duties of the parties under a set of hypothetical facts that have not
28 occurred, and may not ever occur. The alleged facts do not establish the existence of an actual

1 controversy. Plaintiff has not alleged any facts indicating that the withholding of judicial
 2 consideration will result in a hardship to the parties. Thus, plaintiff fails to state a cause of action for
 3 declaratory relief.

4
 5 2. Plaintiff's Cause of Action for Quiet Title Is Not Ripe For Judicial Review

6
 7 "[A] complaint for [quiet title] is sufficient if it alleges an interest of plaintiff in the property
 8 and that the defendant asserts a claim concerning the property adverse to the plaintiff's interest."
 9 (*Stearns Ranchos Company v. The Atchison, Topeka and Santa Fe Railway Company* (1971) 19 Cal.
 10 App. 3d 24, 32.) However, "[i]f the specifically pleaded facts affirmatively reveal the absence of an
 11 essential element in plaintiff's claim of title, no cause of action is stated." (*Stafford v. Ballinger*
 12 (1962) 199 Cal. App. 2d 289, 292.)

13
 14 Plaintiff fails to plead facts that Lewis has made claims adverse to plaintiff's reservation.
 15 Plaintiff admits that Lewis' present use is consistent with plaintiff's alleged reserved water rights.
 16 (See Complaint ¶ 11.) Plaintiff's allegations that Lewis might use water on other lands or for
 17 purposes other than irrigation and domestic uses and may, at some point in the future, construct
 18 buildings on the property for other than domestic purposes are not sufficiently definite and concrete
 19 to constitute a present adverse claim against plaintiff's alleged interests. Thus, plaintiff fails to state
 20 a cause of action for quiet title.

21
 22 3. Because Plaintiff's Causes of Action for Declaratory Relief and Quiet Title
 23 Are Not Ripe For Judicial Review, A Demurrer To Plaintiff's Cause of Action
 24 for Injunctive Relief Should Be Sustained

25
 26 A request for injunctive relief is a remedy and is not, in itself, a cause of action. (*Major v.*
 27 *Miraverde Homeowners Association, Inc.* (1992) 7 Cal. App. 4th 618, 623; see also *Shell Oil Co. v.*
 28 *Richter* (1942) 52 Cal. App. 2d 164, 168.) A cause of action must exist before injunctive relief may

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1 be granted. (*Major, supra*, 7 Cal. App. 4th at 623.) Because plaintiff fails to state a cause of action
2 for declaratory relief and for quiet title, a demurrer as to plaintiff's "cause of action" for injunctive
3 relief should be sustained without leave to amend.

4
5 **C. A DEMURRER TO EACH CAUSE OF ACTION SHOULD BE SUSTAINED**
6 **BECAUSE PLAINTIFF FAILS TO ALLEGE A WATER RIGHT**

7
8 Pursuant to well-established California law:

9
10 "Rights in water in an underground basin are classified as overlying,
11 appropriative and prescriptive. An overlying right, analogous to that
12 of a riparian owner in a surface stream is the owner's right to take
13 water from the ground underneath for use on his land within the basis
14 or watershed; it is based on the ownership of the land and is
15 appurtenant thereto. The right of an appropriator, however, depends
16 upon the actual taking of water. Where the taking is wrongful, it may
17 ripen into a prescriptive right." (*California Water Service Company*
18 *v. Edward Sidebotham & Son* (1964) 224 Cal.App.2d 715, 725;
19 emphasis added.)

20 This description of water rights in underground basins has recently been adopted by the California
21 Supreme Court in its description of California "Water Rights" in *City of Barstow v. Mojave Water*
22 *Agency, et al.* (2000) 23 Cal.4th 1224, 1240-1241.

23
24 The Complaint does not state whether plaintiff's alleged reserved water right is an overlying,
25 appropriative, or prescriptive right. Moreover, plaintiff has not alleged facts sufficient to support a
26 finding that plaintiff has any kind of water right.

27 Plaintiff's alleged reservation of water rights cannot be an overlying water right because
28 plaintiff does not allege that it owns land to which the alleged right is appurtenant. In the analogous
case of riparian land, courts have held that the right may be severed from the land to which it is
appurtenant, but such a severance does not reserve a water right, instead it merely operates to restrain
the rights of the landowner. (*Spring Valley Water Co. v. Alameda* (1927) 88 Cal.App. 157, 167.)

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1 The alleged reservation of water rights cannot be an appropriative or prescriptive right
2 because such rights depend upon the actual taking of water, and plaintiff does not allege any actual
3 taking of water by itself or anyone in its chain of title.

