



# CHINO BASIN WATERMASTER



## NOTICE OF MEETINGS

**Thursday, December 18, 2008**

- 9:00 a.m. – Advisory Committee Meeting
- 11:00 a.m. – Watermaster Board Meeting

***(A Christmas lunch will be served after the Board meeting)***

***AT THE CHINO BASIN WATERMASTER OFFICES***

*9641 San Bernardino Road  
Rancho Cucamonga, CA 91730  
(909) 484-3888*





# CHINO BASIN WATERMASTER

**Thursday, December 18, 2008**

9:00 a.m. – Advisory Committee Meeting  
11:00 a.m. – Watermaster Board Meeting

# AGENDA PACKAGE



**CHINO BASIN WATERMASTER  
ADVISORY COMMITTEE MEETING**

**WITH**

*Mr. Robert DeLoach, Chair  
Mr. Bob Feenstra, Vice-Chair  
Mr. Mark Kinsey, 2<sup>nd</sup> Vice-Chair*  
9:00 a.m. – December 18, 2008

**At The Offices Of  
Chino Basin Watermaster  
9641 San Bernardino Road  
Rancho Cucamonga, CA 91730**

**AGENDA**

**CALL TO ORDER**

**AGENDA - ADDITIONS/REORDER**

**I. 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 Advisory Committee Meeting held November 20, 2008 *(Page 1)*

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of November 2008 *(Page 17)*
2. Watermaster Visa Check Detail *(Page 21)*
3. Combining Schedule for the Period July 1, 2008 through October 31, 2008 *(Page 23)*
4. Treasurer's Report of Financial Affairs for the Period October 1, 2008 through October 31, 2008 *(Page 25)*
5. Budget vs. Actual July 2008 through October 2008 *(Page 27)*

**C. WATER TRANSACTION**

1. **Consider Approval for Notice of Sale or Transfer** – Fontana Water Company ("Company") has agreed to purchase from Cucamonga Valley Water District water in storage in the amount of 4,265 acre-feet. Date of Application: October 6, 2008 *(Page 29)*
2. **Consider Approval for Notice of Sale or Transfer** – Aqua Capital Management LP (Aqua) has agreed to purchase from CCG Ontario LLC (CCG) the amount of all of CCG's water in storage as of June 30, 2008, and a permanent transfer of its share of safe yield of 630.274 acre-feet. Date of Application: November 7, 2008 *(Page 43)*

**II. BUSINESS ITEMS**

**A. MOU COOPERATIVE EFFORTS FOR MONITORING PROGRAMS BETWEEN THE INLAND EMPIRE UTILITIES AGENCY AND THE CHINO BASIN WATERMASTER – BRIGHT LINE APPROACH**

Consider Approval for the Memorandum of Understanding Cooperative Efforts for Monitoring Programs Between the Inland Empire Utilities Agency and the Chino Basin Watermaster Bright Line Approach dated December 17, 2008 *(Page 57)*

**B. PUBLIC INFORMATION COST SHARING AGREEMENT WITH INLAND EMPIRE UTILITIES AGENCY FOR 2009 COMMUNITY OUTREACH CAMPAIGN**

Consider Approval for the Advertising Agreement with Inland Empire Utilities Agency for a 12-Month Public Information Campaign with the Inland Valley Daily Bulletin *(Page 63)*

**C. CONDITION SUBSEQUENT NO. 5**

Consider Approval of January 1, 2009 Progress Report on Watermaster's Recharge Master Plan Update pursuant to Condition Subsequent 5 *(Page 71)*

**D. AGRICULTURAL POOL REALLOCATION PROCEDURE**

Consider to Adopt the Procedures as Described in the Attached Memorandum and Instruct Counsel to Include a Description of These Procedures in the Filing to be Made in Compliance with Condition Subsequent Number 8 *(Page 81)*

**E. WATERMASTER PURCHASE AND SALE AGREEMENT – PROPOSED PRICE FLOOR AUCTION**

Consider Auction Proposal for the Non-Agricultural Pool Water *(Page 87)*

**III. REPORTS/UPDATES**

**A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**

1. February 2, 2009 Hearing
2. Condition Subsequent No. 7 Pleading

**B. ENGINEERING REPORT**

1. Oral Progress Report on Engineering Activities November 2008
2. Progress Report on the AB303 Grant ASR Pilot Project in MZ3

**C. CEO/STAFF REPORT**

1. Legislative Update
2. Recharge Update
3. California Groundwater Coalition (CGC)

**D. INLAND EMPIRE UTILITIES AGENCY**

1. Dry Year Yield Expansion Program Oral
2. MWD Water Supply Allocation Plan Update Oral
3. IEUA Draft "Strawman" Drought Plan Oral
4. Recycled Water Newsletter *(Page 113)*
5. Monthly Water Conservation Programs Report *(Page 119)*
6. State and Federal Legislative Report *(Page 131)*
7. Community Outreach/Public Relations Report *(Page 153)*
8. IEUA Regional Conservation Programs *(Page 155)*
9. Annual Water Use Report for IEUA Service Area *(Page 161)*

**E. OTHER METROPOLITAN MEMBER AGENCY REPORTS**

**IV. INFORMATION**

1. Newspaper Articles *(Page 191)*

**V. COMMITTEE MEMBER COMMENTS**

**VI. OTHER BUSINESS**

**VII. FUTURE MEETINGS**

December 11, 2008	10:00 a.m.	Joint Appropriative & Non-Agricultural Pool Meeting
December 16, 2008	9:00 a.m.	Agricultural Pool Meeting @ IEUA
December 18, 2008	9:00 a.m.	Advisory Committee Meeting
December 18, 2008	11:00 a.m.	Watermaster Board Meeting
January 8, 2009	9:30 a.m.	Annual Non-Agricultural Pool Elections
January 8, 2009	9:45 a.m.	Annual Appropriative Pool Elections
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January 22, 2009	9:00 a.m.	Annual Advisory Committee Meeting
January 22, 2009	11:00 a.m.	Annual Watermaster Board Meeting

**Meeting Adjourn**

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**CHINO BASIN WATERMASTER  
BOARD MEETING**

**WITH**

*Mr. Ken Willis, Chair*

*Mr. Bob Kuhn, Vice-Chair*

11:00 a.m. – December 18, 2008

**At The Offices Of**

**Chino Basin Watermaster**

9641 San Bernardino Road

Rancho Cucamonga, CA 91730

**AGENDA**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**AGENDA - ADDITIONS/REORDER**

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1. Legislative Update
2. Recharge Update
3. California Groundwater Coalition (CGC)

**IV. INFORMATION**

1. Newspaper Articles *(Page 191)*

**V. BOARD MEMBER COMMENTS**

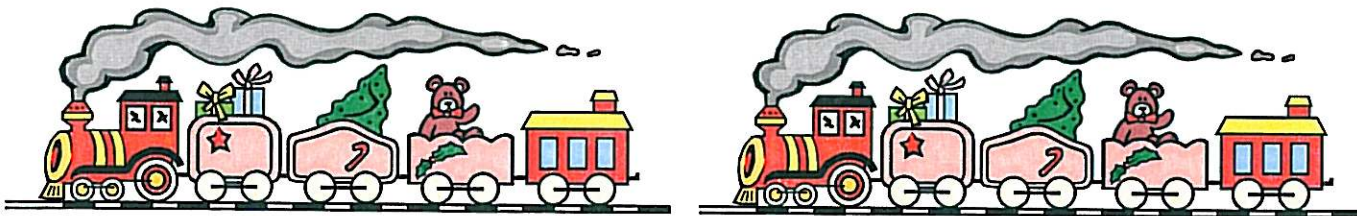
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January 22, 2009	11:00 a.m.	Annual Watermaster Board Meeting

**Meeting Adjourn**



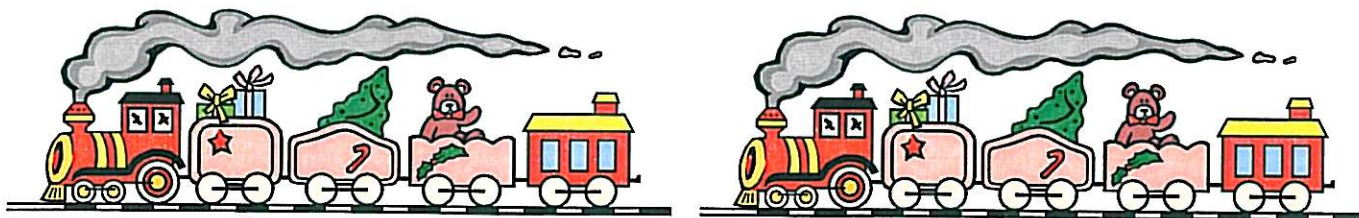


# CHINO BASIN WATERMASTER

## I. CONSENT CALENDAR

### A. MINUTES

1. Advisory Committee Meeting – November 20, 2008



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

*November 20, 2008*

The Advisory Committee meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga CA, on November 20, 2008 at 9:00 a.m.

**ADVISORY COMMITTEE MEMBERS PRESENT**

**Appropriative Pool**

Robert DeLoach, Chair	Cucamonga Valley Water District
Mark Kinsey	Monte Vista Water District
Ken Jeske	City of Ontario
Robert Tock	Jurupa Community Services District
Ron Craig	City of Chino Hills
Anthony La	City of Upland
Dave Crosley	City of Chino
Charles Moorrees	San Antonio Water Company
Raul Garibay	City of Pomona

**Non-Agricultural Pool**

Kevin Sage	Vulcan Materials Company (Calmat Division)
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**Agricultural Pool**

Jeff Pierson	Crops
Jennifer Novak	Department of Justice/CIM
Pete Hall	State of California/CIM
Rob Vanden Heuvel	Milk Producers Counsel

**Watermaster Board Members Present**

Charles Field	Western Municipal Water District
Ken Willis	City of Upland
Terry Catlin	Inland Empire Utilities Agency

**Watermaster Staff Present**

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

**Watermaster Consultants Present**

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

**Others Present**

Marty Zvirbulis	Cucamonga Valley Water District
Sandra Rose	Monte Vista Water District
Steve Nix	City of Chino Hills
John Mura	City of Chino Hills
Craig Parker	Inland Empire Utilities Agency
Martha Davis	Inland Empire Utilities Agency
David DeJesus	Three Valleys Municipal Water District
Steven Lee	Reid & Hellyer

Michael Camacho  
Eunice Ulloa

Visitor  
Chino Basin Water Conservation District

Chair DeLoach called the Advisory Committee meeting to order at 9:06 a.m.

### **AGENDA - ADDITIONS/REORDER**

There were no additions or reorders made to the agenda. Mr. Manning noted the staff report for the TMDL Study has been revised and is available on the back table. Mr. Manning noted the December 18, 2008 IEUA DYY meeting which is listed in the Future Meeting section of the agenda has been changed to December 12, 2008 at 9:00 and will be held at the IEUA offices.

## **I. CONSENT CALENDAR**

### **A. MINUTES**

1. Minutes of the Advisory Committee Meeting held October 23, 2008

### **B. FINANCIAL REPORTS**

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

### **C. INTERVENTIONS**

1. Consider Approval for the Red Hill Country Club Intervention into the Overlying Non-Agricultural Pool

*The Red Hill Country Club Intervention was not approved after a lengthy discussion.*

2. Consider Approval for the Aqua Capital Management Intervention into the Overlying Non-Agricultural Pool

*Motion by Kinsey, second by La, and by unanimous vote*

***Moved to approve Consent Calendar Items A, B, and C2, as presented***

## **II. BUSINESS ITEMS**

### **A. 2008/2009 ASSESSMENT PACKAGE**

Mr. Manning stated the Assessment Package is in the meeting packet and a workshop was held on October 30, 2008 regarding this item. The Assessment Package reflects all the production from last year and production was down and therefore the cost per acre-foot has increased over the prior year. Mr. Manning stated a presentation was given to the pools by Ms. Rojo. A brief discussion regarding the assessment package ensued.

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

***Moved to approve the 2008/2009 Assessment Package, as presented***

### **B. CONTRACT WITH BLACK & VEATCH**

Mr. Manning stated the proposed contract with Black & Veatch is to perform services on the Recharge Master planning process. This process was discussed at the recent Strategic Planning Conference as well as many other meetings. The work that needs to be performed for this plan is going to be broken up into pieces. Mr. Manning noted there are no changes or impact to the current budget with regard. The company who actually does the work..

*Motion by La, second by Jeske, and by unanimous vote*

***Moved to approve the contract with Black & Veatch, as presented***

### **C. BUDGET TRANSFERS**

1. Budget Transfer from OBMP & Water Quality Committee Expense to Recharge Master Plan and Watermaster Legal Counsel for \$413,750.00

Mr. Manning noted staff is seeking approval for two budget transfers this month. When the original budget was developed and approved in June, the Appropriative Pool requested and the Watermaster Board agreed to adopt a budget account related to legal expenses that was not sufficient based upon the information that was provided at that time. It was asked that the budget be lowered in the category of legal fees and then bring the budget back when the assessment package was being approved with amore accurate amount for Watermaster legal fees. This actual budget transfer will move money from the OBMP category to the legal category meaning there will not be an increase to assessments associated with this transaction.

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

***Moved to approve the budget transfer from OBMP & Water Quality Committee Expense to the Recharge Master Plan and Watermaster legal counsel, as presented***

2. Funding of the Farming Portion of the Middle Santa Ana Watershed TMDL Study – Budget Transfer Request for \$21,000

Mr. Manning stated this is an Agricultural Pool request for the farming portion of the TMDL Study and administrative fees associated with this study. This item was brought forward from the Agricultural Pool meeting last month and at that meeting it was decided to seek payment for this item through the Watermaster process as a Special Project. This will require Watermaster staff to move monies around to cover the \$21,000 since this was not a budgeted cost. It was noted that Mr. Jeske requested a written report be submitted to the Appropriative Pool on the actual TMDL study at the November Appropriative Pool meeting. Mr. Jeske inquired as to how this bill was paid last year. Mr. Manning stated these costs were paid for by the Agricultural Pool with their money. A discussion regarding this payment coming from the Appropriative Pool and this type of special project ensued. Mr. Lee offered comment regarding this item and noted he thoroughly reviewed the Peace Agreement and the Rules and Regulations regarding what a special project is and feels this item qualifies as a special project that should be paid by the appropriators. A discussion regarding the Agricultural Pool funds ensued. Mr. Manning stated Watermaster staff would put together a report on the requests made.

*#1 Motion by Jeske, second by Kinsey, and by majority vote – Pierson opposed and Novak abstained*

***Moved to continue the item without prejudice and to have legal and staff review the TMDL requirements including a background analysis of the study, to review the regional program benefit to Watermaster, and to review if other studies or programs that relate to this topic are eligible for other parities to bring forward for payment through the Watermaster process, as presented***

*#2 Motion by Jeske, second by Pierson, and by unanimous vote*

***Moved to have a complete report brought back on the history of the funds currently held by the Agricultural Pool and an investigation as to what is the scope of a special project, as presented***

**D. DELINQUENT ASSESSMENT POLICY**

Mr. Manning stated when the item regarding delinquent payments/fees was brought through the Watermaster process last month it was noted Watermaster did not have a formal approved delinquent assessment policy to refer to when this type of situation came up. This month staff is bringing a draft delinquent assessment policy through the process to offer staff clear direction in handling delinquent assessments. It was noted not only does this draft policy request at least a 10% interest per year but has a 2% late penalty as well. This new policy will be enforced as a

going forward policy. It was noted the Appropriative Pool lowered the CEO's waiver amount from \$1,000 to \$200. A discussion ensued with regard to this matter.

*Motion by Kinsey, second by Pierson, and by unanimous vote*

***Moved to approve the Delinquent Assessment Policy and to allow Watermaster staff to waive up to \$200, any un-waived assessment amounts or interest unpaid from one year will be invoiced to the party on the following year's assessment invoice, as presented.***

#### **E. CONDITION SUBSEQUENT NO. 7**

Mr. Manning stated this item has been approved by the Pools and a full presentation was given at the Pool meetings. Mr. Wildermuth noted his presentation it will be given at the Watermaster Board meeting.

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

***Moved to approve the corrected initial schedule to account for un-replenished pre-Peace II desalter production from the re-operation water (other than the amount allocated to WMWD) because (a) engaging in physical replenishment will delay the achievement of hydraulic control; and (b) there will be greater yield benefits. To provide the court tables illustrating historical storm water recharge estimates for the period 2000/01 through 2006/07 and a description of the method used by Watermaster to compute new storm water estimates that was adopted by the Watermaster in 2003 and the schedule for the first correction to the new storm water recharge estimate; new prediction and correction will be computed in the summer of 2009, as presented***

#### **F. ITEM REFERRED BACK FROM WATERMASTER BOARD FOR WAIVER OF INTEREST CHARGES**

Mr. Manning stated this item was referred back to this committee from the Watermaster Board. The vote at the October Advisory Committee was unanimous to allow a complete waiver for the two submitted parties; however, when the item was presented to the Board, they instructed staff to take this item back to the Advisory Committee to reconsider the approval to waive the interest fees. A discussion regarding the discussions that took place at the Watermaster Board meeting regarding this item ensued. Mr. Manning noted Chairman Willis did assign two members of the Board to examine this matter and their recommendation was to not do anything because the terms written in the Judgment were sufficient for start to use to assess the interest charges. A discussion regarding the waiver ensued.

*Motion by Jeske, second by Pierson, and by unanimous vote – Non-Agricultural Pool abstained*

***Moved to deny the waiver and to apply the interest up to the date the payment was received with no additional interest charges incurring, as presented***

### **III. REPORTS/UPDATES**

#### **A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**

##### **1. November 13, 2008 Hearing**

Counsel Fife stated a new judge has been appointed to Chino Basin Watermaster and last week was the first hearing with Judge Wade. There were two very brief hearings in the past with Judge Wade but this was the first hearing of any length. There were two main topics at this hearing; 1) approval of Conditions Subsequents 1 through 6, and 2) the receipt and filing of the Annual Report and the Status Reports. Judge Wade did note during the hearing that the status reports that Watermaster has been filing are not helpful and he does not want them written and/or filed with the court any longer. In place of those the judge wants status reports and updates to be given to him verbally. The next hearing is scheduled for February 2<sup>nd</sup> & 3<sup>rd</sup> where the judge wants to be educated about "all things Chino Basin." Counsel Fife stated the judge wants to hear about the OBMP and how implementation is proceeding, recharge activity and recharge numbers. Mr. Manning noted staff and counsel

will provide an outline in advance of the hearing so that the parties have an idea of what will be discussed at the hearing. Counsel Fife noted the motion regarding the dismissal of the Special Referee was not granted at this time; however, Judge Wade did comment to the Special Referee who was present via a conference call that specific written orders by the judge to her would be the only way she was to perform any tasks. This would be on an as needed basis while Judge Wade gets himself familiar with the ins and outs of Chino Basin Watermaster processes, policies, and endeavors. Counsel Fife stated Judge Wade does want to discuss governance at the next hearing.

2. February 2 & 3, 2009 Hearing

Counsel Fife noted this item was discussed under the November 13, 2008 Hearing item.

**B. ENGINEERING REPORT**

1. Oral Progress Report on Engineering Activities, September – October 2008

No comment was made regarding this item.

**C. CEO/STAFF REPORT**

1. Legislative Update

Mr. Manning stated a detailed report from IEUA is in the meeting packet that outlines current legislative issues.

2. Recharge Update

Mr. Manning noted the most current recharge update spreadsheet is available on the back table for review.

3. Replenishment Obligation

Mr. Manning stated Watermaster does have a replenishment obligation of about 20,000 acre-feet this year. Watermaster does not have a source for that water at this point in time identified. Staff will be making the call to buy water out of storage from producers; similar to what was done last year. The water will be purchased at the MWD replenishment rate.

4. MOU on Accounting Procedures for the Dry year yield Program

Mr. Manning stated this item was put on the agenda in case there were any questions because this item was on a recent agenda as an action item. Metropolitan Water District was asking the three municipal water districts, Three Valleys Municipal Water District, Western Municipal Water District, Inland Empire Utilities Agency, and Chino Basin Watermaster to sign an agreement on accounting procedures. Watermaster's position was that it would not sign the MOU because it was merging three documents into one and Watermaster was not signatory on all three documents; signing the MOU on that basis would not be appropriate. The suggestion to MWD was to just submit something on accounting procedures for the DYY Program only that could be reviewed.

5. MWD Groundwater Study

Mr. Manning stated the MWD Groundwater Study is still going on through workshops and meetings with consultants and MWD staff so that they can get a better understanding of what recommendations they are going to make to the State Water Recourse Board in June 2009. Four sessions have already taken place and they are adding a fifth session to further their education and Continue dialog with the parties.

**D. INLAND EMPIRE UTILITIES AGENCY**

1. MWD Water Supply Allocation Plan Update

Ms. Davis stated there are some new handouts available on the back table regarding the MWD Water Supply Allocation Plan. Ms. Davis noted there has been a lot of discussion between the agencies about what would make sense as a timeframe for MWD to implement its Water Supply Allocation Plan. Many agencies are pushing for an early start

date and as early as January. MWD made the decision to make it a goal to begin in April of 2009 leaving parties' time to plan for implementation.

2. Dry Year Yield/Dry Year Expansion Status Report  
Ms. Davis stated the DYY meeting was just held prior to this meeting and a copy of a presentation that was given by Black & Veatch is available on the back table. The next DYY meeting will be held at the IEUA offices instead of Watermaster on December 12, 2008 at 9:00 a.m.
3. Phase II Recharge Capital Improvements Status Report  
Mr. Craig offered comment on the SCADA system and the recharge project.
4. Quarterly Planning & Water Resources Report  
No comment was made regarding this item.
5. Recycled Water Newsletter  
No comment was made regarding this item.
6. Monthly Water Conservation Programs Report  
No comment was made regarding this item.
7. Monthly Imported Water Deliveries Report  
No comment was made regarding this item.
8. State and Federal Legislative Report  
No comment was made regarding this item.
9. Community Outreach/Public Relations Report  
No comment was made regarding this item.

**E. OTHER METROPOLITAN MEMBER AGENCY REPORTS**  
X

**IV. INFORMATION**

1. Newspaper Articles  
No comment was made regarding this item.

**V. COMMITTEE MEMBER COMMENTS**

No comment was made regarding this item.

**VI. OTHER BUSINESS**

No comment was made regarding this item.

**VII. FUTURE MEETINGS**

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December 18, 2008 11:00 a.m. Watermaster Board Meeting

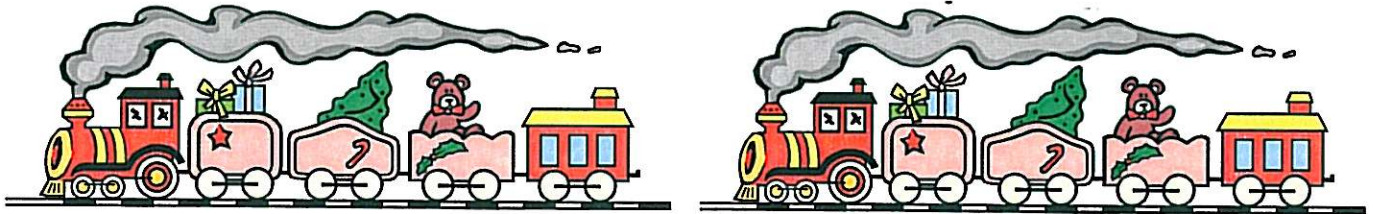
The Advisory Committee meeting was dismissed by Chair DeLoach at 10:15 a.m.

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

Minutes Approved: \_\_\_\_\_



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# CHINO BASIN WATERMASTER

## I. CONSENT CALENDAR

### A. MINUTES

1. Watermaster Board Meeting – November 20, 2008



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

*November 20, 2008*

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on November 20, 2008 at 11:00 a.m.

**WATERMASTER BOARD MEMBERS PRESENT**

Ken Willis, Chair  
Bob Kuhn  
Charles Field  
Jim Curatalo  
Jim Bowman  
Terry Catlin  
Bob Bowcock  
Jeff Pierson  
Geoffrey Vanden Heuvel

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

**Watermaster Staff Present**

Ken Manning  
Sheri Rojo  
Ben Pak  
Danielle Maurizio  
Sherri Lynne Molino

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

**Watermaster Consultants Present**

Scott Slater  
Michael Fife  
Mark Wildermuth

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

**Others Present**

Jennifer Novak  
Gene Koopman  
Dave Crosley  
John Rossi  
Mark Kinsey  
Sandra Rose  
Raul Garibay  
Robert Tock  
Hank Stoy  
Michael Camacho  
Marty Zvirbulis  
Ken Jeske  
David DeJesus  
Ron Craig  
Eunice Ulloa

Department of Justice/CIM  
Milk Producers Counsel  
City of Chino  
Western Municipal Water District  
Monte Vista Water District  
Monte Vista Water District  
City of Pomona  
Jurupa Community Services District  
Visitor  
Visitor  
Cucamonga Valley Water District  
City of Ontario  
Three Valleys Municipal Water District  
RBF Consulting/Chino Hills  
Chino Basin Water Conservation District

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

**PLEDGE OF ALLEGIANCE**

**AGENDA - ADDITIONS/REORDER**

Mr. Manning stated the Pools and Advisory Committee requested that the Intervention from the Red Hill Country Club, item C1 be held over until a more parallel process is submitted with their planning of the installation of their well.

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

1. Minutes of the Watermaster Board Meeting held October 23, 2008

**B. FINANCIAL REPORTS**

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

**C. INTERVENTIONS**

1. Consider Approval for the Red Hill Country Club Intervention into the Overlying Non-Agricultural Pool
  
2. Consider Approval for the Aqua Capital Management Intervention into the Overlying Non-Agricultural Pool

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

***Moved to approve Consent Calendar Items A, B, C2, as presented***

**II. BUSINESS ITEMS****A. 2008/2009 ASSESSMENT PACKAGE**

Mr. Manning stated the Assessment Package is in the meeting packet and a workshop was held on October 30, 2008 regarding this item. The Assessment Package reflects all the production from last year and production was down and therefore the cost per acre-foot has increased. Mr. Manning noted this item passed unanimously by the Pools and Advisory Committee. Ms. Rojo gave the Assessment Package presentation. A discussion regarding storage losses and O&M costs ensued. Ms. Rojo stated the recalculation of the over allocation of the of the Agricultural Pool rights is in a new format and has been calculated based on quantity of water that was potentially available to reallocate per Peace II. The 10% of Non-Agricultural transfer of water is done on a predetermined amount that was included in Peace II. This Assessment Package includes no inflow from the Santa Ana River (SAR) as a credit to offset the desalter production. The desalter production is offset by the remaining 400,000 acre-feet that was transferred into the account last year. A discussion regarding the Assessment Package numbers and Condition Subsequent No. 7 ensued.

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

***Moved to approve the 2008/2009 Assessment Package, as presented***

**B. CONTRACT WITH BLACK & VEATCH**

Mr. Manning stated the proposed contract with Black & Veatch is to perform services on the Recharge Master planning process. This process was discussed at the recent Strategic Planning Conference as at well as many other meetings. Mr. Manning noted this item passed unanimously by the Pools and Advisory Committee. The work that needs to be performed for this plan is going to be broken up into pieces. This is different than the original plan of having Wildermuth Environmental doing all the work. Staff has looked at the process with the help of Wildermuth Environmental and it has been decided that Black & Veatch can perform some of

the tasks at a lower cost. This break up of task will also allow the Recharge Master Plan to be completed on time. This cost is already in the budget; staff will move funds from one company to another while keeping costs in the same category.

*Motion by Catlin, second by Curatalo, and by unanimous vote*

***Moved to approve the contract with Black & Veatch, as presented***

### C. BUDGET TRANSFERS

1. Budget Transfer from OBMP & Water Quality Committee Expense to Recharge Master Plan and Watermaster Legal Counsel for \$413,750

Mr. Manning noted staff is seeking approval for two budget transfers this month. When the original budget was developed and approved in June, the Appropriative Pool requested and the Watermaster Board agreed to adopt a budget that was not sufficient based upon the information that was provided at that time. It was asked that the budget be lowered in the category of legal fees and then bring the budget back when the assessment package was being approved with a shored up legal fee number. Mr. Manning noted this item passed unanimously by the Pools and Advisory Committee. This actual budget transfer will move money from the OBMP category to the legal category meaning there will not be an increase to assessments associated with this transaction. Mr. Vanden Heuvel noted for the record that there was thoroughly discussed and examined these legal expenses which included a workshop held earlier this year.

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

***Moved to approve the budget transfer from OBMP & Water Quality Committee Expenses to Recharge Master Plan and Watermaster Legal Counsel for \$413,750, as presented***

2. Funding of the Farming Portion of the Middle Santa Ana Watershed TMDL Study – Budget Transfer Request for \$21,000

Mr. Manning stated this is an Agricultural Pool request for the farming portion of the TMDL Study and administrative fees associated with this study. This item was brought forward at the Agricultural Pool Meeting last month and at that meeting it was decided to seek payment for this item through the Watermaster process as a Special Project. This will require Watermaster staff to move monies around to cover the \$21,000 since this was not a budgeted cost. Mr. Manning noted there was a lot of discussion at the Pool meetings and at the Advisory Committee meetings. Mr. Manning stated at the Appropriative and Non-Agricultural pool meeting, they moved to deny the request to fund the farming portion of the Middle Santa Ana Water shed TMDL Study and requested staff to provide an explanatory description of what "Special Projects" are, and to bring back a written report on this item at a future meeting. Additionally Mr. Manning stated the Advisory Committee moved to have a complete report brought back on the history of the funds currently held by the Agricultural Pool and an investigation as to what is the scope of a special project. Counsel Slater stated the Advisory Committee did not take a position on this item and that they have referred it to counsel and staff to develop a position; it is coming to this board without a recommendation from the Advisory Committee at this time. A lengthy discussion regarding this matter ensued.

*No action was taken on this item.*

### D. DELINQUENT ASSESSMENT POLICY

Mr. Manning stated when the item regarding delinquent payments/fees was brought through the Watermaster process last month it was noted Watermaster did not have a formal approved delinquent assessment policy to refer to when this type of situation came up. This month staff is bringing a draft delinquent assessment policy through the process to offer staff clear direction in heading delinquent assessment. It was noted not only does this draft policy request at least 10% interest per year but also a 2% late penalty as well. This new policy will be enforced as a

going forward policy. Mr. Manning noted at the October Watermaster Board meeting a committee of two board members, Geoff Vanden Heuvel and Bob Kuhn, were appointed to review the draft policy and they will give their recommendation to the Board members today. Mr. Kuhn stated he met with Mr. Vanden Heuvel after the last board meeting and their recommendation is that there is a mechanism already in place as stated in the Judgment and it is sufficient to justify staffs past practice of assessing interest on late payments. Mr. Manning noted this item passed unanimously by the Pools; however, at the Appropriative and Non-Agricultural Pool meeting they felt the waiver authority given to CEO should change from \$1000 to \$200. The Advisory Committee agreed with the \$200 amount and approved the policy with that slight change.

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

***Moved to approve the Delinquent Assessment Policy and to allow Watermaster staff to waive up to \$200, as presented***

#### **E. CONDITION SUBSEQUENT NO. 7**

Mr. Manning stated staff is asking for the approval of Condition Subsequent No. 7 which is outlined in the meeting package. Mr. Manning noted the recommendations for Condition Subsequent No. 7 are on page 149. Mr. Manning stated there was a workshop held on this item recently which allowed for questions and answers. Mr. Wildermuth read the court order regarding Condition Subsequent No. 7 and gave a presentation which included a review of the Initial Corrected Schedule that was in the Peace II Agreement. Mr. Wildermuth reviewed the staff recommendation for reconciliation of new yield from storm water recharge. A discussion regarding Mr. Wildermuth's presentation ensued. Mr. Manning stated staff is seeking approval of recommendations presented on this item. Mr. Vanden Heuvel stated for the record the compliance with Condition Subsequent No.7 was a real test for the Watermaster, Watermaster made commitments in the past to do things that could potentially cost money. The decision at the start did not cost any money however, there was a potential that it would depending on what happened. Complying with Condition Subsequent No. 7 is going to cost money; these milestones need to be documented and brought to light.

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

***Moved to approve the corrected initial schedule to account for un-replenished pre-Peace II desalter production from the re-operation water (other than the amount allocated to WMWD) because (a) engaging in physical replenishment will delay the achievement of hydraulic control; and (b) there will be greater yield benefits. To provide the court tables illustrating historical storm water recharge estimates for the period 2000/01 through 2006/07 and a description of the method used by Watermaster to compute new storm water estimates that was adopted by the Watermaster in 2003 and the schedule for the first correction to the new storm water recharge estimate; new prediction and correction will be computed in the summer of 2009, as presented***

#### **F. WAIVER OF INTEREST CHARGES**

Mr. Manning stated this item was brought to this committee last month and it was asked that this item be sent back to the Advisory Committee for further consideration on the appropriateness of waiving the fees. It went back to the Advisory Committee and they moved that a waiver is not appropriate. The Advisory Committee did state that the amount of interest accruing would be fixed to when the payment came in and not accruing during the entire Watermaster process. The amount on the agenda item is the higher amount and will be adjusted when the invoices are resubmitted to the parties.

*Motion by Vanden Heuvel, second by Bowman, and by majority vote – Non-Agricultural Pool abstained*

***Moved to approve not allowing the waiver of interest charges for Arrowhead Mountain Spring Water and Monte Vista Water District, as presented***

**III. REPORTS/UPDATES****A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**1. November 13, 2008 Hearing

Counsel Slater stated the November 13; hearing did take place before Judge Wade for the first time with a collective group of stakeholders. Conditions Subsequent No. 1 through 6 were approved without objection by any party, Watermaster Status Reports and Updates were approved without objection by any party. Counsel Slater stated with regard to the status of the Special Referee, which was a contested issue, the court elected to deny Cucamonga Valley Water District's motion; however, went on to establish new rules on how the court would plan to conduct future proceedings and how the court intended to engage the Special Referee in the future. The court noted the Judge was in position of transition learning about the files and he would value the input of the referee during this transition period. Judge Wade did make it clear that further assignments to the referee would be made expressly by the court in writing including the scope and the task of the referee and the billing arrangement. Judge Wade indicated that written status reports are not helpful and that instead, he would prefer verbal presentations. Judge Wade has scheduled a two day hearing on February 2 and 3, 2009.

2. February 2 & 3, 2009 Hearing

Counsel Slater stated this will be a live hearing and it is going to be an opportunity for Watermaster and the parties to present themselves and demonstrate our commitment and stewardship in terms of managing the basin. At this hearing the court is expecting live testimony and the court did identify several issues for discussion; 1) the court wants to be briefed on the physical solution, 2) a summary of the Recharge Master Plan with regard to water in the ground over the long term, 3) overall OBMP which to be distinguished from the physical solution on the who, what, why, and where, and 4) the issue of governance due to a criticism in some of the paperwork as to how Watermaster addressed this issue. An outline will need to be formulated prior to proceeding in front of the court; Watermaster will prepare an outline and present that outline to the parties as early as possible to solicit comment and feedback. Counsel Slater stated we will also want to encourage the parties to cooperate in this process and to conduct an orderly hearing for the judge. Counsel Slater stated the only other important information that was released was a research clerk was assigned to the Watermaster case. A brief discussion ensued with regard to the new judge and the early release of the pre-hearing outline.

**B. ENGINEERING REPORT**1. Oral Progress Report on Engineering Activities, September – October 2008

Wildermuth has been working with the Conservation District and their consultants regarding the master plan. The Water Supply, Demand & Projection calculations have been completed. IEUA has provided information and has certified their production plan. The concept on the Recharge Master Plan was to figure out what the cost of replenishment would be based on initial pumping estimates and come back to the Appropriators and inquire if they really want to pump that much water. A portion of the work has begun on the impacts of land use and drainage on safe yield. Mr. Wildermuth stated Condition Subsequent No. 7 has been a main focus of the efforts of his firm for several months now. Wildermuth staff is working with the staffs at the City of Chino Hills and the State in trying to put together the contract for the grant under AB303 to help do an ASR Injection Test; that grant has been increased from \$230,000 to \$250,000. The INSAR work that is done periodically where we use remote sensing to sense subsidence has provided us with the latest round of information that we use for that work. Wildermuth staff and Watermaster staff is now going back and doing an internal audit on all of our monitoring in preparation for the budget cycle coming up to see if we can find ways to reduce costs and improve the monitoring programs. A discussion regarding storage losses ensued. Mr. Vanden Heuvel requested the possibility that staff not debit water if losses are not actually taking place. A discussion regarding Mr. Vanden Heuvel's comments ensued. Counsel Slater stated the

wisdom of the Peace II documentation Watermaster assess a 2% loss until the time that there was additional engineering data and/or Hydraulic Control is achieved at which at that point the losses would be zeroed out. Staff was informed that there wouldn't be losses at the time that Hydraulic Control was secured; the Peace II process did leave open the prospect that better information could be presented to the board at any time to adjust a 2% amount.

#### C. **CEO/STAFF REPORT**

Mr. Manning stated with the elections over that there was a continued resolution that put everything on schedule from last year's budget all the way through January 1<sup>st</sup>. There will be new authorities set with the new administration. The State has new projections on the deficit which is now at \$24-\$25 billion dollars over a two year period. We are watching both the state and federal issues very closely.

##### 2. Recharge Update

Mr. Manning stated there is a copy of the most recent recharge update on the back table.

##### 3. Replenishment Obligation

Mr. Manning stated Watermaster does have a replenishment obligation of almost 20,000 acre-feet this year. Watermaster does not have a source for that water at this point in time identified. Staff will be making the call to buy water out of storage from producers; similar to what was done last year. The water will be purchased at the MWD replenishment rate.

#### IV. **INFORMATION**

##### 1. Newspaper Articles

No comment was made regarding this item.

#### V. **BOARD MEMBER COMMENTS**

Chair Willis stated the roundtable discussion that was scheduled for today has been cancelled.

#### VI. **OTHER BUSINESS**

Mr. Catlin introduced Michael Camacho who will represent Cucamonga Valley Water District and sit on the Inland Empire Utilities Agency board.

Mr. Manning stated on Monday the City of Chino Hills did pass the expansion of the Desalter Authority Agreement thereby allowing Western Municipal Water District to join the CDA which will allow Watermaster and parties to move forward with achieving hydraulic control.

The regular open Watermaster Board meeting was convened to hold its confidential session at 12:06 p.m.

#### VII. **CONFIDENTIAL SESSION - POSSIBLE ACTION**

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

1. Chino Airport
2. Accounts Receivable Settlement
3. Hansen Aggregate Settlement

The closed session was convened at 12:14 p.m.

Counsel Slater stated the report from the Watermaster closed Board session was to have legal counsel prepare conforming settlement agreement.



**VIII. FUTURE MEETINGS**

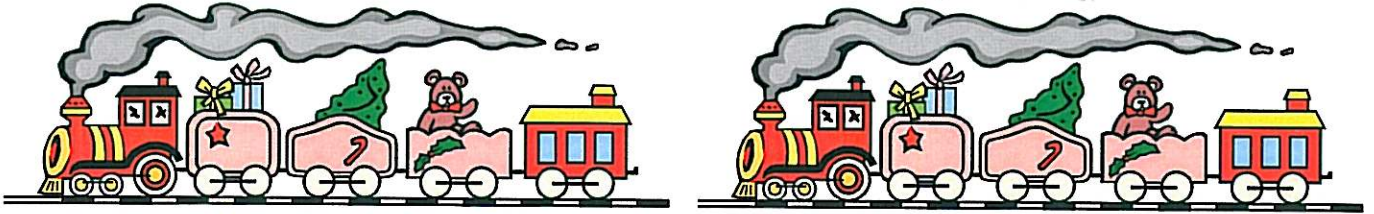
November 18, 2008	9:00 a.m.	Agricultural Pool Meeting @ IEUA
November 18, 2008	1:30 p.m.	Joint Appropriative & Non-Agricultural Pool Meeting
November 20, 2008	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
November 20, 2008	9:00 a.m.	Advisory Committee Meeting
November 20, 2008	11:00 a.m.	Watermaster Board Meeting
November 20, 2008	1:30 p.m.	Roundtable Discussion
December 11, 2008	10:00 a.m.	Joint Appropriative & Non-Agricultural Pool Meeting
December 16, 2008	9:00 a.m.	Agricultural Pool Meeting @ IEUA
December 18, 2008	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
December 18, 2008	9:00 a.m.	Advisory Committee Meeting
December 18, 2008	11:00 a.m.	Watermaster Board Meeting

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

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

Minutes Approved: \_\_\_\_\_

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# CHINO BASIN WATERMASTER

## I. CONSENT CALENDAR

### **B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of November 2008
2. Watermaster Visa Check Detail
3. Combining Schedule of Revenue, Expenses and Changes in Working Capital for the Period July 1, 2008 through October 31, 2008
4. Treasurer's Report of Financial Affairs for the Period October 1, 2008 through October 31, 2008
5. Profit & Loss Budget vs. Actual July 2008 through October 2008





# CHINO BASIN WATERMASTER

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

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**KENNETH R. MANNING**  
Chief Executive Officer

## STAFF REPORT

**DATE:** December 11, 2008  
December 16, 2008  
December 18, 2008

**TO:** Committee Members  
Watermaster Board Members

**SUBJECT:** Cash Disbursement Report

### SUMMARY

**Issue** – Record of cash disbursements for the month of November 2008.

**Recommendation** – Staff recommends the Cash Disbursements for November 2008 be received and filed as presented.

**Fiscal Impact** – Funds disbursed were included in the FY 2008-09 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 2008 were \$520,637.66. The most significant expenditures during the month were Wildermuth Environmental Inc. in the amount of \$285,885.67, Brownstein, Hyatt, Farber & Schreck in the amount of \$42,287.04, and MWH Laboratories in the amount of \$34,726.00.