4
5 Because plaintiff has failed to allege an overlying, appropriative or prescriptive water right,
6 it has failed to allege any groundwater right under California law.⁴

7
8 **D. THE DEMURRER SHOULD BE SUSTAINED BECAUSE PLAINTIFF'S**
9 **PURPORTED "RESERVATION" VIOLATES THE UNIFORM STATUTORY**
10 **RULE AGAINST PERPETUITIES**

11
12 Plaintiff alleges that it is the owner of certain water rights under a reservation of rights in
13 deeds for property owned by Lewis. (Complaint ¶¶ 7, 8, 10.) Pursuant to the language of the alleged
14 reservation, plaintiff's water rights are contingent in nature and do not vest unless and until the owner
15 of the property (Lewis) develops water "in excess of the requirements of the lands . . . granted for
16 irrigation and domestic purposes."⁵ (Complaint ¶ 8)

17
18 In 1991, California adopted the Uniform Statutory Rule Against Perpetuities ("USRAP"),
19 which provides:

20
21 A nonvested property interest is invalid unless one of the following
22 conditions is satisfied:

23
24 ⁴ In *Barstow*, the California Supreme Court acknowledged a third groundwater right
25 - a pueblo right. (*City of Barstow v. Mojave Water Agency, et al., supra*, 23 Cal.4th at 1245.)
26 Since such a pueblo right exists only for the benefit of municipal successors of the Spanish and
27 Mexican pueblos, such a right has no application in this action.

28 ⁵ Plaintiff also alleges that it owns certain access easements for laying pipes and
aqueducts; however, the easements are simply to effectuate the water rights allegedly held by
Plaintiff. (See Complaint ¶ 23B.) Thus, the validity of the easements depend upon the validity of
the claimed water rights.

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(a) When the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive.

(b) The interest either vests or terminates within 90 years after its creation. (Prob. Code § 21205.)

The USRAP modified the common law rule by adding the 90-year “wait and see” provision found in subsection (b). Under this provision, interests are invalid if they do not actually vest or terminate within the allowable 90-year waiting period.

Here, plaintiff’s alleged reservation of rights is triggered only when, and if, the landowner develops water in excess of the requirements for irrigation and domestic purposes. It is entirely contingent in nature and is not certain to vest within 21 years after the death of an individual alive at the time the reservation was created. Thus, the condition set forth in subsection (a) is not satisfied.

Likewise, the condition set forth in subsection (b) is not satisfied. The chain of title for the property at issue indicates that the reservation allegedly held by plaintiff was created in 1908 – approximately 94 years ago. (See Lewis’ Request for Judicial Notice, Exh. B.) As plaintiff concedes in its Complaint, “defendant Lewis and its predecessors in title to the property at issue have produced and used water from the property at issue only for irrigation and domestic, i.e., agricultural, purposes as required on the property at issue. The use is consistent with plaintiff’s reserved water right.” (Complaint ¶ 11; emphasis added.) Thus, more than 90 years have passed since the creation of the interest, and the interest has not yet vested. Thus, under the USRAP, plaintiff’s alleged reservation is void.

Because plaintiff’s causes of action depend upon the validity of the alleged reservation of rights, and because plaintiff’s reservation is void, Lewis’ demurrer should be sustained as to all causes of action.

1 E. LEWIS' DEMURRER SHOULD BE SUSTAINED BECAUSE PLAINTIFF'S
2 CLAIMS ARE BARRED BY THE MARKETABLE RECORD TITLE ACT

3
4 The Marketable Record Title Act ("MRTA") was enacted to make property more freely
5 alienable and marketable by enabling persons to determine the status and security of recorded real
6 property titles from an examination of recent records. (Civ. Code §§ 880.020 et seq.; see also *Miller*
7 *v. Provost* (1994) 26 Cal.App.4th 1703) Among other things, the MRTA states:

8
9 Interests in real property and defects in titles created at remote times,
10 whether or not of record, often constitute unreasonable restraints on
11 alienation and marketability of real property because the interests are
12 no longer valid or have been abandoned or have otherwise become
13 obsolete. . . . It is the purpose of the Legislature in enacting this title
14 to simplify and facilitate real property title transactions in furtherance
15 of public policy by enabling persons to rely on record title to the
16 extent provided in this title, with respect to the property interests
17 specified in this title, subject only to the limitations expressly provided
18 in this title and notwithstanding any provision or implication to the
19 contrary in any other statute or in the common law. This title shall be
20 liberally construed to effect the legislative purpose. (Civ. Code §
21 880.020.)

22 The MRTA provides a recordation requirement for certain types of interests in real property.
23 Failure to record such interests within a given period of time results in the expiration of the interest.
24 (See *Severns v. Union Pacific Railroad Co.* (2003) 101 Cal.App.4th 1209, 1220.) The times for
25 expiration are absolute and apply notwithstanding any disability or lack of knowledge. (See Civ.
26 Code § 880.050.) An interest in land may be preserved by the timely recordation of a notice of intent
27 to preserve the interest. (See *Severns, supra*, at 1220.) If the period to record the notice of intent
28 to preserve expires within five years after the effective date of the MRTA (January 1, 1983), the
period is extended until five years after the effective date of the MRTA.

29 Plaintiff's Complaint fails to allege that plaintiff filed the requisite notices of intent to preserve
30 its alleged reservation and easement. Since both the alleged easement and the alleged reservation
31 would have expired well before the effective date of the MRTA, plaintiff, or its predecessors, had

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1 until January 1, 1988 to record a notice of intent to preserve its interests. Because plaintiff's
2 Complaint is devoid of any allegations indicating that plaintiff, or its predecessors, filed such a notice,
3 plaintiff's alleged interests have expired and plaintiff's claims are barred as a matter of law.
4

5 **III. CONCLUSION**
6

7 For the foregoing reasons, Lewis Investment Company, LLC respectfully requests that the
8 court sustain the demurrer to plaintiff's first, second and third causes of action without leave to
9 amend.
10

11 DATED: January 10, 2003

BEST BEST & KRIEGER LLP

12
13 By: 
14 Jeffrey V. Dunn
15 Eric L. Garner
16 Jill N. Willis
17 Attorneys for Defendant
18 Lewis Investment Company, LLC
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PROOF OF SERVICE

I, Theresa G. Lamboy declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 3750 University Avenue, Suite 400, P.O. Box 1028, Riverside, California 92502-1028. On January 10, 2003, I served the within documents:

NOTICE OF HEARING OF DEMURRER; DEMURRER; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

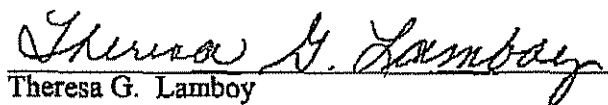
- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Riverside, California addressed as set forth below.
- by causing personal delivery by of the document(s) listed above to the person(s) at the address(es) set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- I caused such envelope to be delivered via overnight delivery addressed as indicated on the attached service list. Such envelope was deposited for delivery by {Overnight Delivery Name Inserted Here} following the firm's ordinary business practices.

See attached Proof of Service List

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on January 10, 2003, at Riverside, California.


Theresa G. Lamboy

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FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT

JAN 17 2003

BY *Peter H. Norell* DEPUTY

Attorneys for Defendant
Lewis Investment Company, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA BRANCH

CHINO LAND & WATER CO., INC.,

Plaintiff,

v.

LEWIS INVESTMENT COMPANY, LLC,
a California Limited Liability Company; all
Persons Unknown, Claiming Any Legal or
Equitable Right, Title, Estate, Lien, or
Interest in the Property Described in the
Complaint Adverse to Plaintiff's Title, or
Any Cloud upon Plaintiff's Title Thereto; and
DOES 1 through 100,000, inclusive,

Defendants.

Case No. RCV 064284
Judge: Honorable Peter H. Norell

REQUEST FOR JUDICIAL NOTICE

Date: February 6, 2003
Time: 8:30 a.m.
Dept: R3

Date action filed: June 20, 2002
Date set for trial: Not yet set

REQUEST FOR JUDICIAL NOTICE

Pursuant to Evidence Code sections 450 and 452, subdivisions (d) and (h), defendant Lewis Investment Company ("Lewis") requests that the court take judicial notice of the following documents:

1. The January 30, 1978 judgment entered in Chino Basin Municipal Water District v. City of Chino, et al., San Bernardino Superior Court Case No. 164327, a true and correct copy of which is attached to this Request as Exhibit "A."

2. The chain of title for the property at issue showing that plaintiff's alleged reservation was created in 1908, a true and correct copy of which is attached to this Request as Exhibit "B."

The court may take judicial notice of Exhibit "A" pursuant to Evidence Code section 452, subdivision (d), which permits a court to judicially notice both the existence of, and the truth of the matters asserted in, court orders, conclusions of law, and judgments. (See, e.g., Sosinsky v. Grant (1992) 6 Cal. App. 4th 1548, 1564; In re Tanya F. (1980) 111 Cal.App.3d 436; Columbia Cas. Co. v. Northwestern Nat'l Ins. Co. (1991) 231 Cal.App.3d 457, 473.)

The court may take judicial notice of Exhibit "B" pursuant to Evidence Code section 452, subdivision (h), which permits a court to take judicial notice of "[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." (See Dubin v. Robert Newhall Chesebrough Trust, (2002) 96 Cal.App.4th 465, 472 [court considered judicially noticed deeds showing chain of title]; Maryland Casualty Co. v. Reeder, (1990) 221 Cal.App.3d 961, 977 [same]; B & P Development Corp. v. City of Saratoga (1986) 185 Cal.App.3d 949, 960 [court took judicial notice of filing and recording of final subdivision map].)

DATED: January 10, 2003

BEST BEST & KRIEGER LLP

By: [Signature]
Jeffrey V. Dunn
Eric L. Garner
Jill N. Willis
Attorneys for Defendant
Lewis Investment Company, LLC

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Theresa G. Lamboy

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