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**CHINO BASIN WATERMASTER**  
**Cash Disbursement Detail Report**  
**November 2008**

Type	Date	Num	Name	Amount
<b>Nov 08</b>				
General Journal	11/1/2008	08/11/03	PAYROLL	-7,709.20
General Journal	11/1/2008	08/11/03	PAYROLL	-26,915.19
Bill Pmt -Check	11/4/2008	12767	APPLIED COMPUTER TECHNOLOGIES	-3,879.60
Bill Pmt -Check	11/4/2008	12768	ARROWHEAD MOUNTAIN SPRING WATER	-44.83
Bill Pmt -Check	11/4/2008	12769	AUTOMATED GATE SERVICES, INC.	-331.50
Bill Pmt -Check	11/4/2008	12770	BOWCOCK, ROBERT	-125.00
Bill Pmt -Check	11/4/2008	12771	BOWMAN, JIM	-125.00
Bill Pmt -Check	11/4/2008	12772	CALPERS	-3,906.43
Bill Pmt -Check	11/4/2008	12773	DIRECTV	-76.98
Bill Pmt -Check	11/4/2008	12774	EXECUTRAIN OF THE INLAND EMPIRE	-250.00
Bill Pmt -Check	11/4/2008	12775	FISH WINDOW CLEANING	-95.00
Bill Pmt -Check	11/4/2008	12776	HSBC BUSINESS SOLUTIONS	-313.19
Bill Pmt -Check	11/4/2008	12777	JAMES JOHNSTON	-900.00
Bill Pmt -Check	11/4/2008	12778	KONICA MINOLTA BUSINESS SOLUTIONS	-589.75
Bill Pmt -Check	11/4/2008	12779	KUHN, BOB	-375.00
Bill Pmt -Check	11/4/2008	12780	LAKE ARROWHEAD RESORT	-3,611.33
Bill Pmt -Check	11/4/2008	12781	PARK PLACE COMPUTER SOLUTIONS, I...	-3,750.00
Bill Pmt -Check	11/4/2008	12782	PAYCHEX	-211.20
Bill Pmt -Check	11/4/2008	12783	PETTY CASH	-478.00
Bill Pmt -Check	11/4/2008	12784	PREMIERE GLOBAL SERVICES	-309.36
Bill Pmt -Check	11/4/2008	12785	SAFETY CLEAN JANITORIAL SERVICES	-590.00
Bill Pmt -Check	11/4/2008	12786	STANDARD INSURANCE CO.	-575.76
Bill Pmt -Check	11/4/2008	12787	TLC STAFFING	-896.00
Bill Pmt -Check	11/4/2008	12788	VANDEN HEUVEL, GEOFFREY	-250.00
Bill Pmt -Check	11/4/2008	12789	VERIZON	-422.52
Bill Pmt -Check	11/4/2008	12790	VISION SERVICE PLAN	-52.16
Bill Pmt -Check	11/4/2008	12791	W.C. DISCOUNT MOBILE AUTO DETAILI...	-75.00
Bill Pmt -Check	11/4/2008	12792	WHEELER METER MAINTENANCE	-400.00
Bill Pmt -Check	11/4/2008	12793	WILLIS, KENNETH	-125.00
Bill Pmt -Check	11/4/2008	12794	YUKON DISPOSAL SERVICE	-142.88
Bill Pmt -Check	11/4/2008	12795	COMPUTER NETWORK	-350.19
Bill Pmt -Check	11/4/2008	12796	STATE COMPENSATION INSURANCE FU...	-726.76
General Journal	11/15/2008	08/11/05	PAYROLL	-7,559.20
General Journal	11/15/2008	08/11/05	PAYROLL	-27,065.19
Bill Pmt -Check	11/17/2008	12797	ACWA SERVICES CORPORATION	-209.95
Bill Pmt -Check	11/17/2008	12798	BANC OF AMERICA LEASING	-3,186.17
Bill Pmt -Check	11/17/2008	12799	BANK OF AMERICA	-1,718.23
Bill Pmt -Check	11/17/2008	12800	BROWNSTEIN HYATT FARBER SCHRECK	-42,287.04
Bill Pmt -Check	11/17/2008	12801	COMPUTER NETWORK	-2,661.60
Bill Pmt -Check	11/17/2008	12802	ELLISON, SCHNEIDER & HARRIS, LLP	-4,733.22
Bill Pmt -Check	11/17/2008	12803	FIRST AMERICAN REAL ESTATE SOLUTI...	-125.00
Bill Pmt -Check	11/17/2008	12804	MWH LABORATORIES	-34,726.00
Bill Pmt -Check	11/17/2008	12805	PUMP CHECK	-5,473.25
Bill Pmt -Check	11/17/2008	12806	REID & HELLYER	-3,815.24
Bill Pmt -Check	11/17/2008	12807	SAFEGUARD DENTAL & VISION	-57.68
Bill Pmt -Check	11/17/2008	12808	SANTA ANA WATERSHED PROJECT AU...	-3,031.50
Bill Pmt -Check	11/17/2008	12809	STAULA, MARY L	-136.61
Bill Pmt -Check	11/17/2008	12810	THE STANDARD INSURANCE COMPANY	-156.56
Bill Pmt -Check	11/17/2008	12811	TLC STAFFING	-384.00
Bill Pmt -Check	11/17/2008	12812	UNION 76	-151.27
Bill Pmt -Check	11/17/2008	12813	UNITED PARCEL SERVICE	-68.00
Bill Pmt -Check	11/17/2008	12814	VERIZON WIRELESS	-536.38
Bill Pmt -Check	11/17/2008	12815	WESTERN DENTAL SERVICES, INC.	-26.50
Bill Pmt -Check	11/17/2008	12816	WILDERMUTH ENVIRONMENTAL INC	-285,885.67
Bill Pmt -Check	11/17/2008	12817	CITISTREET	-2,595.66
Bill Pmt -Check	11/17/2008	12818	PUBLIC EMPLOYEES' RETIREMENT SYS...	-5,903.50
Bill Pmt -Check	11/17/2008	12819	STATE WATER RESOURCES CONTROL ...	-909.70
Bill Pmt -Check	11/17/2008	12820	CITISTREET	-2,595.66
Bill Pmt -Check	11/17/2008	12821	PUBLIC EMPLOYEES' RETIREMENT SYS...	-5,903.50
Bill Pmt -Check	11/17/2008	12822	STATE WATER RESOURCES CONTROL ...	-2,154.70
Bill Pmt -Check	11/17/2008	12823	CITISTREET	-2,595.66
Bill Pmt -Check	11/17/2008	12824	PUBLIC EMPLOYEES' RETIREMENT SYS...	-5,903.50
Bill Pmt -Check	11/17/2008	12825	STATE WATER RESOURCES CONTROL ...	-549.70
Bill Pmt -Check	11/17/2008	12826	BETTY J. KELLEY, C.S.R.	-70.00
Bill Pmt -Check	11/19/2008	12827	ALL PURPOSE SAFETY TRAINING SOLU...	-492.00
Bill Pmt -Check	11/19/2008	12828	CUCAMONGA VALLEY WATER DISTRICT	-5,495.00
Bill Pmt -Check	11/19/2008	12829	INLAND EMPIRE UTILITIES AGENCY	-250.50
Bill Pmt -Check	11/19/2008	12830	MCI	-1,169.95

CHINO BASIN WATERMASTER  
Cash Disbursement Detail Report  
November 2008

Type	Date	Num	Name	Amount
Bill Pmt -Check	11/19/2008	12831	PRE-PAID LEGAL SERVICES, INC.	-103.60
Bill Pmt -Check	11/19/2008	12832	RICOH BUSINESS SYSTEMS-Lease	-888.94
Bill Pmt -Check	11/19/2008	12833	TLC STAFFING	-384.00
Bill Pmt -Check	11/19/2008		W.C. DISCOUNT MOBILE AUTO DETAILI...	-75.00
<b>Nov 08</b>				<b>-520,637.66</b>

1:07 PM  
12/01/08

CHINO BASIN WATERMASTER  
Check Detail  
November 2008

Type	Num	Date	Name	Account	Paid Amount
Bill Pmt -Check	12799	11/17/2008	BANK OF AMER...	1012 · Bank of America Gen'l Ckg	
Bill	4024...	10/31/2008		6112 · Subscriptions/Publications	-414.06
				6212 · Meeting Expense	-20.25
				6312 · Meeting Expenses	-20.26
				6191 · Conferences	-1,121.52
				6909.1 · OBMP Meetings	-142.14
TOTAL					-1,718.23



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CHINO BASIN WATERMASTER  
 COMBINING SCHEDULE OF REVENUE, EXPENSES AND CHANGES IN WORKING CAPITAL  
 FOR THE  
 PERIOD JULY 1, 2008 THROUGH OCTOBER 31, 2008

	WATERMASTER ADMINISTRATION	MANAGEMENT	POOL	APPROPRIATE	AGRICULTURAL	NON-AGRIC.	POOL	GROUNDWATER REPLENISHMENT	EDUCATION FUNDS	SB222 FUNDS	GROUNDWATER OPERATIONS	GRAND TOTALS	BUDGET 2008-2009
Administrative Revenues													
Administrative Assessments													\$7,841,054
Interest Revenue			33,136	3,265		841			9			37,251	174,368
Mutual Agency Project Revenue													148,410
Grant Income													0
Miscellaneous Income													0
Total Revenues			33,136	3,265		841			9			37,251	8,163,832
Administrative & Project Expenditures													
Watermaster Administration	254,567											254,567	619,960
Watermaster Board-Advisory Committee	19,262											19,262	61,201
Pool Administration			7,671	39,393		1,562						48,626	166,523
Optimum Basin Mgmt Administration		421,955										421,955	1,913,484
OBMP Project Costs		1,875,338										1,875,338	5,392,289
Education Funds Use													375
Mutual Agency Project Costs													10,000
Total Administrative/OBMP Expenses	273,829	2,297,293		39,393		1,562						2,619,748	8,163,832
Net Administrative/OBMP Income	(273,829)	(2,297,293)											
Allocate Net Admin Income To Pools	273,829		208,898	59,552		5,380							
Allocate Net OBMP Income To Pools			1,752,551	499,610		45,132							
Agricultural Expense Transfer			596,830	(596,830)									
Total Expenses	2,565,949	1,725		1,725		52,074						2,619,748	8,163,832
Net Administrative Income	(2,532,813)	1,540		(51,233)					9			(2,582,497)	
Other Income/(Expense)													0
Replenishment Water Assessments													0
MZ1 Supplemental Water Assessments													0
Water Purchases													0
Balance Adjustment													0
Groundwater Replenishment													0
Net Other Income													0
Net Transfers To/(From) Reserves			(2,532,813)	1,540		(51,233)			9			(2,582,497)	

**CHINO BASIN WATERMASTER  
TREASURER'S REPORT OF FINANCIAL AFFAIRS FOR THE PERIOD  
OCTOBER 1 THROUGH OCTOBER 31, 2008**

<b>DEPOSITORIES:</b>		
Cash on Hand - Petty Cash	\$	500
Bank of America		
Governmental Checking-Demand Deposits	\$	126,280
Zero Balance Account - Payroll		-
Local Agency Investment Fund - Sacramento		3,340,455
<hr/>		
<b>TOTAL CASH IN BANKS AND ON HAND</b>		<b>10/31/2008</b>
<b>TOTAL CASH IN BANKS AND ON HAND</b>	<b>\$</b>	<b>9/30/2008</b>
		<b>3,467,235</b>
		<b>4,555,197</b>
		<b>\$ (1,087,962)</b>

**CHANGE IN CASH POSITION DUE TO:**

Decrease/(Increase) in Assets: Accounts Receivable	\$	25,000
Assessments Receivable		-
Prepaid Expenses, Deposits & Other Current Assets		(7,067)
Accounts Payable		(587,518)
Accrued Payroll, Payroll Taxes & Other Current Liabilities		20,211
Transfer to/(from) Reserves		(538,588)
		<b>\$ (1,087,962)</b>

**SUMMARY OF FINANCIAL TRANSACTIONS:**

	Petty Cash	Govt'l Checking Demand	Zero Balance Account Payroll	Local Agency Investment Funds	Totals
Balances as of 9/30/2008	\$ 500	\$ 64,242	\$ -	\$ 4,490,455	\$ 4,555,197
Deposits	-	25,975	-	-	25,975
Transfers	-	1,080,751	69,249	(1,150,000)	-
Withdrawals/Checks	-	(1,044,688)	(69,249)	-	(1,113,937)
Balances as of 10/31/2008	\$ 500	\$ 126,280	\$ -	\$ 3,340,455	\$ 3,467,235
<b>PERIOD INCREASE OR (DECREASE)</b>	<b>\$ -</b>	<b>\$ 62,038</b>	<b>\$ -</b>	<b>\$ (1,150,000)</b>	<b>\$ (1,087,962)</b>

**CHINO BASIN WATERMASTER  
TREASURER'S REPORT OF FINANCIAL AFFAIRS FOR THE PERIOD  
OCTOBER 1 THROUGH OCTOBER 31, 2008**

**INVESTMENT TRANSACTIONS**

Effective Date	Transaction	Depository	Activity	Redeemed	Days to Maturity	Interest Rate(*)	Maturity Yield
10/20/2008	Withdrawal	L.A.I.F.	\$ (700,000)				
10/23/2008	Withdrawal	L.A.I.F.	\$ (400,000)				
<b>TOTAL INVESTMENT TRANSACTIONS</b>			<b>\$ (1,100,000)</b>	<b>-</b>			

\* The earnings rate for L.A.I.F. is a daily variable rate; 2.77% was the effective yield rate at the Quarter ended September 30, 2008.

**INVESTMENT STATUS  
October 31, 2008**

Financial Institution	Principal Amount	Number of Days	Interest Rate	Maturity Date
Local Agency Investment Fund	\$ 3,340,455			
<b>TOTAL INVESTMENTS</b>	<b>\$ 3,340,455</b>			

Funds on hand are sufficient to meet all foreseen and planned Administrative and project expenditures during the next six months.

All investment transactions have been executed in accordance with the criteria stated in Chino Basin Watermaster's Investment Policy.

Respectfully submitted,



Sheri M. Rojo, CPA  
Chief Financial Officer & Assistant General Manager  
Chino Basin Watermaster

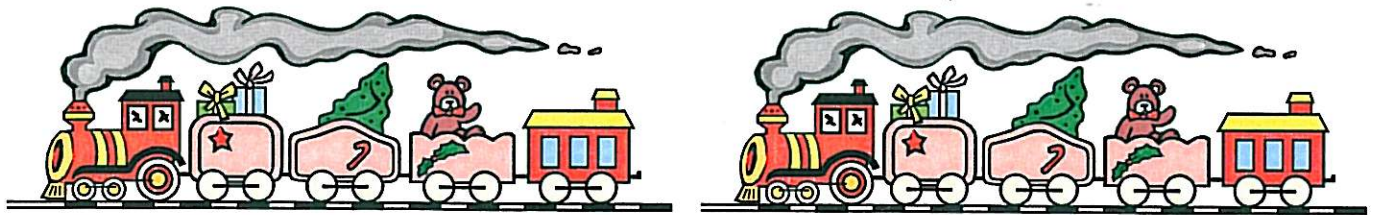
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CHINO BASIN WATERMASTER  
 Profit & Loss Budget vs. Actual  
 July through October 2008

	<u>Jul - Oct 08</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
<b>Ordinary Income/Expense</b>				
<b>Income</b>				
4010 · Local Agency Subsidies		148,410	-148,410	
4110 · Admin Asmnts-Approp Pool		7,708,817	-7,708,817	
4120 · Admin Asmnts-Non-Agri Pool		132,237	-132,237	
4700 · Non Operating Revenues	37,250	174,368	-137,118	21.36%
<b>Total Income</b>	<u>37,250</u>	<u>8,163,832</u>	<u>-8,126,582</u>	<u>0.46%</u>
<b>Gross Profit</b>	37,250	8,163,832	-8,126,582	0.46%
<b>Expense</b>				
6010 · Salary Costs	203,076	484,302	-281,226	41.93%
6020 · Office Building Expense	26,979	102,000	-75,021	26.45%
6030 · Office Supplies & Equip.	8,175	46,500	-38,325	17.58%
6040 · Postage & Printing Costs	22,509	87,380	-64,871	25.76%
6050 · Information Services	50,375	144,000	-93,625	34.98%
6060 · Contract Services	30,256	98,000	-67,745	30.87%
6080 · Insurance	15,706	17,730	-2,024	88.58%
6110 · Dues and Subscriptions	9,331	16,750	-7,419	55.71%
6140 · WM Admin Expenses	410	4,000	-3,590	10.25%
6150 · Field Supplies	864	2,500	-1,636	34.54%
6170 · Travel & Transportation	9,907	39,200	-29,293	25.27%
6190 · Conferences & Seminars	16,241	26,500	-10,259	61.29%
6200 · Advisory Comm - WM Board	4,583	19,181	-14,598	23.89%
6300 · Watermaster Board Expenses	14,680	42,020	-27,341	34.94%
8300 · Appr PI-WM & Pool Admin	7,671	24,008	-16,337	31.95%
8400 · Agri Pool-WM & Pool Admin	5,940	24,820	-18,880	23.93%
8467 · Ag Legal & Technical Services	31,728	98,000	-66,272	32.38%
8470 · Ag Meeting Attend -Special	1,725	12,000	-10,275	14.38%
8500 · Non-Ag PI-WM & Pool Admin	1,562	7,695	-6,133	20.3%
6500 · Education Funds Use Expens		375	-375	0.0%
9500 · Allocated G&A Expenditures	-139,261	-448,902	309,641	31.02%
	<u>322,455</u>	<u>848,059</u>	<u>-525,604</u>	<u>38.02%</u>
6900 · Optimum Basin Mgmt Plan	385,594	1,775,525	-1,389,931	21.72%
6950 · Mutual Agency Projects		10,000	-10,000	0.0%
9501 · G&A Expenses Allocated-OBMP	36,361	137,959	-101,598	26.36%
	<u>421,955</u>	<u>1,923,484</u>	<u>-1,501,529</u>	<u>21.94%</u>
7101 · Production Monitoring	51,962	107,515	-55,553	48.33%
7102 · In-line Meter Installation	9,137	87,931	-78,794	10.39%
7103 · Grdwtr Quality Monitoring	79,337	210,458	-131,121	37.7%
7104 · Gdwtr Level Monitoring	145,876	342,538	-196,662	42.59%
7105 · Sur Wtr Qual Monitoring	255	46,717	-46,462	0.55%

CHINO BASIN WATERMASTER  
 Profit & Loss Budget vs. Actual  
 July through October 2008

	<u>Jul - Oct 08</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
7107 · Ground Level Monitoring	62,626	651,468	-588,842	9.61%
7108 · Hydraulic Control Monitoring	158,781	743,476	-584,695	21.36%
7200 · PE2- Comp Recharge Pgm	261,698	1,115,883	-854,185	23.45%
7300 · PE3&5-Water Supply/Desalte	50,821	148,477	-97,656	34.23%
7400 · PE4- Mgmt Plan	95,336	217,371	-122,035	43.86%
7500 · PE6&7-CoopEfforts/SaltMgmt	14,716	216,307	-201,591	6.8%
7600 · PE8&9-StorageMgmt/Conj Use	329,998	76,909	253,089	429.08%
7690 · Recharge Improvement Debt Pymt	511,894	1,110,000	-598,106	46.12%
7700 · Inactive Well Protection Prgm		6,296	-6,296	0.0%
9502 · G&A Expenses Allocated-Projects	102,900	310,943	-208,043	33.09%
	<u>1,875,338</u>	<u>5,392,289</u>	<u>-3,516,951</u>	<u>34.78%</u>
<b>Total Expense</b>	<u>2,619,747</u>	<u>8,163,832</u>	<u>-5,544,085</u>	<u>32.09%</u>
<b>Net Ordinary Income</b>	-2,582,497	0	-2,582,497	100.0%
<b>Other Income/Expense</b>				
<b>Other Expense</b>				
9999 · To/(From) Reserves	<u>-2,582,497</u>			
<b>Total Other Expense</b>	<u>-2,582,497</u>			
<b>Net Other Income</b>	<u>2,582,497</u>			
<b>Net Income</b>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0%</u>



# CHINO BASIN WATERMASTER

## I. CONSENT CALENDAR

### **C. WATER TRANSACTION**

1. **Consider Approval for Notice of Sale or Transfer** – Fontana Water Company (“Company”) has agreed to purchase from Cucamonga Valley Water District water in storage in the amount of 4,265 acre-feet

2. **Consider Approval for Notice of Sale or Transfer** – Aqua Capital Management LP (Aqua) has agreed to purchase from CCG Ontario LLC (CCG) the amount of all of CCG’s water in storage as of June 30, 2008, and a permanent transfer of its share of safe yield of 630.274 acre-feet





***CHINO BASIN WATERMASTER***

**NOTICE**

**OF**

**APPLICATION(S)**

**RECEIVED FOR**

**WATER TRANSACTIONS – ACTIVITIES**

Date of Notice:

November 7, 2008

This notice is to advise interested persons that the attached application(s) will come before the Watermaster Board on or after 30 days from the date of this notice.

**NOTICE OF APPLICATION(S) RECEIVED**

Date of Application: **October 6, 2008**

Date of this notice: **November 7, 2008**

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

- A. Notice of Sale or Transfer – Fontana Water Company (“Company”) has agreed to purchase from Cucamonga Valley Water District water in storage in the amount of 4,265 acre-feet.

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

Appropriative Pool: November 18, 2008

Non-Agricultural Pool: November 18, 2008

Agricultural Pool: November 18, 2008

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  
9641 San Bernardino Road  
Rancho Cucamonga, CA 91730

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

# **CHINO BASIN WATERMASTER**

## **NOTICE OF TRANSFER OF WATER**

Notification Dated: November 7, 2008

A party to the Judgment has submitted a proposed transfer of water for Watermaster approval. Unless contrary evidence is presented to Watermaster that overcomes the rebuttable presumption provided in Section 5.3(b)(iii) of the Peace Agreement, Watermaster must find that there is "no material physical injury" and approve the transfer. Watermaster staff is not aware of any evidence to suggest that this transfer would cause material physical injury and hereby provides this notice to advise interested persons that this transfer will come before the Watermaster Board on or after 30 days from the date of this notice. The attached staff report will be included in the meeting package at the time the transfer begins the Watermaster process (comes before Watermaster).

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# CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, Ca 91730  
Tel: (909) 484.3888 Fax: (909) 484-3890 www.cbwm.org

**KENNETH R. MANNING**  
**CHIEF EXECUTIVE OFFICER**

**DATE:** September 4, 2008  
**TO:** Watermaster Interested Parties  
**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 –**

- **Notice of Sale or Transfer –** Fontana Water Company ("Company") has agreed to purchase from Cucamonga Valley Water District water in storage in the amount of 4,265 acre-feet.

#### **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).

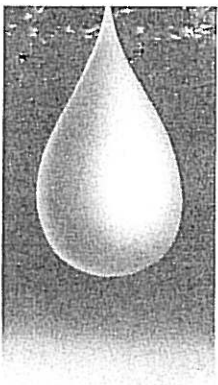
The following application for water transaction is attached with the notice of application.

- Fontana Water Company ("Company") has agreed to purchase from Cucamonga Valley Water District water in storage in the amount of 4,265 acre-feet.

Notice of the water transaction identified above was mailed on November 7, 2008 along with the materials submitted by the requestors.

**DISCUSSION**

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 this transaction 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.



# FONTANA WATER COMPANY

A DIVISION OF SAN GABRIEL VALLEY WATER COMPANY

8440 NUEVO AVENUE • P.O. BOX 987, FONTANA, CALIFORNIA 92334 • (909) 822-2201



October 6, 2008

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

Subject: Purchase of Water in Storage  
Chino Basin-Fiscal Year 2008/2009

Dear Mr. Manning:

Please take notice that Fontana Water Company ("Company") has agreed to purchase from Cucamonga Valley Water District water in storage in the amount of 4,265 acre-feet to satisfy a portion of the Company's anticipated Chino Basin replenishment obligation for Fiscal Year 2008/2009.

Enclosed are fully executed Chino Basin Watermaster Forms No. 3 and 4, along with the company's Recapture Plan for consideration by Watermaster. Please agendize this proposed transfer at the earliest possible opportunity.

If you should have any question or require additional information concerning this matter, please call me.

Very truly yours,

Michael J. McGraw  
General Manager

MJM:bf  
Enclosures

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APPLICATION FOR SALE OR TRANSFER OR RIGHT TO PRODUCE WATER FROM STORAGE

TRANSFER FROM LOCAL STORAGE AGREEMENT # \_\_\_\_\_

<u>Cucamonga Valley Water District</u> Name of Party	<u>September 25, 2008</u> Date Requested	<u>                    </u> Date Approved
<u>10440 Ashford Street</u> Street Address	<u>4,265</u> Acre-feet Amount Requested	<u>                    </u> Acre-feet Amount Approved
<u>Rancho Cucamonga</u> City	<u>CA</u> State	<u>91729</u> Zip Code
Telephone: <u>(909) 987-2591</u>	Facsimile: <u>(909) 476-8032</u>	
<u>Robert A. DeLoach, General Manager</u> Cucamonga Valley Water District		

TRANSFER TO:

<u>Fontana Water Company</u> Name of Party	<b>Attach Recapture Form 4</b>
<u>8440 Nuevo Avenue</u> Street Address	
<u>Fontana</u> City	<u>CA</u> State
<u>92334</u> Zip Code	
Telephone: <u>(909) 822-2201</u>	Facsimile: <u>(909) 823-5046</u>

Have any other transfers been approved by Watermaster between these parties covering the same fiscal year? Yes [ ] No [X]

WATER QUALITY AND WATER LEVELS

What is the existing water quality and what are the existing water levels in the areas that are likely to be affected?

Recapture by Fontana Water Company accomplished by pumping of 14 wells-static water levels vary from 375' to 684'. Of the wells routinely pumped, nitrate levels vary from a low of 8 mg/l to a high of 33 mg/l.

MATERIAL PHYSICAL INJURY

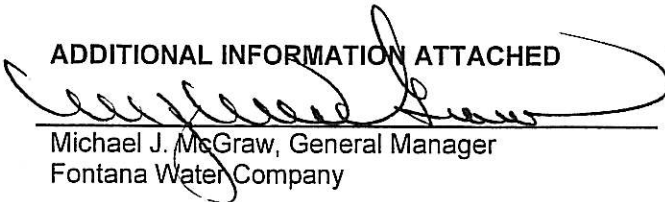
Is the Applicant aware of any Material Physical Injury to a party to the judgment or the Basin that may be caused by the action covered by the application? Yes [ ] No [X]

If yes, what are the proposed mitigation measures, if any, that might reasonably be imposed to ensure that the action does not result in Material Physical Injury to a party to the Judgment or the Basin?

N/A

ADDITIONAL INFORMATION ATTACHED

Yes [ ] No [X]



Michael J. McGraw, General Manager  
Fontana Water Company

**TO BE COMPLETED BY WATERMASTER:**

DATE OF APPROVAL FROM NON-AGRICULTURAL POOL: \_\_\_\_\_

DATE OF APPROVAL FROM AGRICULTURAL POOL: \_\_\_\_\_

DATE OF APPROVAL FROM APPROPRIATIVE POOL: \_\_\_\_\_

HEARING DATE, IF ANY: \_\_\_\_\_

DATE OF ADVISORY COMMITTEE APPROVAL: \_\_\_\_\_

DATE OF BOARD APPROVAL: \_\_\_\_\_ Agreement # \_\_\_\_\_



**MATERIAL PHYSICAL INJURY**

Is the Applicant aware of any Material Physical Injury to a party to the judgment or the Basin that may be caused by the action covered by the application? Yes [ ] No [X]

If yes, what are the proposed mitigation measures, if any, that might reasonably be imposed to ensure that the action does not result in Material Physical Injury to a party to the Judgment or the Basin?

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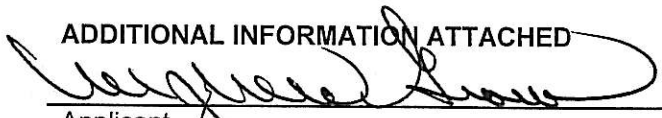
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**ADDITIONAL INFORMATION ATTACHED**

Yes [ ] No [X]



Applicant

**TO BE COMPLETED BY WATERMASTER:**

DATE OF APPROVAL FROM NON-AGRICULTURAL POOL: \_\_\_\_\_

DATE OF APPROVAL FROM AGRICULTURAL POOL: \_\_\_\_\_

DATE OF APPROVAL FROM APPROPRIATIVE POOL: \_\_\_\_\_

HEARING DATE, IF ANY: \_\_\_\_\_

DATE OF ADVISORY COMMITTEE APPROVAL: \_\_\_\_\_

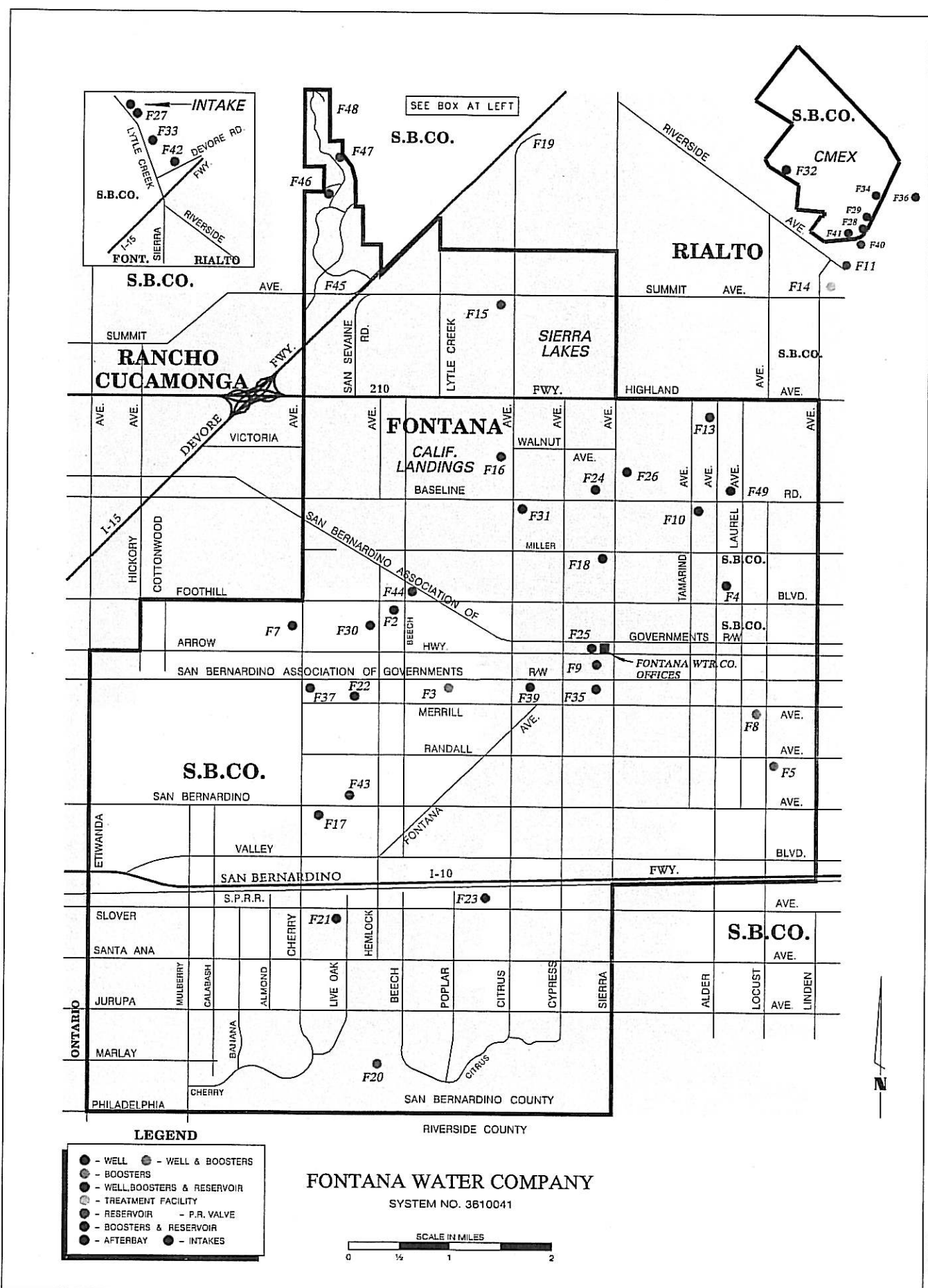
DATE OF BOARD APPROVAL: \_\_\_\_\_ Agreement # \_\_\_\_\_

**FONTANA WATER COMPANY**  
**Recapture Plan**

The subject water is a transfer of stored groundwater from Cucamonga Valley Water District to Fontana Water Company (FWC) of 2,500 acre-feet to satisfy a portion of FWC's replenishment obligation for FY 2005/2006. Recapture of the stored water is accomplished by the production of any or all of the 14 wells owned and operated by FWC within Management Zone 3 of the Chino Groundwater Basin. The approximate daily production capacity of these wells is as follows:

<u>Well</u>	-	<u>Production Acre-Feet/Day</u>
F23A	-	10.6
F21A	-	5.7
F7A	-	11.0
F7B	-	6.8
F22A	-	8.2
F24A	-	8.4
F31A	-	7.3
F2A	-	10.6
F30A	-	5.1
F44A	-	11.0
F44B	-	10.6
F44C	-	10.6
F17B		5.7
F17C		7.1
Daily Total		<u>118.7</u>

The attached map shows the location of these wells within FWC's service area. Prior to 1992, water produced from the majority of these wells was pumped within Management Zone 3 by Fontana Union Water Company with safe yield rights in the Chino Groundwater Basin. However, as a result of a bankruptcy settlement agreement dated February 7, 1992 all of Fontana Union's Chino Groundwater Basin water, including overlying (agricultural) pool reallocation, is annually transferred to Cucamonga Valley Water District's storage account. Pursuant to the same 1992 bankruptcy settlement agreement, Fontana Water Company acquired Fontana Union's water production wells and continues to produce water from Management Zone 3, in the same manner and for the same purpose as had been done prior to 1992.



**LEGEND**

- - WELL
- - WELL & BOOSTERS
- - BOOSTERS
- - WELL, BOOSTERS & RESERVOIR
- - TREATMENT FACILITY
- - RESERVOIR
- - P.R. VALVE
- - BOOSTERS & RESERVOIR
- - AFTERBAY
- - INTAKES

**FONTANA WATER COMPANY**  
SYSTEM NO. 3610041



# **CHINO BASIN WATERMASTER**

## **NOTICE OF TRANSFER OF WATER**

Notification Dated: November 13, 2008

A party to the Judgment has submitted a proposed transfer of water for Watermaster approval. Unless contrary evidence is presented to Watermaster that overcomes the rebuttable presumption provided in Section 5.3(b)(iii) of the Peace Agreement, Watermaster must find that there is "no material physical injury" and approve the transfer. Watermaster staff is not aware of any evidence to suggest that this transfer would cause material physical injury and hereby provides this notice to advise interested persons that this transfer will come before the Watermaster Board on or after 30 days from the date of this notice. The attached staff report will be included in the meeting package at the time the transfer begins the Watermaster process (comes before Watermaster).

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# CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, Ca 91730  
Tel: (909) 484.3888 Fax: (909) 484-3890 www.cbwm.org

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**KENNETH R. MANNING**  
**CHIEF EXECUTIVE OFFICER**

**DATE:** November 13, 2008  
**TO:** Watermaster Interested Parties  
**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 -

Notice of Sale or Transfer – On November 7, 2008, Watermaster received Forms 3 and 5 water transfer Applications, with CCG Ontario LLC (CCG) as Transferor and Aqua Capital Management LP (Aqua) as Transferee in the amount of all of CCG's water in storage as of June 30, 2008, and a permanent transfer of its share of safe yield of 630.274 acre-feet. Simultaneous with these applications, Watermaster received a request for Intervention into the Overlying (Non-Agricultural) Pool from Aqua. This Staff Report provides a summary and analysis of the proposed transfer.

### 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 water transaction is attached with the notice of application.

- Notice of Sale or Transfer – On November 7, 2008, Watermaster received Forms 3 and 5 water transfer Applications, with CCG Ontario LLC (CCG) as Transferor and Aqua Capital Management LP (Aqua) as Transferee in the amount of all of CCG's water in storage as of June 30, 2008, and a permanent transfer of its share of safe yield of 630.274 acre-feet. Simultaneous with these applications, Watermaster received a request for Intervention into the Overlying (Non-Agricultural) Pool from Aqua. This Staff Report provides a summary and analysis of the proposed transfer.

Notice of the water transaction identified above was mailed on November 13, 2008 along with the materials submitted by the requestors.

## DISCUSSION

Under Exhibit G, paragraph 6, of the Judgment: "Rights herein decreed are appurtenant to that land and are only assignable with the land for overlying use thereon; provided however, . . . (b) the members of the Pool shall have the right to Transfer or lease their quantified production rights within the Pool or to Watermaster in conformance with the procedures described in the Peace Agreement between the Parties therein, dated June 29, 2000 for the term of the Peace Agreement." The Peace Agreement and Peace II Agreement thus modified the strict appurtenancy requirement to allow Transfers of the water rights under certain conditions.

CCG intervened into the Judgment in 2000, at which time it acquired 630.274 acre-feet of Overlying (Non-Agricultural) Pool water rights from Kaiser Venture, Inc. Recently, CCG executed a definitive agreement to sell real property overlying the Chino Basin, totaling approximately 9.58 acres to Aqua Capital Management (Aqua). As part of the property sale, CCG wishes to transfer all of its water rights and its water in storage to Aqua. As a result, on November 7, 2008, Aqua submitted a request for Intervention into the (Non-Agricultural) Pool for the purpose of accepting the Transfer of CCG's water rights.

Aqua and CCG have submitted Form 3 (Application for Sale or Transfer of Right to Produce Water from Storage) and Form 5 (Application to Transfer Annual Production Right or Safe Yield). Form 4 (Application or Amendment to Application to Recapture Water in Storage) was not submitted because Aqua does not plan to produce the stored water at this time. Aqua must submit a Form 4 before any water may be produced from its storage account. The Applications indicate that the amount of water rights to be permanently transferred is 630.274 acre-feet. In addition, CCG is transferring to Aqua all of its water in storage as of June 30, 2008.

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 this transaction 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.

Baker Manock  
& Jensen PC  
ATTORNEYS AT LAW

November 7, 2008

Kenneth R. Manning, CEO  
CHINO BASIN WATERMASTER  
9641 San Bernardino Road  
Rancho Cucamonga, California 91730

Michael Fife, Esq.  
BROWNSTEIN HYATT FARBER, SCHREK  
21 East Carrillo Street  
Santa Barbara, CA 93101

Christopher L. Campbell  
*Attorney at Law*  
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Fig Garden Financial Center  
5260 North Palm Avenue

Fourth Floor

Fresno, California 93704

Tel: 559.432.5400

Fax: 559.432.5620

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Re: CCG Ontario Chino Basin Water Rights

Dear Michael and Ken:

As you recall, I represent CCG Ontario, LLC ("CCG"). As an owner of real property overlying the Chino Groundwater Basin ("Chino Basin") is party to the Chino Basin Judgment and currently owns 630.274 AFY of adjudicated safe yield.

CCG has executed a definitive agreement to sell real property overlying the Basin, totaling approximately 9.58 acres and commonly referred to by San Bernardino County Assessor's Parcel Number 229-291-47, to Aqua Capital Management ("ACM").

In the same definitive sale agreement, CCG has agreed to transfer to ACM all of its remaining water rights (approximately 630.274 AFY), and all CCG water in storage (9,057.725 AF as of June 30, 2007, plus any additional CCG stored water for FY 2007-08). That transfer is, of course, subject to Watermaster approval and Court approval of ACM's application to intervene in the Judgment and become a member of the overlying Non-Agricultural Pool. I understand that Aqua Capital Management LP, has, or will soon, submit a request to intervene in the Judgment to become a member of the overlying Non-Agricultural Pool.

My client has executed Form 5 (Application to Transfer Annual Production Right or Safe Yield) and Form 3 (Application for Sale or Transfer of right to Produce Water from Storage). The completed forms will be submitted by ACM along with their application to intervene.

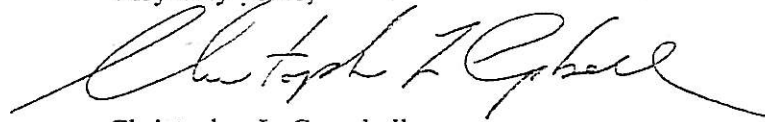
The transfer from CCG to ACM does not involve any additional groundwater extractions not provided for under the Judgment. As a result, the transfer will not result in any "material physical injury" to any party.

November 7, 2008  
Kenneth R. Manning, CEO  
Michael Fife, Esq.  
Page 2

Due to a variety of reasons, it is extremely important to my client that this transfer be approved by the Watermaster prior to the end of this calendar year. I would appreciate any assistance you can give to accomplish that goal.

Thank you for your assistance. Please feel free to contact me if you have any questions or need any information from me or my clients.

Very truly yours,



Christopher L. Campbell  
BAKER MANOCK & JENSEN, PC

CLC:tlw

CC: Mr. Michael Del Santo  
Timothy Peters, Esq.  
Allan Hubsch, Esq.

691704\_1



AQUA-CAPITAL MANAGEMENT LP  
444 Regency Parkway Drive, Suite 300  
Omaha, NE 68114

November 7, 2008

Mr. Kenneth R. Manning, CEO  
Chino Basin Watermaster  
9641 San Bernardino Road  
Rancho Cucamonga, California 91730

Re: Request to intervene in *Chino Basin Municipal Water  
District v. City of Chino et al*, San Bernardino Superior Court  
Case No.RCV 5101 (Formerly Case No. 164327)

Dear Mr. Manning:

Aqua Capital Management LP (Aqua) hereby submits this request to intervene in the above-referenced action (the "Judgment") as a member of the overlying non-agricultural pool. Aqua's request is based on the following facts:

A. The Judgment allocates water rights based on each party's land ownership. As an owner of real property overlying the Chino Groundwater Basin ("Basin") CCG Ontario, LLC (CCG) is party to the Judgment and currently owns 630.274 AFY of adjudicated safe yield.

B. CCG has executed a definitive agreement to sell real property overlying the Basin to Aqua, totaling approximately 9.58 acres and commonly referred to by San Bernardino County Assessor's Parcel Number 229-291-47.

C. As part of the sale transaction referenced in Section B above, CCG wishes to transfer all of its remaining adjudicated water rights (approximately 630.274 AFY), and all CCG water in storage (9,057.725 AF as of June 30, 2007, plus any additional CCG stored water for FY 2007-08) to Aqua. Form 5 (Application to Transfer Annual Production Right or Safe Yield) and Form 3 (Application for Sale or Transfer of right to Produce Water from Storage) are attached.

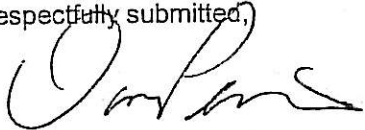
D. Aqua Capital Management LP is requesting to intervene in the Judgment to become a member of the overlying Non-Agricultural Pool.

E. The transfer from CCG to Aqua does not involve any additional groundwater extractions not provided for under the Judgment. As a result, the transfer will not result in any "material physical injury" to any party.

Based on the foregoing, Aqua respectfully requests that the Watermaster approve its request to intervene in the Judgment to become a member of the overlying Non-Agricultural Pool and CCG's request to transfer its remaining adjudicated rights (830.274 AFY) of overlying groundwater rights, and all of CCG's water in storage (9,057.725 AF as of June 30, 2007, plus any additional CCG stored water for FY 2007-08) to Aqua. Aqua Capital Management LP shall comply with all provisions of the Judgment.

Please agendaize this request for the November Pool meetings. If you have any questions regarding the foregoing, please contact me.

Respectfully submitted,



David Penrice  
Chief Executive Officer

APPLICATION FOR  
SALE OR TRANSFER OF RIGHT TO PRODUCE WATER FROM STORAGE

TRANSFER FROM LOCAL STORAGE AGREEMENT # \_\_\_\_\_

CCG Ontario LLC, a Delaware limited liability company

Name of Party

11/07/2008

Date Requested

\_\_\_\_\_ Date Approved

2817 East Cedar Street, Suite 200

Street Address

9,057,725 (\*) Acre-feet

\_\_\_\_\_ Acre-feet

Amount Requested  
(\*) As of 6/30/2007, plus stored  
water from FY 2007-08

Amount Approved

Ontario

CA

91761

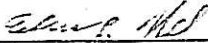
City

State

Zip Code

Telephone: (909) 673-8710

Facsimile: (909) 573-8702

  
Applicant

Name: Edward S. Nekritz  
Its: General Counsel  
and Secretary

TRANSFER TO:

Attach Recapture Form 4

Aqua Capital Management, LP, a Delaware limited pshp

Name of Party

444 Regency Parkway Drive, Suite 300

Street Address

Omaha

NE

88114

City

State

Zip Code

Telephone: (402) 934-0066

Facsimile: (402) 934-0066

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

Yes [ ] No [ X ]

WATER QUALITY AND WATER LEVELS

What is the existing water quality and what are the existing water levels in the areas that are likely to be affected?

None

MATERIAL PHYSICAL INJURY

Is the Applicant aware of any potential Material Physical Injury to a party to the Judgment or the Basin that  
may be caused by the action covered by the application? Yes [ ] No [ X ]

If yes, what are the proposed mitigation measures, if any, that might reasonably be imposed to ensure that the  
action does not result in Material Physical Injury to a party to the Judgment or the Basin?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ADDITIONAL INFORMATION ATTACHED

Yes [ ] No [ X ]



Applicant

Name: *David Penrice*

Its: *CEO*

TO BE COMPLETED BY WATERMASTER:

DATE OF APPROVAL FROM NON-AGRICULTURAL POOL: \_\_\_\_\_

DATE OF APPROVAL FROM AGRICULTURAL POOL: \_\_\_\_\_

DATE OF APPROVAL FROM APPROPRIATIVE POOL: \_\_\_\_\_

HEARING DATE, IF ANY: \_\_\_\_\_

DATE OF ADVISORY COMMITTEE APPROVAL: \_\_\_\_\_

DATE OF BOARD APPROVAL: \_\_\_\_\_ Agreement # \_\_\_\_\_



APPLICATION  
TO  
TRANSFER ANNUAL PRODUCTION RIGHT OR SAFE YIELD

COG Ontario LLC, a Delaware limited liability company ("Transferor"), hereby requests to permanently transfer to Aqua Capital Management LP, a Delaware limited partnership ("Transferee"), the quantity of 630.274 acre-feet per year of corresponding Safe Yield (Non-Agricultural Pool) adjudicated to Transferor or its predecessor in interest in the 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 Transfer shall be conditioned upon:

- (1) Transferee shall exercise said right on behalf of Transferor under the terms of the Judgment and the Peace Agreement 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 Transferee from the Chino Basin shall be that produced hereunder.
- (2) Transferee shall put all waters utilized pursuant to said Transfer to reasonable beneficial use.
- (3) Transferee shall pay all Watermaster assessments on account of the water production hereby Transferred.
- (4) Any Transferee not already a party must intervene and become a party to the Judgment.

TO BE EXECUTED by both Transferor and Transferee, and to be accompanied by a general description of the area where the Transferred water was to be Produced and used prior to the Transfer, and where it will be Produced and used after the Transfer. This general description can be in the form of a map.

**WATER QUALITY AND WATER LEVELS**

What is the existing water quality and what are the existing water levels in the areas that are likely to be affected?

None

**MATERIAL PHYSICAL INJURY**

Is the Applicant aware of any potential Material Physical Injury to a party to the Judgment or the Basin that may be caused by the action covered by the application? Yes [ ] No [ X ]

If yes, what are the proposed mitigation measures, if any, that might reasonably be imposed to ensure that the action does not result in Material Physical Injury to a party to the Judgment or the Basin?

---



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---



---

ADDITIONAL INFORMATION ATTACHED

Yes [ ] No [ X ]

CCG Ontario LLC

Aqua Capital Management LP

*Edward S. Nekritz*  
\_\_\_\_\_  
Transferor  
Name: Edward S. Nekritz  
Its: General Counsel  
and Secretary

\_\_\_\_\_  
Transferee  
Name:  
Its:

TO BE COMPLETED BY WATERMASTER:

DATE OF APPROVAL FROM NON-AGRICULTURAL POOL: \_\_\_\_\_

DATE OF APPROVAL FROM AGRICULTURAL POOL: \_\_\_\_\_

DATE OF APPROVAL FROM APPROPRIATIVE POOL: \_\_\_\_\_

HEARING DATE, IF ANY: \_\_\_\_\_

DATE OF ADVISORY COMMITTEE APPROVAL: \_\_\_\_\_

DATE OF BOARD APPROVAL: \_\_\_\_\_ Agreement # \_\_\_\_\_

ADDITIONAL INFORMATION ATTACHED

Yes [ ] No [ X ]

CCG Ontario LLC

Aqua Capital Management LP



Transferor  
Name:  
Its:

Transferee  
Name:  
Its:

*David Pearce*  
*CEO*

TO BE COMPLETED BY WATERMASTER:

DATE OF APPROVAL FROM NON-AGRICULTURAL POOL: \_\_\_\_\_

DATE OF APPROVAL FROM AGRICULTURAL POOL: \_\_\_\_\_

DATE OF APPROVAL FROM APPROPRIATIVE POOL: \_\_\_\_\_

HEARING DATE, IF ANY: \_\_\_\_\_

DATE OF ADVISORY COMMITTEE APPROVAL: \_\_\_\_\_

DATE OF BOARD APPROVAL: \_\_\_\_\_ Agreement # \_\_\_\_\_

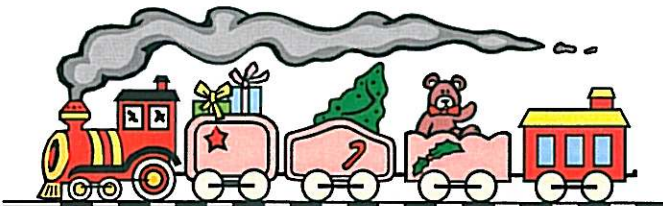
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# CHINO BASIN WATERMASTER

## II. BUSINESS ITEMS

- A. MOU COOPERATIVE EFFORTS FOR MONITORING PROGRAMS BETWEEN THE INLAND EMPIRE UTILITIES AGENCY AND THE CHINO BASIN WATERMASTER – BRIGHT LINE APPROACH





# CHINO BASIN WATERMASTER

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

---

**KENNETH R. MANNING**  
Chief Executive Officer

## STAFF REPORT

**DATE:** December 11, 2008  
December 16, 2008  
December 18, 2008

**TO:** Committee Members  
Watermaster Board Members

**SUBJECT:** "Bright Line" Monitoring MOU with Inland Empire Utilities Agency

### SUMMARY

**Issue** - Consider Approval of "Bright Line" Monitoring MOU with IEUA

**Recommendation** – Staff recommends that the Pools approve the Memorandum of Understanding

**Financial Impact** - Potential redistribution of cost associated with monitoring efforts through Chino Basin. Net result for Watermaster cannot be determined at this time.

### Background

Chino Basin Watermaster and Inland Empire Utilities Agency ("IEUA") work together cooperatively on a number of monitoring programs in the Chino Basin that is in addition to the monitoring that occurs under the Optimum Basin Management Program. These monitoring efforts pertain to surface water monitoring relating to the Basin Plan, Maximum Benefit and the Hydraulic Control Monitoring Program, as well as the Recycled Water Groundwater Recharge Monitoring Program.

Historically Watermaster and IEUA have shared the responsibility for these programs by splitting the cost as appropriate for each program. This has often resulted in accounting difficulties. In order to prevent such difficulties from arising in the future, Watermaster and IEUA have proposed a new procedure embodied in the *Memorandum of Understanding – Cooperative Efforts for Monitoring Programs Between the Inland Empire Utilities Agency and the Chino Basin Watermaster – Bright Line Approach*.

Under this agreement, the past complexities associated with cost sharing are hoped to be avoided. Instead, each agency will assume full responsibility for discrete tasks. In general, Watermaster will assume full responsibility for monitoring associated with surface water monitoring relating to the Basin

Plan, Maximum Benefit and the Hydraulic Control Monitoring Program. IEUA will assume full responsibility for monitoring associated with the Recycled Water Groundwater Recharge Monitoring Program.

Under the agreement, Watermaster and IEUA will continue the previous structure of sharing costs equally for the capital construction component of the Hydraulic Control Monitoring Program.

Staff recommends approval of the Memorandum of Understanding.

**MEMORANDUM OF UNDERSTANDING**  
**COOPERATIVE EFFORTS FOR MONITORING PROGRAMS BETWEEN**  
**THE INLAND EMPIRE UTILITIES AGENCY AND THE CHINO BASIN WATERMASTER**  
**Bright Line Approach**  
**DECEMBER 17, 2008**

**Whereas**, the Inland Empire Utilities Agency ("IEUA") and the Chino Basin Watermaster ("Watermaster") (each individually "Party" and collectively "the Parties") share common goals and objectives regarding the reasonable and beneficial use of water within the Inland Empire and more specifically the Chino Basin;

**Whereas**, both Parties share responsibility for meeting certain monitoring and reporting requirements detailed in the Basin Plan amendment approved by the Santa Ana Regional Water Quality Control Board (RWQCB) in 2004 (R8-2004-0001);

**Whereas**, both Parties have made commitments to the RWQCB to obtain Maximum Benefit Groundwater Quality Objectives (Quarterly Surface Water Monitoring and Reporting, Annual Hydraulic Control Monitoring Program (HCMP) Monitoring and Reporting);

**Whereas**, the Parties are co-permittees for the Recycled Water Groundwater Recharge Program and share responsibility for meeting certain monitoring and reporting requirements of the RWQCB, Santa Ana Region Order No. R8-2007-0039 (Order) and the Monitoring and Reporting Program (M&RP) No. R8-2007-0039;

**Whereas**, the Parties desire to precisely allocate responsibilities for conducting the monitoring and reporting required in the aforementioned programs (Bright Line approach), and employing staff, consultants, and other resources in carrying out the Parties' individual and joint responsibilities to establish clear lines of communication, avoid duplication of effort, and to efficiently implement approved plans and programs in furtherance of their individual and joint objectives;

**Now therefore, it is agreed and resolved that:**

**I. GENERAL DIVISION OF RESPONSIBILITY.**

(A) ***Groundwater and Surface Water Monitoring Related to the Basin Plan, Maximum Benefit, and the HCMP.*** Unless otherwise expressly agreed in writing, Watermaster will bear responsibility for groundwater and surface water quality monitoring and groundwater level monitoring and surface water discharge measurements as required by the Basin Plan, Maximum Benefit Commitments and the HCMP Work Plan.

- (1) Watermaster will collect groundwater samples and measure groundwater levels from private wells in the Key Well Program.
- (2) Watermaster will measure discharge and collect grab surface water samples at surface water stations specified in the Basin Plan amendment.
- (3) Watermaster will collect groundwater level and groundwater quality data from Appropriators, the USGS, DTSC, the County of San Bernardino, and other cooperators who collect and maintain surface water and groundwater data in the Chino and Cucamonga groundwater basins.
- (4) Watermaster will measure groundwater levels associated with the Groundwater Level Monitoring program. These measurements will be of sufficient areal and temporal density to meet the requirements of both the Basin Plan and the HCMP.



- 
- (5) Watermaster will collect groundwater samples and measure groundwater levels from HCMP wells in the Key Well Program.
  - (6) Watermaster will collect POTW discharge and water quality data as mandated in the Basin Plan amendment. Watermaster will collect and analyze samples from the POTWs specified in the Basin Plan, with the exception of IEUA's discharges. IEUA will collect and analyze the requisite samples from their own POTWs and transmit these data to Watermaster quarterly.
  - (7) Watermaster will maintain these data in a relational database. These data will be reported to the Santa Ana Watershed Project Authority (SAWPA) for the triennial Ambient Water Quality update (2009, 2012, 2015, etc.) as required of both Parties in the Basin Plan.
  - (8) Watermaster will submit the Quarterly Reports for the Surface Water Monitoring Program. These Quarterly Reports are required of both Parties in support of the Maximum Benefit commitments in the Chino Basin.
  - (9) Watermaster will prepare the annual HCMP report. These Annual Reports are required of both Parties in support of the Maximum Benefit commitments in the Chino Basin. IEUA will write the portion of the report dealing with vegetative mapping of the riparian habitat in the Prado Basin Management Zone (PBMZ). This portion of the work is being managed by IEUA.
  - (10) Watermaster will submit an internal draft of all regulatory-required reports to IEUA three weeks prior to the regulatory due date and allow IEUA 10 calendar days for review and comment. The cost associated with the review will be borne by IEUA.
  - (11) Watermaster will assume all other costs attributable to these groundwater and surface water monitoring and reporting programs and will not seek any cost-sharing with IEUA.
- (B) ***Recycled Water Groundwater Recharge Monitoring Program (RWGRMP)***. Unless otherwise expressly agreed in writing, IEUA will bear responsibility for groundwater and lysimeter monitoring as required by RWQCB Order No. R8-2007-0039 and the M&RP No. R8-2007-0039.
- (1) IEUA will collect groundwater samples and make groundwater level measurements from wells associated with the recycled water recharge basins.
  - (2) IEUA will collect vadose zone samples from lysimeters associated with the recycled water recharge basins.
  - (3) IEUA will maintain these data in a relational database.
  - (4) IEUA will be responsible for all reporting associated with the RWGRMP, including Quarterly Reports, Annual Reports, Protocol Plans, Start-Up Period Reports, and First Year Recycled Water Recharge Operations Reports.
  - (5) IEUA will submit an internal draft of all regulatory-required reports to Watermaster three weeks prior to the regulatory due date and allow Watermaster 10 calendar days for review and comment. The cost associated with the review will be borne by Watermaster.
  - (6) IEUA will assume all other costs attributable to the RWGRMP and will not seek any cost-sharing with Watermaster.
-

## II. DATA SHARING:

- (A) Both parties shall agree to share the data freely – with the exception of groundwater quality data for private wells. Watermaster is bound by agreement to hold these data confidential. They are released in a “sanitized” form to the RWQCB and SAWPA for the AWQ and to other parties through the RWQCB for other investigations. Data will be exchanged by the Parties on a quarterly basis. The data will be in the form of an Electronic Data Deliverable (EDD) with a specified format and data dictionary.

## III. CAPITAL PROJECT CONTRACTS AND OTHER RELATED WORK

- (A) Watermaster will fund and be responsible for developing the HCMP well master plan [for new wells]).
- (B) IEUA and Watermaster, following mutual written agreement as to scope and cost, will fund the drilling, construction, and development of test wells and monitoring wells related to the HCMP on a 50 percent cost-share basis.
- (C) The Parties shall seek outside grant assistance for these capital projects. Watermaster will prepare the technical portion of the grant applications. IEUA will prepare all other portions of the grant application and will be responsible for administering the grant.
- (D) All contracts for the construction of capital projects shall be let according to the protocols set forth in the IEUA Ordinance Number 81 regarding procurements, as that Ordinance may be amended from time to time.
- (E) Watermaster will be responsible for the on-going monitoring of the new HCMP wells as part of the HCMP.

## IV. OTHER OPERATIONAL PROTOCOLS

- (A) Both Parties will alert the other if there are any significant changes to the proposed scope of work outlined in this MOU.
- (B) Both Parties will alert the other if there are any regulatory issues that may arise concerning the HCMP, the RWGRMP, or the triennial AWQ recalculation.
- (C) The Parties will meet quarterly to discuss the monitoring programs, review programmatic efficiencies, and to coordinate efforts and collaborate on strategies concerning future work.

IEUA and CBWM concur with the above Bright Line approach for described cooperative monitoring efforts.

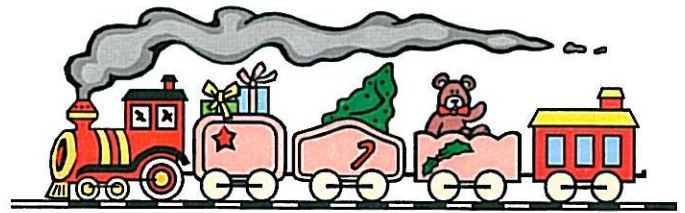
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Rich Atwater  
General Manager/CEO IEUA

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Kenneth R. Manning  
CEO Chino Basin Watermaster

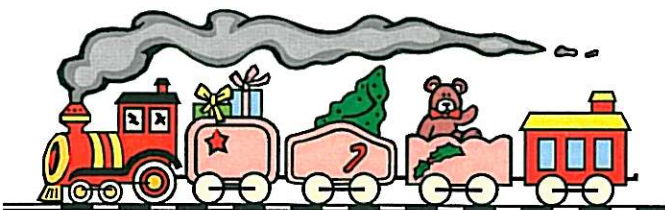
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# CHINO BASIN WATERMASTER

## II. BUSINESS ITEMS

- B. PUBLIC INFORMATION COST SHARING AGREEMENT WITH INLAND EMPIRE UTILITIES AGENCY FOR 2009 COMMUNITY OUTREACH CAMPAIGN





# CHINO BASIN WATERMASTER

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

---

**KENNETH R. MANNING**  
Chief Executive Officer

## STAFF REPORT

**DATE:** December 11, 2008  
December 16, 2008  
December 18, 2008

**TO:** Committee Members  
Watermaster Board Members

**SUBJECT:** Participation with the Chino Basin Public Outreach Campaign

### Summary

**Issue – Informing the public about water issues facing the Region and State**

**Fiscal Impact – This item is a budgeted expense. Cost \$10,000**

### Background

Starting in 2005 Watermaster, in cooperation with Inland Empire Utilities Agency, Three Valley's MWD, Western MWD and the Chino Basin Conservation District have cosponsored the Public Outreach Campaign through the Inland Valley Daily Bulletin. This year IEUA has negotiated a campaign that has an increase in cost of 5%, but includes more copy space in the actual newspaper as well as increased space on the newspaper's web site. The total cost for this year's program will be \$137,368. This change in strategy will assist the group in reaching more constituents.

IEUA will coordinate the campaign with representatives from the other contributing agencies providing input. The first publication that will be a part of this year's campaign will be seen in late January. It will be an eight page insert that highlights the agencies with a general message of cooperation threaded throughout. As we have done in past years, it will have at least one page dedicated to our federal and state representatives highlighting the work they are doing to assist us in meeting the infrastructure needs of our communities and one page dedicated to each agency participating in the outreach campaign.

### Recommendation

**Approve the expenditure of \$10,000 for participation in the joint Chino Basin Public Outreach Campaign for 2007**

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**Inland Empire Utilities Agency**  
A MUNICIPAL WATER DISTRICT

6075 Kimball Ave. • Chino, CA 91708  
P.O. Box 9020 • Chino Hills, CA 91709  
TEL (909) 998-1606 • FAX (909) 597-8875  
www.ieua.org



November 18, 2008

Mr. Ken Manning  
Chief Executive Manager  
Chino Basin Watermaster  
9641 San Bernardino Road  
Rancho Cucamonga, California 91730

Dear Ken:

On December 17, 2008, the Inland Empire Utilities Agency's Board of Directors will consider approving a 12-month advertising agreement with the Los Angeles Newspaper Group (Inland Valley Daily Bulletin) for a 2009 community outreach campaign.

Since 2005, with the assistance of Mr. Christopher Lancaster, Government Relations Directors for the Los Angeles Newspaper Group, IEUA, in corporation with the Chino Basin Watermaster, Western Municipal Water District, Three Valleys Municipal Water District, and Chino Basin Water Conservation District, ran full page ads as well as a few editorials in the Inland Valley Daily Bulletin. In 2008, we ran 29 in full color and 16 eighth-of-a-page black and white ads (which we used for our *water conservation tip of the month*).

IEUA staff is proposing that we continue our community outreach with another 12-month advertising campaign with the Inland Valley Daily Bulletin. Attached is a copy of the advertising agreement that is being considered. The Inland Empire Utilities Agency is hoping that Chino Basin Watermaster will participate in this year's program by again contributing \$10,000.

Thank you for your consideration. If you have any questions, please don't hesitate to call.

Sincerely,

INLAND EMPIRE UTILITIES AGENCY

Richard W. Atwater  
Chief Executive Officer  
General Manager

Attachment

Printed on Recycled Paper

*Fifty-Five Years of Excellence in Water Resources & Quality Management*

Wyatt Troxel  
President

Terry Catlin  
Vice President

Gene Koopman  
Secretary/Treasurer

Angel Santiago  
Director

John L. Anderson  
Director

Richard W. Atwater  
Chief Executive Officer  
General Manager

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# Inland Valley Daily Bulletin

## PUBLIC OUTREACH AGREEMENT

This agreement is between the Inland Empire Utilities Agency and the Los Angeles Newspaper Group (*Inland Valley Daily Bulletin*). This agreement confirms the Inland Empire Utilities Agency's purchase of:

<u>Publication</u>	<u>Cost</u>	<u>Value</u>	<u>Publication Date</u>
1. Education Week Two-pages	\$7,219	\$16,191	February 2009
2. Civic Leadership One-page	\$4,969	\$8,095	March 2009
3. Earth Day Two-pages	\$7,219	\$16,191	April 2009
4. Water Awareness Month Two-page	\$7,219	\$16,191	May 2009
5. LA County Fair One-page (Full-color)	\$4,950	\$4,950	September 2009
6. Think Environment Week Two-pages	\$7,219	\$16,191	September 2009
7. Eleven (11) Full-page ROP Ads (Full-Color)	\$69,525	\$89,050	Dates of your choice
8. Eight-Page Section (Tab.) (Full-Color)	\$29,048	\$32,382	February 2009
9. Sixteen (16) eighth-of-a- page (Black and White ads)	\$0.00	\$16,191	Dates of your choice
10. Banner Ad (IVDB Website) (700,000 Impressions)	\$0.00	\$14,160	59,000 Impressions per Month
<b>Grand Total</b>	<b>\$137,368</b>	<b>\$232,592</b>	

**Distribution**

All public outreach/educational advertisements are distributed in the Inland Valley Daily Bulletin newspaper property only.

**Production**

All prices include design, layout, printing and distribution.

**Added Value**

- (Total value \$232,592)-(Total costs \$137,368) = *Added value \$95,224*

The Los Angeles Newspaper Group agrees to provide all services listed in this agreement, and the Inland Empire Utilities Agency agrees to pay the Los Angeles Newspaper Group (Inland Valley Daily Bulletin) a total of \$137,368

*All terms of this agreement must be fulfilled by December 31, 2009.*

\_\_\_\_\_  
Los Angeles Newspaper Group

\_\_\_\_\_  
Date

\_\_\_\_\_  
Inland Empire Utilities Agency

\_\_\_\_\_  
Date

# Inland Valley Daily Bulletin

## PUBLIC OUTREACH AGREEMENT

This agreement is between the Inland Empire Utilities Agency and the Los Angeles Newspaper Group (*Inland Valley Daily Bulletin*). This agreement confirms the Inland Empire Utilities Agency's purchase of:

<u>Publication</u>	<u>Cost</u>	<u>Value</u>	<u>Publication Date</u>
1. Education Week Two-pages	\$7,219	\$16,191	February 2009
2. Civic Leadership One-page	\$4,969	\$8,095	March 2009
3. Earth Day Two-pages	\$7,219	\$16,191	April 2009
4. Water Awareness Month Two-page	\$7,219	\$16,191	May 2009
5. LA County Fair One-page (Full-color)	\$4,950	\$4,950	September 2009
6. Think Environment Week Two-pages	\$7,219	\$16,191	September 2009
7. Eleven (11) Full-page ROP Ads (Full-Color)	\$69,525	\$89,050	Dates of your choice
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*All terms of this agreement must be fulfilled by December 31, 2009.*

\_\_\_\_\_  
Los Angeles Newspaper Group

\_\_\_\_\_  
Date

\_\_\_\_\_  
Inland Empire Utilities Agency

\_\_\_\_\_  
Date



# CHINO BASIN WATERMASTER

## II. BUSINESS ITEMS

### C. CONDITION SUBSEQUENT NO. 5





# CHINO BASIN WATERMASTER

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

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**KENNETH R. MANNING**  
Chief Executive Officer

## STAFF REPORT

**DATE:** December 11, 2008  
December 16, 2008  
December 18, 2008

**TO:** Committee Members  
Watermaster Board Members

**SUBJECT:** Approval of January 1, 2009 Progress Report on Watermaster's Recharge Master Plan Update pursuant to Condition Subsequent 5

### SUMMARY

**Issue** – On December 21, 2007, the Honorable Judge Michael Gunn issued a court order authorizing the Peace II Agreement. In that order there were nine time-specific conditions subsequent. Condition Subsequent No. 5 states "By July 1, 2008, Watermaster shall prepare and submit to the Court a detailed outline of the scope and content of its first Recharge Master Plan update, and shall report it progress by January 1, 2009 and July 1, 2009." Watermaster is being asked herein to approve the July 1, 2009 Progress Report and direct Watermaster counsel to file the progress report to the Court.

### DISCUSSION

**The following text and attached table will be included in a report filed by Watermaster counsel prior to January 1, 2009.**

Watermaster staff assembled stakeholders in the Spring of 2008 to develop the detailed outline required by Condition Subsequent No. 5. The resulting outline was vetted in the Watermaster process and was approved in June and subsequently filed with Court. After July 1, 2008 Watermaster staff has worked diligently with its consultant Wildermuth Environmental, Inc. (WEI), to develop a detailed list of tasks (scope) that must be accomplished to complete the Recharge Master Plan (RMP) update by the July 1, 2010 required in Condition Subsequent No. 8. The scope was presented and reviewed at the Watermaster Strategic Planning Conference in September 2008. The detailed list of tasks is attached. Watermaster staff has been working with the Chino Basin Water Conservation District (CBWCD), Inland

Empire Utilities Agency (IEUA) and WEI to implement the scope. WEI, under the direction of the Watermaster CEO is functioning as the program manager for the RMP update and is responsible for designing the RMP update scope and supervising its execution. The CBWCD is taking the lead in the storm water recharge component of the RMP update. The consulting firm of Black and Veatch has been assigned the lead in developing alternative supplemental water recharge alternatives. The IEUA has been tasked with developing updated water supply plans, coordinating with the Metropolitan Water District, and developing supplemental water supply alternatives for recharge.

In December 2008, WEI, Watermaster, the CBWVD and Black and Veatch refined these assignments and revised the RMP update schedule. The schedule and assignments are included on the attached task list. IEUA has completed the water supply plan update and the projected future replenishment obligations have been estimated. WEI and the CBWCD initiated their technical assignments. Black and Veatch will begin their work in January 2009. The work is on schedule,

**Recommendation** – Approve the January 1, 2009 Progress Report and direct Watermaster Counsel to file the progress report to the Court.

**Exhibit A**  
**Recharge Master Plan Update**  
**Chino Basin Watermaster**

ID	Task No.	Whom	Task Name	Duration	Start	Finish	Predecessors
1	1		<b>Project Management</b>	565 days?	Tue 7/1/08	Fri 9/3/10	
2	1.1	WEI	Preparation of Project Control Plan	66 days?	Tue 7/1/08	Tue 9/30/08	
3	1.3	WEI	Administration and Preparation of Monthly Progress Reports	476 days	Wed 10/1/08	Tue 8/3/10/2	
4	1.4	WEI	Coordination of Meetings, Meetings, and Preparation of Minutes	476 days	Wed 10/1/08	Tue 8/3/10/2	
5	1.5	WEI	Web Site Management	476 days	Mon 11/3/08	Fri 9/3/10	
6	2		Collect, Compile and Review Data and Reports	70 days	Wed 10/1/08	Mon 1/12/09	
7	3		<b>Develop Planning Criteria</b>	39 days	Mon 1/5/09	Thu 2/26/09	
8	3.1	WEI	Compile Judgment, Peace Agreement and Court Order Requirements	2 days	Mon 1/5/09	Tue 1/8/09	
9	3.2	CBWV-BP	Compile Storm Water Management Requirements	4 days	Mon 1/5/09	Thu 1/8/09	
10	3.3	B&V	Compile Design Requirements for Wells, Conveyance, Storage and Treatment Facilities	4 days	Mon 1/5/09	Thu 1/8/09	
11	3.4	WEI	Compile Siting Requirements for Recharge	4 days	Mon 1/5/09	Thu 1/8/09	
12	3.5	WEI	Compile Robustness Requirements	1 day	Mon 1/5/09	Mon 1/5/09	
13	3.6	WEI	Compile Regulatory Requirements	2 days	Mon 1/5/09	Tue 1/6/09	
14	3.7	B&V	Develop Cost Estimating Methodology and Financial Criteria	4 days	Mon 1/5/09	Thu 1/8/09	
15	3.8		<b>Prepare Draft Section 2 of Project Report</b>	35 days	Fri 1/9/09	Thu 2/26/09	
16	3.8.1	WEI	Prepare Draft Section 2 of Project Report	10 days	Fri 1/9/09	Thu 1/22/09	10, 11, 12, 13, 14, 15
17	3.8.2	WEI	Review Draft Section 2 with Stakeholders	20 days	Fri 1/23/09	Thu 2/19/09	18
18	3.8.3	WEI	Incorporate Comments and Finalize Draft Section 2	5 days	Fri 2/20/09	Thu 2/26/09	19
19	4		<b>Task 4 Characterize How Landuse Decisions and Storm Water Management Affect Safe Yield</b>	170 days?	Mon 1/13/08	Thu 7/2/09	
20	4.1		<b>Develop Methodology to Estimate Safe Yield</b>	24 days?	Mon 1/5/09	Thu 2/5/09	
21	4.1.1	WEI	Compile Definitions	2 days	Mon 1/5/09	Tue 1/6/09	
22	4.1.2	WEI	Computational Procedures	2 days	Wed 1/7/09	Thu 1/8/09	24
23	4.1.3	WEI	Data Requirements	2 days	Fri 1/9/09	Mon 1/12/09	25
24	4.1.4	WEI	Base Period	2 days	Tue 1/13/09	Wed 1/14/09	26
25	4.1.5	WEI	Area of Interest	3 days	Thu 1/15/09	Mon 1/19/09	27
26	4.1.6	WEI	Safe Yield Estimate in the 1978 Judgment	1 day	Tue 1/20/09	Tue 1/20/09	28
27	4.1.7	WEI	Safe Yield Estimate in the 2008 Peace II Report	1 day	Wed 1/21/09	Wed 1/21/09	29
28	4.1.8	WEI	Evaluation of Methods	10 days	Thu 1/22/09	Wed 2/4/09	30
29	4.1.9	WEI	Recommend Method	1 day?	Thu 2/5/09	Thu 2/5/09	31
30	4.2	WEI	Refine and Validate Landuse Maps for Current and Ultimate Development Conditions	58 days	Mon 1/13/08	Tue 1/27/09	
31	4.3	WEI	Determine How Landuse and Storm Water Recharge Decisions Affect Safe Yield	135 days	Mon 11/3/08	Thu 5/14/09	
32	4.3.1	WEI	Update WLAM and Watermaster Models Assumptions and Input Files	60 days	Mon 11/3/08	Thu 1/29/09	
33	4.3.2	WEI	Run Models and Estimate Safe Yield	30 days	Fri 1/30/09	Thu 3/12/09	35, 33, 43, 44
34	4.3.3	WEI	Characterize Hydrologic Components of Safe Yield	10 days	Fri 3/13/09	Thu 3/26/09	36
35	4.3.4	WEI	Estimate Recharge from the Deep Percolation of Precipitation and Applied Water	0 days	Thu 3/26/09	Thu 3/26/09	37
36	4.3.5	WEI	Estimate Recharge in Stream Channels and Existing Storm Water Recharge Facilities	0 days	Thu 3/26/09	Thu 3/26/09	37
37	4.3.6	WEI	Run Sensitivity Analysis	20 days	Fri 3/27/09	Thu 4/23/09	37
38	4.3.7	IEUA-MD	Describe Low Impact Development Scenarios for Recent and Future Developments	10 days	Fri 4/24/09	Thu 5/7/09	40
39	4.3.8	WEI	Describe How Land Use Decisions Affect Safe Yield	5 days	Fri 5/8/09	Thu 5/14/09	41
40	4.3.9	WEI	Describe Existing Storm Water Recharge Facilities	60 days	Mon 11/3/08	Thu 1/29/09	41



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**Exhibit A**  
**Recharge Master Plan Update**  
**Chino Basin Watermaster**

ID	Task No.	Whom	Task Name	Duration	Start	Finish	Predecessors
44	4.3.10	IEUA	Describe Historical Storm Water Management Operations -- Theoretical and Actual	60 days	Mon 11/3/08	Thu 1/29/09	
45	4.3.11	WEI	Run Sensitivity Analysis to Determine How Storm Water Recharge Decisions Affect Safe Yield	15 days	Fri 3/27/09	Thu 4/16/09	37,43,44
46	4.3.12	WEI	Describe How Storm Water Recharge Decisions Affect Safe Yield	5 days	Fri 4/17/09	Thu 4/23/09	45
47	4.4	WEI	Prepare Draft Section 3 of Project Report	35 days	Fri 5/15/09	Thu 7/2/09	
48	4.4.1	WEI	Prepare Draft Section 3 of Project Report	20 days	Fri 5/15/09	Thu 6/11/09	42,46
49	4.4.2	WEI	Review Draft Section 3 with Stakeholders	10 days	Fri 6/12/09	Thu 6/25/09	48
50	4.4.3	WEI	Incorporate Comments and Finalize Draft Section 3	5 days	Fri 6/26/09	Thu 7/2/09	49
51							
52	5		<b>Conduct Initial Integrated Review of Water Demands and Water Supply Plans</b>	88 days	Mon 10/13/08	Tue 2/17/09	
53	5.1		Prepare Initial Water Demands and Water Supply Plans	25 days	Mon 10/13/08	Fri 11/14/08	
54	5.1.1	IEUA	Prepare Initial Water Demands for the IEUA Service Area	10 days	Mon 11/3/08	Fri 11/14/08	
55	5.1.2	IEUA	Prepare Initial Water Demands for the TMMWD Service Area	10 days	Mon 11/3/08	Fri 11/14/08	
56	5.1.3	IEUA	Prepare Initial Water Demands for the WMWD Service Area	10 days	Mon 10/13/08	Fri 10/24/08	
57	5.2	IEUA	Integrate Water Demands and Water Supply Plans	5 days	Mon 11/17/08	Fri 11/21/08	54,55,56
58	5.3	WEI	Project Replenishment Obligations	20 days	Mon 11/24/08	Fri 12/19/08	57
59	5.4		<b>Characterize the Ability to Replenish With Existing Resources Pursuant to the Judgment</b>	18 days	Mon 12/22/08	Tue 1/20/09	
60	5.4.1	WEI	Characterize the Reliability of Supplemental Water Supplies	5 days	Mon 12/22/08	Tue 12/30/08	58
61	5.4.2	WEI	Characterize the Availability of Existing Recharge Facilities	5 days	Mon 12/22/08	Tue 12/30/08	58
62	5.4.3	WEI	Estimate the Time History of Replenishment Shortage/Supplis	2 days	Fri 1/2/09	Mon 1/5/09	61,60
63	5.4.4	WEI	Characterize How the Reliability of Supplemental Supplies Affects the CURO	1 day	Tue 1/6/09	Tue 1/6/09	62
64	5.4.5	WEI	Describe Potential for Pre-emptive Replenishment	5 days	Mon 12/22/08	Tue 12/30/08	58
65	5.4.6	WEI	Define the Range of Recharge Capacity Required for Replenishment	5 days	Wed 1/7/09	Tue 1/13/09	63
66	5.4.7	WEI	Define Supplemental Recharge Capacity Requirements for Non Replenishment Purposes	5 days	Wed 1/14/09	Tue 1/20/09	65
67	5.5		<b>Prepare Section 4 of Project Report</b>	20 days	Wed 1/21/09	Tue 2/17/09	
68	5.5.1	WEI	Prepare Draft Section 4 of Project Report	5 days	Wed 1/21/09	Tue 1/27/09	63,58,62,65,66
69	5.5.2	WEI	Review Draft Section 4 with Stakeholders	10 days	Wed 1/28/09	Tue 2/10/09	68
70	5.5.3	WEI	Incorporate Comments and Finalize Draft Section 4	5 days	Wed 2/11/09	Tue 2/17/09	69
71							
72	6		<b>Describe Storm Water Recharge and Recharge Enhancement Opportunities</b>	149 days	Tue 12/9/08	Thu 7/9/09	
73	6.1		<b>Describe Existing Storm Water Management and Recharge</b>	74 days	Tue 12/9/08	Thu 3/26/09	
74	6.1.1	CBWCD	Describe Regional and Local Policies Related to Storm Water Management and Recharge	20 days	Mon 1/5/09	Fri 1/30/09	
75	6.1.2	CBWCD	Describe Regional Storm Water Management and Recharge Facilities	38 days	Tue 12/9/08	Thu 2/5/09	
76	6.1.3	CBWCD	Describe Local Storm Water Management and Recharge Facilities	38 days	Mon 1/5/09	Wed 2/25/09	
77	6.1.4	WEI	Estimate the Expected Storm Water Recharge with Existing Practices and Facilities	21 days	Thu 2/26/09	Thu 3/26/09	74,75,76
78	6.2		<b>Identify Potential Storm Water Management Projects</b>	79 days	Mon 1/5/09	Thu 4/23/09	
79	6.2.1	CBWCD	Describe Potential Regional Storm Water Recharge Projects	20 days	Fri 2/6/09	Thu 3/5/09	75
80	6.2.2	CBWCD	Describe Potential Local Storm Water Recharge Facilities	20 days	Thu 2/26/09	Wed 3/25/09	76
81	6.2.3	CBWCD	Identify and Recommend Potential Changes in Storm Water Management Policy to Increase Recharge	60 days	Mon 1/5/09	Fri 3/27/09	
82	6.2.4	WEI	Estimate the Expected Increase in Storm Water Recharge for Each Potential New Recharge Facility	19 days	Mon 3/30/09	Thu 4/23/09	79,80,81
83	6.2.5	CBWCD	Estimate the Supplemental Water Recharge Capacity for Each Potential New Storm Water Recharge Facility	19 days	Mon 3/30/09	Thu 4/23/09	79,80,81

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**Exhibit A**  
**Recharge Master Plan Update**  
**Chino Basin Watermaster**

ID	Task No.	Whom	Task Name	Duration	Start	Finish	Predecessors
84	6.3	CBWCD	<b>Develop New Storm Water Recharge Alternatives</b>	20 days	Fri 4/24/09	Thu 5/21/09	
85	6.3.1	WEI	Formulate Alternatives (Combinations of Facility and Associated Operating Plans)	10 days	Fri 4/24/09	Thu 5/7/09 83	
86	6.3.2	WEI	Estimate the Expected Increase in Storm Water Recharge for Each Alternative	10 days	Fri 5/8/09	Thu 5/21/09 85	
87	6.3.3	CBWCD	Prepare Cost Opinions for Each Alternative (Capital, O&M, Unit Cost)	10 days	Fri 5/8/09	Thu 5/21/09 85	
88	6.3.4	CBWCD	Describe Implementation Barriers	10 days	Fri 5/8/09	Thu 5/21/09 85	
89	6.3.5	CBWCD	Describe Policy Changes	10 days	Fri 5/8/09	Thu 5/21/09 85	
90	6.4	CBWCD	<b>Prepare Section 5 of Project Report</b>	55 days	Fri 4/24/09	Thu 7/9/09	
91	6.4.1	CBWCD	Prepare Draft Section 5 of Project Report	30 days	Fri 4/24/09	Thu 6/4/09 83	
92	6.4.2	CBWCD	Review Draft Section 5 with Stakeholders	20 days	Fri 6/5/09	Thu 7/2/09 91	
93	6.4.3	CBWCD	Incorporate Comments and Finalize Draft Section 5	5 days	Fri 7/3/09	Thu 7/9/09 92	
94							
95	7		<b>Describe Supplemental Water Recharge and Supplemental Water Recharge Enhancement Opportunities</b>	244 days	Wed 9/10/08	Fri 8/21/09	
96	7.1		<b>Characterize Existing Supplemental Water Recharge Capacity</b>	20 days	Mon 2/2/09	Fri 2/27/09	
97	7.1.1	B&V	Describe Regional Supplemental Water Recharge Facilities	20 days	Mon 2/2/09	Fri 2/27/09	
98	7.1.2	B&V	Describe Local Supplemental Water Recharge Facilities	20 days	Mon 2/2/09	Fri 2/27/09	
99	7.2	CBW-BP	<b>Describe the Need for New Supplemental Water Recharge Capacity</b>	0 days	Tue 1/20/09	Tue 1/20/09 65,66	
100	7.3		<b>Identify New Supplemental Water Recharge Projects</b>	165 days	Wed 9/10/08	Mon 5/4/09	
101	7.3.1	B&V	Describe Potential Regional Supplemental Water Recharge Projects	40 days	Mon 3/2/09	Fri 4/24/09 97,98	
102	7.3.2	B&V	Describe Potential Local Supplemental Water Recharge Facilities	40 days	Mon 3/2/09	Fri 4/24/09 97,98	
103	7.3.3	CBW-BP & B&V	Identify and Recommend Potential Changes in Supplemental Water Management Policy to Increase Recharge	20 days	Mon 4/27/09	Fri 5/22/09 101,102	
104	7.3.4	B&V	Estimate the Expected Increase in Supplemental Water Recharge for Each Potential New Recharge Facility	20 days	Mon 5/25/09	Fri 6/19/09 103	
105	7.3.5	B&V	Prepare Cost Opinions for Each Alternative (Capital, O&M, Unit Cost)	20 days	Mon 5/25/09	Fri 6/19/09 103	
106	7.3.6	CBW-BP & B&V	Describe Implementation Barriers	20 days	Mon 5/25/09	Fri 6/19/09 103	
107	7.4		<b>Prepare Section 6 of Project Report</b>	45 days	Mon 6/22/09	Fri 8/21/09	
108	7.4.1	CBW-BP & B&V	Prepare Draft Section 6 of Project Report	20 days	Mon 6/22/09	Fri 7/17/09 106	
109	7.4.2	CBW-BP & B&V	Review Draft Section 6 with Stakeholders	20 days	Mon 7/20/09	Fri 8/14/09 108	
110	7.4.3	CBW-BP & B&V	Incorporate Comments and Finalize Draft Section 6	5 days	Mon 8/17/09	Fri 8/21/09 109	
111							
112	8		<b>Integrate Storm and Supplemental Water Recharge Projects</b>	121 days	Mon 8/17/09	Mon 2/1/10	
113	8.1	CBW_BP, B&V, WEI	Formulate Alternatives that Maximize Storm and Supplemental Water Recharge (Combinations of Facility and Associated Operating Plans)	10 days	Mon 8/17/09	Fri 8/28/09 92,109	
114	8.2	WEI	<b>Characterize Groundwater Basin Response</b>	40 days	Mon 8/31/09	Fri 10/23/09	
115	8.2.1	WEI	Simulate Recharge Operations with WLAM and the Watermaster GW Models	30 days	Mon 8/31/09	Fri 10/9/09 113	
116	8.2.2	WEI	Characterize Groundwater Response and Safe Yield	10 days	Mon 10/12/09	Fri 10/23/09 115	
117	8.3		<b>Financial Analysis</b>	50 days	Mon 8/31/09	Fri 11/6/09	
118	8.3.1	WEI	Prepare Cost Opinions for Each Alternative (Capital, O&M, Unit Cost)	10 days	Mon 8/31/09	Fri 9/11/09 113	
119	8.3.2	CBW-BP & WEI	Forecast Watermaster Annual Assessments	10 days	Mon 10/26/09	Fri 11/6/09 118,116	
120	8.4	WEI	<b>Describe Implementation Barriers for Each Alternative</b>	5 days	Mon 11/9/09	Fri 11/13/09 116,119	
121	8.5	WEI	Describe Policy Changes for Each Alternative	5 days	Mon 11/9/09	Fri 11/13/09 116,119	
122	8.6		<b>Rank Alternatives</b>	31 days	Mon 11/16/09	Mon 12/28/09	
123	8.6.1	WEI	Prepare Matrix for the Alternatives and Ranking Criteria	10 days	Mon 11/16/09	Fri 11/27/09 116,118,119,120,	
124	8.6.2	WEI	Score Each Alternative and Rank	10 days	Mon 11/30/09	Fri 12/11/09 123	

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**Exhibit A  
Recharge Master Plan Update  
Chino Basin Watermaster**

ID	Task No.	Whom	Task Name	Duration	Start	Finish	Predecessors
125	8.6.3	WEI	Conduct Workshop to Review Ranking and to Obtain Stakeholder Input	10 days	Mon 12/14/09	Fri 12/25/09	124
126	8.6.4	WEI	Finalize Matrix and Ranking	1 day	Mon 12/28/09	Mon 12/28/09	125
127	8.7		Prepare Sections 7 and 8 of Project Report	25 days	Tue 12/29/09	Mon 2/1/10	
128	8.7.1	WEI	Prepare Draft Sections 7 and 8 of Project Report	10 days	Tue 12/29/09	Mon 1/11/10	126
129	8.7.2	WEI	Review Draft Sections 7 and 8 with Stakeholders	10 days	Tue 1/12/10	Mon 1/25/10	128
130	8.7.3	WEI	Incorporate Comments and Finalize Draft Sections 7 and 8	5 days	Tue 1/26/10	Mon 2/1/10	129
131							
132	9		Conduct Final Integrated Review of Water Demands and Water Supply Plans	61 days	Tue 1/26/10	Tue 4/20/10	
133	9.1		Finalize Water Demands and Water Supply Plans	20 days	Tue 1/26/10	Mon 2/22/10	
134	9.1.1	IEUA	Finalize Water Demands for the IEUA Service Area	20 days	Tue 1/26/10	Mon 2/22/10	129
135	9.1.2	IEUA	Finalize Water Demands for the TVMWD Service Area	20 days	Tue 1/26/10	Mon 2/22/10	129
136	9.1.3	IEUA	Finalize Water Demands for the WMWD Service Area	20 days	Tue 1/26/10	Mon 2/22/10	129
137	9.2	IEUA	Integrate Water Demands and Water supply Plans	5 days	Tue 2/23/10	Mon 3/1/10	134, 135, 136
138	9.3	CBW_BP	Project Range of Future Replenishment Obligations	5 days	Tue 3/2/10	Mon 3/8/10	137
139	9.4		Characterize the Ability to Replenish With Existing and New Resources Pursuant to the Judgment	6 days	Tue 3/9/10	Tue 3/16/10	
140	9.4.1	WEI	Identify New Facilities and New Operating Plans Required for Supplemental Water Recharge	5 days	Tue 3/9/10	Mon 3/15/10	138
141	9.4.2	WEI	Forecast the Time History of Replenishment Shortage/Surplus and the CURO	1 day	Tue 3/16/10	Tue 3/16/10	140
142	9.5		Prepare Section 9 of Project Report	25 days	Wed 3/17/10	Tue 4/20/10	
143	9.5.1	WEI	Prepare Draft Section 9 of Project Report	10 days	Wed 3/17/10	Tue 3/30/10	141
144	9.5.2	WEI	Review Draft Section 9 with Stakeholders	10 days	Wed 3/31/10	Tue 4/13/10	143
145	9.5.3	WEI	Incorporate Comments and Finalize Draft Section 9	5 days	Wed 4/14/10	Tue 4/20/10	144
146							
147	10		Prepare Recharge Master Plan	75 days	Tue 1/26/10	Mon 5/10/10	
148	10.2	WEI	Describe New Recharge Projects to Meet Replenishment Obligations	5 days	Tue 3/16/10	Mon 3/22/10	140
149	10.3	WEI	Describe New Recharge Projects to Maximize Storm Water Recharge	5 days	Tue 1/26/10	Mon 2/1/10	129
150	10.4	WEI	Develop Schedule to Construct Recharge Improvements	10 days	Tue 3/23/10	Mon 4/15/10	148, 149
151	10.5	WEI	Describe Financing Alternatives	10 days	Tue 3/23/10	Mon 4/15/10	148, 149
152	10.6	WEI	Describe Monitoring Requirements	5 days	Tue 3/23/10	Mon 3/29/10	148, 149
153	10.7		Prepare Section 10 of Project Report	25 days	Tue 4/6/10	Mon 5/10/10	
154	10.7.1	WEI	Prepare Draft Section 10 of Project Report	10 days	Tue 4/6/10	Mon 4/19/10	150, 151, 152
155	10.7.2	WEI	Review Draft Section 10 with Stakeholders	10 days	Tue 4/20/10	Mon 5/3/10	154
156	10.7.3	WEI	Incorporate Comments and Finalize Draft Section 10	5 days	Tue 5/4/10	Mon 5/10/10	155
157							
158	11		Prepare Final Report	51 days	Wed 4/21/10	Wed 6/30/10	
159	11.1	WEI	Prepare Draft Report Integrating the Work Products of Tasks 1 through 10	20 days	Wed 4/21/10	Tue 5/18/10	145
160	11.2		Review Draft	21 days	Wed 5/19/10	Wed 6/16/10	
161	11.2.1	WEI	Review Written Comments, Prepare Responses, Revise Report	15 days	Wed 5/19/10	Tue 6/8/10	159
162	11.2.2	WEI	Conduct Stakeholder Workshop	6 days	Wed 6/9/10	Wed 6/16/10	161
163	11.3	WEI	Finalize Report	10 days	Thu 6/17/10	Wed 6/30/10	162

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# CHINO BASIN WATERMASTER

## II. BUSINESS ITEMS

### D. AGRICULTURAL POOL REALLOCATION PROCEDURE







# CHINO BASIN WATERMASTER

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

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**KENNETH R. MANNING**  
Chief Executive Officer

## STAFF REPORT

**DATE:** December 11, 2008  
December 16, 2008  
December 18, 2008

**TO:** Committee Members  
Watermaster Board Members

**SUBJECT:** Reallocation of Surplus Agricultural Pool Water

### SUMMARY

**Issue:** Adoption of procedures regarding the re-allocation of surplus Agricultural Pool water in the event of a decline in Safe Yield

**Fiscal Impact:** No impact to the Watermaster budget

### Background

Pursuant to its stipulation with Monte Vista Water District dated April 25, 2008, Watermaster committed to, "... include in its submittal in compliance to Condition Subsequent Eight, a comprehensive analysis and explanation of how and whether Watermaster will ... calculate replenishment obligations, in light of the model's predicted safe yield decline over time ... ." (Stipulation, paragraph 1.)

The Stipulation further required Watermaster to produce certain information regarding an expected future range of Agricultural Pool production prior to July 1, 2008. Watermaster produced this information and at the June 26, 2008 Appropriative Pool meeting, the Appropriative Pool decided to convene a subcommittee to discuss the development of a procedure to respond to this information.

This subcommittee was formed and met. At the August 6, 2008 meeting of this subcommittee, staff and legal counsel were asked to put together information for consideration by the subcommittee members. Staff and legal counsel were asked to memorialize a proposed resolution of the method of allocation of

water in the event of a reduction in Safe Yield, and to create spreadsheets that document the results of a range of other methods.

On September 8, 2008, Watermaster distributed these materials to the subcommittee and requested comments. On November 10, 2008, Monte Vista Water District submitted comments on the proposed policy. No other party has submitted comments to date. Monte Vista's comments have been incorporated into the draft included in the agenda package.

**Proposed Procedure**

The memorandum describes the provisions of the Peace Agreement, Peace II Agreement and the Rules and Regulations that create the need for the proposed procedure in light of a potential decline in Safe Yield.

The procedure as proposed in the memorandum specifies that in the event that Operating Safe Yield is reduced because of a reduction in Safe Yield, Watermaster will follow the Judgment, Exhibit "H", by first applying the unallocated Agricultural Pool water to compensate for the reduction in Safe Yield. If there is unallocated water left, Watermaster will then follow the remainder of the hierarchy according to the guidance provided by Peace Agreement I & II and the Rules and Regulations, as amended.

**Recommendation** - Adopt the procedures as described in the attached memorandum and instruct counsel to include a description of these procedures in the filing to be made in compliance with Condition Subsequent Number 8.

## Memorandum

**Michael Fife**  
805.882.1453 tel  
805.965.4333 fax  
mfife@bhfs.com

**DATE:** December 4, 2008  
**TO:** Appropriative Pool  
**FROM:** Michael Fife  
Watermaster General Counsel  
**RE:** Proposed Accounting Procedures re Potential Decline in Safe Yield

---

### Background

At the August 6, 2008 Agricultural Pool Reallocation Subcommittee meeting, a proposal was made concerning the manner in which Watermaster should address the reallocation of surplus Agricultural Pool water to account for a decline in Safe Yield, should such a decline happen. Watermaster was requested to memorialize this proposal and to produce spreadsheets showing the numerical consequences of a range of different allocation proposals.

Below is our attempt to summarize the proposal articulated at the August 6 meeting.

### Proposal Description

Pursuant to its stipulation with Monte Vista Water District dated April 25, 2008, Watermaster committed to, ". . . include in its submittal in compliance to Condition Subsequent Eight, a comprehensive analysis and explanation of how and whether Watermaster will . . . calculate replenishment obligations, in light of the model's predicted safe yield decline over time . . . ." (Stipulation, paragraph 1.)

Watermaster will include the following explanation in its submittal in compliance with Condition Subsequent Number Eight:

Exhibit "H," paragraph 10 sets out a hierarchy for the allocation of unallocated Agricultural Pool water. This hierarchy specifies that such water will first be used to satisfy reductions in Operating Safe Yield ("OSY") to compensate for any reduction in the Safe Yield ("SY"). Following this, the water will be used to satisfy conversion claims. Following this, it will be used as a supplement to OSY.

Paragraph 5.3(g) of the Peace Agreement requires that Watermaster approve an "Early Transfer" of water in an amount of ". . . not less than 32,800 per year. . . ." If Agricultural Pool Production is less than 50,000 acre-feet, so that there is more than 32,800 acre-feet available, then Watermaster will only apply that amount to OSY if all land use conversions have been satisfied, pursuant to Exhibit "H."

Paragraph 5.3(g) is somewhat ambiguous about how the Early Transfer relates to the hierarchy described in Exhibit "H." Section 6.3 of the Rules and Regulations was created to specify the hierarchy as between land use conversion and the Early Transfer. This section had re-opener provisions and was reconsidered in the Peace II process. This reconsideration resulted in a revision to Watermaster Rules and Regulations section 6.3(c) and the addition of a section 6.3(d). (See Watermaster Resolution 2007-05, Attachment "F" (Discretionary Actions to Amend Watermaster Rules and Regulations).)

Specifically, section 6.3 (c), as amended, specifies that when the actual combined production from the Safe Yield made available to the Agricultural Pool, which includes overlying agricultural pool uses combined with land use conversions and the Early Transfer, exceeds 82,800 in any year, the amount of water available to members of the Appropriative Pool shall be reduced pro rata in proportion to the benefits received according to the following procedure:

- (1) All the land use conversions and the Early Transfer will be added together, and shall be the "Potential Acre-Feet Available for Reallocation."
- (2) Each Appropriative Pool member's share of the Potential Acre-Feet Available for Reallocation shall be determined and expressed as a percentage share of the Potential Acre-Feet Available for Reallocation (i.e. a member's land use conversion plus its share of the Early Transfer, divided by the total Potential Acre-Feet Available for Reallocation.)
- (3) Each Appropriate Pool member's share of the Potential Acre-Feet Available for Reallocation shall then be reduced pro rata according to the percentage determined in #2 above.

Even with the Peace II revision, the Watermaster Rules and Regulations did not specifically address the way in which unallocated Agricultural Pool water will be allocated in the event of a reduction in SY, which also reduces the OSY.

Absent additional guidance from the parties, in the event that OSY is reduced because of a reduction in SY, Watermaster will follow the Judgment, Exhibit "H", by first applying the unallocated Agricultural Pool water to compensate for the reduction in SY. If there is unallocated water left, Watermaster will then follow the remainder of the hierarchy according to the guidance provided by Peace Agreement I & II and the Rules and Regulations, as amended. (Table 3A, attached here, evidences how this allocation will be calculated based on maximum overlying agricultural pool production at build-out of 11,000 acre-feet.)

**Table 3A  
Projected Appropriator Production Rights at Build-Out  
Based on Maximum Overlying Agricultural Pool Production at Build-Out of 11,000 AF**

(1) Appropriator	(2) Share of Safe Yield per Judgment (%)	(3) 49,834,000 (acre-ft/yr)	(4) Land Use Conversions as of 06-07 (acre-ft/yr)		(5) Potential Future Conversions (acre-ft/yr)	(6) Early Transfer (acre-ft/yr)	(7) Potential for Reallocation (acre-ft/yr)	(8) Difference: Potential vs Net (acre-ft/yr)	(9) Total Allocation (acre-ft/yr)	(10) New Yield (acre-ft/yr)	(11) Total Production Right (acre-ft/yr)		
			32,800,000 (acre-ft/yr)	32,800,000 (acre-ft/yr)								(9) = (7)+(8)	
												Potential for Future Conversions (acre-ft/yr)	Total Allocation (acre-ft/yr)
Arrowhead Mountain Spring Water Company	0.000%	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000		
Chino Desalter Authority	0.000%	0.000	0.000	0.000	0.000	0.000	0.000	0.000	7,000.000	7,000.000	7,000.000		
City of Chino	7.357%	3,666,287	6,408,700	7,447,318	2,413,096	16,269,114	-6,132,489	10,136,625	0.000	0.000	13,802,912		
City of Chino Hills	3.851%	1,919,107	987,346	561,408	1,263,128	2,811,862	-1,059,912	1,751,970	0.000	0.000	3,671,077		
City of Norco	0.368%	183,389	0.000	0.000	120,704	120,704	-45,498	75,206	0.000	0.000	258,595		
City of Ontario	20.742%	10,336,568	1,396,471	15,206,088	6,803,376	23,405,935	-8,822,646	14,583,289	0.000	0.000	24,919,857		
City of Pomona	20.454%	10,193,046	0.000	0.000	6,706,912	6,708,912	-2,528,861	4,180,051	0.000	0.000	14,373,097		
City of Upland	5.202%	2,592,365	0.000	0.000	1,706,256	1,706,256	-643,157	1,063,099	0.000	0.000	3,655,464		
Cucamonga Valley Water District	6.601%	3,289,542	598,364	0.000	2,165,128	2,763,492	-1,041,672	1,721,820	0.000	0.000	5,011,362		
Fontana Union Water Company	11.657%	5,809,149	0.000	0.000	3,823,496	3,823,496	-1,441,231	2,382,265	0.000	0.000	8,191,415		
Fontana Water Company	0.002%	0.997	894,000	0.000	0.656	834,656	-314,616	520,040	0.000	0.000	521,037		
Jurupa Community Services District	3.759%	1,873,260	11,878,336	4,952,450	1,232,952	18,063,738	-6,808,956	11,254,782	0.000	0.000	13,128,042		
Inland Empire Utilities Agency	0.000%	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000		
Marygold Mutual Water Company	1.195%	595,516	0.000	0.000	391,960	391,960	-147,746	244,214	0.000	0.000	899,731		
Metropolitan Water District of Southern California	0.000%	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000		
Monte Vista Irrigation Company	1.234%	614,952	0.000	0.000	404,752	404,752	-152,567	252,185	0.000	0.000	867,136		
Monte Vista Water District	8.797%	4,383,897	55,075	12,580	2,885,416	2,953,071	-1,113,132	1,839,939	0.000	0.000	6,223,836		
Mutual Water Company of Glen Avon Heights	0.000%	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000		
Niagara	0.000%	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000		
Nicholson Trust	0.007%	3,488	0.000	0.000	2,296	2,296	-0,865	1,431	0.000	0.000	4,919		
San Antonio Water Company	2.748%	1,369,438	0.000	0.000	901,344	901,344	-339,753	561,591	0.000	0.000	1,931,029		
San Bernardino County (Olympic Facility)	0.000%	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000		
Sanla Ana River Water Company	2.373%	1,182,561	0.000	0.000	778,344	778,344	-293,389	484,955	0.000	0.000	1,667,515		
Golden State Water Company	0.750%	373,755	0.000	0.000	246,000	246,000	-92,727	153,273	0.000	0.000	527,028		
West End Consolidated Water Company	1.728%	861,132	0.000	0.000	566,784	566,784	-213,644	353,140	0.000	0.000	1,214,272		
West Valley Water District	1.175%	585,550	0.000	0.000	385,400	385,400	-145,273	240,127	0.000	0.000	825,677		
<b>Totals</b>	<b>100.000%</b>	<b>49,834,000</b>	<b>22,158,292</b>	<b>28,179,844</b>	<b>32,800,000</b>	<b>83,138,136</b>	<b>-31,338,136</b>	<b>51,800,000</b>	<b>7,000,000</b>	<b>7,000,000</b>	<b>108,634,000</b>		

Aggregate Ag Pool Right 82,800,000  
 Aggregate Ag Pool Production 11,000,000  
 Projected Safe Yield Reduction 20,000,000  
 Production to be Allocated 51,800,000  
 Less Potential for Reallocation 83,138,136  
 Required Adjustment = Potential vs. Net -31,338,136

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# CHINO BASIN WATERMASTER

## II. BUSINESS ITEMS

### E. WATERMASTER PURCHASE AND SALE AGREEMENT – PROPOSED PRICE FLOOR AUCTION





# CHINO BASIN WATERMASTER

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

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**KENNETH R. MANNING**  
Chief Executive Officer

## STAFF REPORT

**DATE:** December 11, 2008  
December 16, 2008  
December 18, 2008

**TO:** Committee Members  
Watermaster Board Members

**SUBJECT:** Watermaster Purchase and Sale Agreement – Proposed Price Floor Auction

### SUMMARY

#### Background:

Watermaster holds a Court approved purchase and sale agreement to purchase approximately 40,000 acre-feet of water for: (a) desalter replenishment or (b) a storage and recovery project. Watermaster has been pursuing potential purchaser partners for the storage and recovery opportunity for more than three years. Multiple parties have expressed interest in storage and recovery generally, and the Metropolitan Water District ("MWD") is exploring an expansion of the existing Dry Year Yield Program by up to 50,000 acre-feet. The 40,000 acre-feet presently held within an existing storage account would not be competitive with the expansion of the MWD Program as it is already within a lawfully authorized storage account.

Previous staff reports have generally described the Price Floor Auction concept and the subject has been presented to the Appropriative Pool and Overlying (Non-Agricultural Pool) in September of 2008. Meetings with members of the Appropriative Pool have also taken place in an effort to better explain the concept and to obtain feedback.

The Western Municipal Water District ("WMWD") has expressed an interest purchasing the water and providing the base bid under terms generally discussed previously with the members of the Appropriative and Overlying (Non-Agricultural) Pools. Although all terms are not yet agreed, the deal points proposed by Watermaster and subject to further input are set forth below.

Should Watermaster fail to issue the required notice to purchase the water in connection with a storage and recovery project or for desalter replenishment, the purchase and sale agreement would terminate and the water would be made available to Watermaster and the members of the Appropriative



Pool (Purchase and Sale Agreement H) that are current in assessments and in compliance with the OBMP (Judgment Amendment to Exhibit G, 9(g)).

**Summary of Proposed Deal Points:**

1. Quantity: 40,000 acre-feet less 10% dedication to Desalter Replenishment.
2. Price: \$600 per acre-foot, subject to increased bid under the auction process.
3. 40,000 acre-foot Storage Account.
  - (a) Storage Agreement required
  - (b) Uniform Losses (2%)
  - (c) \$25 per acre-foot
  - (d) Subject to a five-year credit against the storage fee in an amount equal to the quantity of water initially purchased from Watermaster in the initial purchase and sale agreement and then held in storage.

Example: Assume that 36,000 acre-feet is purchased through the purchase and sale agreement by WMWD or another buyer. Assume further that no water is extracted in Year One and 6,000 acre-feet is withdrawn from storage in Year Two. Accordingly, in year one, the buyer would pay \$25 per acre-foot for all 40,000 acre-feet of storage, less a complete credit for the 36,000 acre-feet of water purchased. The net obligation would be  $\$25 \times 4,000$  acre-feet or \$100,000. Similarly, in Year Two, buyer would pay \$25 per acre-foot of storage, less a credit equal to the quantity of water initially purchased that still remained in storage (30,000 acre-feet). Therefore, the fee due would be  $\$25 \times 10,000 = \$250,000$ . After the first five-year period, no further credit would be available.

**Broad Mutual Benefit Test**

If Watermaster intends to proceed with the purchase and sale agreement in connection with a storage and recovery project, as is proposed in the price floor auction concept, Watermaster must give first priority to Storage and Recovery Programs that provide "broad mutual benefits." (Peace Agreement 5.2 (c)(iv)(b).)

Watermaster has taken no position on the subject or approach toward the subject of broad mutual benefits. However, staff has suggested that the broad mutual benefits test may be met by earmarking funds for the recharge master plan efforts, or to capital projects required hereunder. This is permitted by the Peace Agreement. (See 5.2 (c)(vi) and 5.2( c)(ix).)

Regardless of the approach selected, the members of the Appropriative Pool and the Overlying (Non-Agricultural) Pool are entitled to the exclusive benefit. (PA Section 5.2 (c )(v).) Given that in the instant case, the Overlying (Non-Ag) obtain the revenue from the underlying option price, the balance of the proceeds may be properly earmarked to Watermaster for the benefit of the Appropriative Pool.

**Timing.**

1. November 18, 2008: Distribute draft agreement to Western, TVMWD and IEUA.
2. December 11, 2008. Obtain WMWD approval of distribution draft.
3. December 11, 2008: Attain Appropriative Pool conceptual approval of key terms and price auction process.
4. December 2008 - January 2009: Presentation of "discussion of final draft of agreement": Pool, Advisory Committee, and Board meetings.
5. January 15: Determination of broad benefits by Appropriative Pool and Overlying (Non-Agricultural) Pool.
6. January 29, 2009: Final approval of proposed agreement.
7. February 1-2, 2008: Conceptual presentation of storage agreement.
8. March 1 – April 30, 2009: Marketing.
9. March 1 – April 30, 2009: Final Court approval of storage agreement.
10. May 15, 2009: Auction.

**Recommendations**

1. Proceed with the price floor auction process and complete negotiation and documentation of base bid with WMWD on a schedule acceptable to the Pools and Watermaster but no later than January 20, 2009.
2. Proceed to schedule a process for making a recommendation to Watermaster as to the proposed "broad mutual benefit" to be received by the storage and recovery project no later than January 20, 2009.

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## CHINO BASIN GROUNDWATER RESOURCES AUCTION PRICE FLOOR AGREEMENT

This Chino Basin Groundwater Resources Auction Price Floor Agreement (“Agreement”) is made by and between the Chino Basin Watermaster, a Court-appointed groundwater basin management entity (“Watermaster”) and Western Municipal Water District of Riverside County, a retail and wholesale California municipal water district (“Western”), and is effective as of the date last signed by a Party (“Effective Date”). The term “Buyer” as used herein shall refer to the buyer at Auction (as defined in Recital \_\_\_ herein) which may or may not be Western and may or may not occur under this Agreement. To the extent Western purchases the Groundwater Resources (as defined in Section 2, herein) under this Agreement and not as the Selected Bidder at Auction (as defined in the Bid Documents attached hereto as Exhibit “\_\_\_”), Western shall be considered the “Buyer” and the terms of this Agreement shall govern all transactions between Western and Watermaster. Watermaster and Western are sometimes referred to herein collectively as “Parties” and individually as “Party.”

### RECITALS

A. In 1978, the San Bernardino Superior Court entered judgment on Case No. 164327 (now designated No. RCV 51010), Chino Basin Municipal Water District v. City of Chino (the “Judgment”). The Judgment is a plenary adjudication of all rights to groundwater and storage capacity within the Chino Basin and established a physical solution to provide ongoing management of the Chino Basin water resources and an equitable and feasible method of allocating the cost of importing supplemental water to achieve a hydrologic balance within Chino Basin. The Judgment adjudicated the rights of several hundred overlying landowners as well as several substantial industrial and commercial producers of water for use on their overlying lands, and within the cities, public water districts, utilities, and mutual water companies that provide water service within and adjacent to the Chino Basin.

B. The Judgment authorized the appointment of a Watermaster with the express powers and duties as provided for in the Judgment or as the Court may subsequently order pursuant to its continuing jurisdiction. Watermaster holds no rights to produce groundwater, but is the entity responsible for monitoring and regulating the production of groundwater within the basin under the Judgment.

C. Each of the defendants named in the Judgment is a water producer or other water claimant or public water district within the Chino Basin. Each such defendant has been identified as a member of one of the following three groups: (1) Overlying (Agricultural) Producers, possessing lands overlying the Chino Basin and producing water from the basin for agricultural uses on overlying lands; (2) Overlying (Non-Agricultural) Producers (the “Non-Ag Pool”), possessing lands overlying Chino Basin, producing water from the basin for use on overlying lands for other than agricultural purposes; and (3) Appropriators, producing water from Chino Basin pursuant to appropriative or prescriptive rights.

D. On June 29, 2000, the Non-Ag Pool entered into the Chino Basin Peace Agreement (“Peace Agreement”) with various other Chino Basin right holders. The Peace Agreement enabled Watermaster to adopt and implement the Optimum Basin Management

Program (“OBMP”), a comprehensive program to monitor, develop, and manage groundwater and storage capacity in the Chino Basin. The Peace Agreement grants Watermaster significant authority to regulate storage and recovery programs in the Chino Basin. Specifically, Section 5.2(a)(i) provides that “all storage capacity shall be subject to regulation and control by Watermaster.” Under Section 5.2(c)(ix), Watermaster “reserves complete discretion” over any proposed storage and recovery program involving non-parties to the Judgment. Additionally, Section 5.3(e) provides that “parties to the Judgment with rights within the [Non-Ag Pool] shall have the additional rights to Transfer their rights to Watermaster for the purposes of Replenishment for a Desalter or for a Storage and Recovery Program.”

E. On September 21, 2007, Watermaster entered into a Purchase and Sale Agreement with the Non-Ag Pool. Under the terms of this agreement, Watermaster purchased an amount of water from the Non-Ag Pool equivalent to the total quantity of water held in storage by the Non-Ag Pool on June 30, 2007, less a ten percent dedication for Desalter Replenishment, less an additional quantity of water transferred to the San Antonio Water Company (SAWCO) and Vulcan Materials.

F. On October 25, 2007, the Non-Ag Pool entered into the Chino Basin Peace II Agreement (“Peace II”) with various other Chino Basin right holders to confirm support for Watermaster’s OBMP. As part of Peace II, Exhibit G to the Judgment was amended to grant members of the Non-Ag Pool “the discretionary right to transfer or lease their quantified production rights and carry-over water held in storage accounts ... to Watermaster in conformance with the procedures described in the Peace Agreement between the parties therein.” On the same date, Paragraph 8 of the Judgment was similarly amended to grant members of the Non-Ag Pool the “right to transfer or lease their quantified production rights to Watermaster in conformance with the procedures described in the Peace Agreement between the parties therein.” In conjunction with Watermaster’s “complete discretion” under the Peace Agreement to enter into Storage and Recovery Programs with non-parties to the Judgment, these Peace II amendments authorize Watermaster to purchase or lease water rights from the Non-Ag Pool to remarket those rights to other entities such as Western.

G. Watermaster intends to sell by auction the sole and exclusive contractual right and interest to certain Chino Basin related Groundwater Resources, as expressly defined in Section 2, herein.

H. Subject to Subsection \_\_\_\_ herein, it is Watermaster’s intention to hold one auction on [DATE] (as described in Section 9) by which it will offer for sale the Groundwater Resources (“Auction”).

I. Western desires to purchase the Groundwater Resources and seeks, by this Agreement, to establish (i) the purchase terms for the Groundwater Resources at Auction; and (ii) the price Western will pay for the Groundwater Resources if Watermaster does not obtain a Higher Conforming Bid (as defined in Section 3 herein) at Auction.

J. Watermaster and Western intend that the Groundwater Resources purchased by Western pursuant to this Agreement, if any, may be used or sold by Western, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements hereinafter set forth, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties agree as follows:

**1. Incorporation by Reference.** The above Recitals and Exhibits hereto are incorporated herein by this reference.

**2. Price; Purchase Terms.**

2.1 This Agreement establishes the minimum price ("Minimum Price") and purchase terms for the Groundwater Resources at Auction if Western becomes the Buyer. With the exception of the Minimum Price, and other terms specific to this Agreement, the material terms of this Agreement will be offered to any other Buyer under the applicable Groundwater Resources Auction Agreement (as defined in Subsection 9.4 herein) entered into between Watermaster and such other Buyer.

2.2 The Groundwater Resources are further defined as follows:

2.2.1 Forty thousand (40,000) acre-feet of Non-Ag Pool groundwater ("Groundwater"), less ten percent (10%) which shall be permanently dedicated to Desalter Replenishment, for a net amount of 36,000 acre-feet of groundwater available for immediate extraction from the Chino Basin; and

2.2.2 Exclusive use of forty thousand (40,000) acre-feet of storage capacity ("Storage Capacity") in the Chino Basin for storage and subsequent extraction of stored water, for a term of 30 years; and

2.2.3 The Groundwater and Storage Capacity are collectively referred to as "Groundwater Resources"); and

2.2.4 The 36,000 acre-feet of the available 40,000 acre-feet of Storage Capacity shall be considered initially occupied as of the Closing Date. The volume of Storage Capacity occupied and useable at any time shall be based upon the use of the Groundwater and the subsequent replenishment and use of other water stored over time, pursuant to Watermaster's accounting; and

2.2.5 The Groundwater Resources are taken subject to the Court's ongoing jurisdiction under the terms of the Judgment and Watermaster's ongoing authority subject to the Judgment and the Court's jurisdiction.

2.2.6 The Groundwater Resources do not include access to facilities either to extract Groundwater from or replenish water in the Storage Capacity of the Chino Basin.

**3. Challenge to Rights of Third-Party.** Except as provided in Subsection 9.8 herein, Western commits and agrees not to appeal, contest, enjoin, protest or otherwise challenge the

Auction or sale of the Groundwater Resources to a third party that (i) is a Qualified Bidder, (ii) submits a Conforming Bid at Auction, and (iii) closes on such Conforming Bid within the time frame specified in Subsection 9.9 herein. The terms "Qualified Bidder," "Higher Conforming Bid" and "Conforming Bid" are further defined in the Instructions to Bidders. Instructions to Bidders along with the Qualified Bidder Form, Bid Form, Bid Confirmation Form, Groundwater Resources Auction Agreement and Groundwater Resources Auction Escrow Agreement (collectively, "Bid Documents") are attached hereto as Exhibit "X."

**4. Interference with Auction.** Except for Western's right to challenge a bid as set forth in Subsection 9.8 herein, Western commits and agrees that it shall not take any action to disrupt, delay, enjoin or otherwise interfere with the timing and conduct of the Auction or disseminate any information regarding the Auction without the knowledge and consent of Watermaster. Western further commits and agrees to refer all inquiries it receives regarding the Auction to Watermaster and to cooperate with Watermaster in formulating mutually-acceptable materials for public disclosure in connection with the Auction. Western covenants that it will not collaborate, collude or conspire with any other bidders or third parties to fix or otherwise affect the bid price at Auction. Notwithstanding the foregoing, nothing herein shall preclude Western from conferring with third parties about the Auction or the Groundwater Resources as part of its due diligence efforts or investigation of the potential uses for or assignment of the Groundwater Resources or any interest therein. Watermaster acknowledges that Western may have discussions with developers and other third parties regarding acquisition of all or some portion of Western's potential interest in the Groundwater Resources and that such discussions do not constitute a violation of this Section 4 or any other provision of this Agreement.

**5. Minimum Price.** Subject to Western's termination rights under Subsections Y and Z herein, if Watermaster does not Close with a Higher Conforming Bid at Auction from Western or another bidder, Western agrees to purchase from Watermaster and Watermaster agrees to sell to Western, subject to the payment terms described herein and otherwise pursuant to the terms of this Agreement, the Groundwater Resources for the following ("Minimum Price"):

5.1 \$600.00 per acre-foot for Groundwater, for a total of \$21,600,000 (\$600 per acre-foot times 36,000 acre-feet) ("Groundwater Purchase Price"); and

5.2 \$25 per acre-foot per year, adjusted annually according to the index described below, for Storage Capacity ("Storage Payment"). The Storage Payment shall be due and payable annually subject to the following:

5.2.1 Upon the Closing Date, and each annual anniversary thereafter up to but not including the fifth anniversary of the Closing Date, for each acre-foot of Storage Capacity that is available for recharge after extraction of each acre-foot of the Groundwater ("Available Storage Capacity"). Upon the Closing Date, 4,000 acre-feet of Available Storage Capacity is immediately available for recharge as a result of the 10% Desalter Replenishment. Thus, at Closing, the first Storage Payment shall be \$100,000 (4,000 acre-feet multiplied by \$25 per acre-foot). As an additional example, if during the first year following the Closing Date, 10,000 acre-feet of the Groundwater has been extracted (in addition to the

initial 4,000 acre-feet of Desalter Replenishment), the Storage Payment shall be the product of 14,000 acre-feet multiplied by the applicable Indexed Storage Fee, as defined in Section 5.2.4 herein; and

5.2.2 On the fifth anniversary of the Closing Date and annually thereafter through the term of this Agreement, the Storage Payment shall be equal to the product of 40,000 acre-feet multiplied by the applicable Indexed Storage Fee; and

5.2.3 The Storage Payment shall be due and payable annually on the anniversary of the Closing Date, whether or not the Storage Capacity is actually used for replenishment; and

5.2.4 The per acre-foot Storage Payment shall be adjusted annually prior to calculating the then due and payable Storage Payment, according to the {SET INDEX} (“Indexed Storage Fee”).

**6. Form and Timing of Payments.** All payments for the Groundwater Resources shall be made in cash or cash equivalent on the schedule set forth in this Agreement and in accordance with the terms of the “Minimum Price Escrow Agreement” among Watermaster, Western and XXXX (“Escrow Agent”). The Minimum Price Escrow Agreement is attached hereto as Exhibit “ ”. Watermaster and Western shall execute and deliver the Minimum Price Escrow Agreement to the Escrow Agent no later than the Closing Date. Where payments are required, actual payment is to be made in accordance with the Minimum Price Escrow Agreement, or the Auction Escrow Agreement, as applicable. Watermaster shall be solely responsible for all escrow fees and escrow expenses incurred by Escrow Agent in discharging its duties under the Minimum Price Escrow Agreement.

**7. Term.** The term of this Agreement shall commence on the Effective Date and shall terminate as provided in Section 20 herein.

**8. Breakup Fee.** In the event this Agreement terminates because Watermaster closes on a Higher Conforming Bid for the Groundwater Resources within the time provided in Subsection 9.9 herein, Western shall receive in the manner set forth in the Groundwater Resources Auction Escrow Agreement a “Breakup Fee” from Watermaster as follows: 10% of every payment Watermaster receives from Buyer for the Groundwater Resources under the Groundwater Resources Auction Agreement; provided, however, that Western shall receive a minimum of \$ within three years of the Closing Date (“Minimum Breakup Fee”). If Western’s total share of the payments received by Watermaster for the Groundwater Resources during this three year period is less than Minimum Breakup Fee, Watermaster shall pay any deficit to Western on or before the third anniversary of the Closing Date. Any such “deficit payment” by Watermaster shall be deducted from Western’s 10% share of the next payment(s) received by Watermaster for the Groundwater Resources until the deficit payment is recouped in full by Watermaster. The Breakup Fee shall not apply if Western is the Buyer or if Western exercises its right under Subsection 20.1(i) herein to terminate this Agreement.

**9. Auction.**



- 9.1 **Date.** Watermaster shall conduct an Auction of the Groundwater Resources on [DATE].
- 9.2 **Notice.** Watermaster shall provide written notice of the date of the Auction (via postings, press releases, email, website, newspaper or other means calculated to reach potential bidders, including Western) at least 30 days prior to the Auction date.
- 9.3 **Disclosure of Agreement.** This Agreement shall be disclosed to potential bidders along with the notice provided in Section 9.2, above.
- 9.4 **Terms.** The form of purchase agreement to be used at Auction in the event Watermaster closes on a Higher Conforming Bid at Auction with either Western or another bidder is included in the Bid Documents attached hereto as Exhibit "[REDACTED]" ("Groundwater Resources Auction Agreement").
- 9.5 **Opening Bids.** Subject to Subsection 9.7 herein, all bids for the Groundwater Resources at Auction shall be not less than \$675 per acre-foot for Groundwater and \$30 per acre-foot per year for Storage Capacity ("Minimum Auction Bid"). Any bid (a) to purchase only a portion of the Groundwater Resources, (b) to purchase on terms different than the Groundwater Resources Auction Agreement, (c) that is not in conformance with the Bid Documents, or (d) that is made by a person other than a Qualified Bidder, shall be rejected as a nonconforming bid.
- 9.6 **Participants.** Any Qualified Bidder, including Western, may participate in the Auction. The bidder qualification requirements are set forth in the Bid Documents.
- 9.7 **Procedure.** Pursuant to the Bid Documents, Watermaster has (i) determined the Auction structure, (ii) developed the Instructions to Bidders, and (iii) set forth the standard for Qualified Bidders. Pursuant to the Bid Documents, Watermaster shall (i) identify Qualified Bidders at Auction, (ii) identify Conforming Bids at Auction, (iii) conduct the Auction, and (iv) determine the Selected Bidder. For purposes of the Auction, Western shall be deemed a Qualified Bidder, this Agreement shall be deemed its sealed, Conforming Bid for the terms described in this Agreement in round one (sealed bids) of the Auction, and Western shall be eligible to participate in round two (oral bids) of the Auction. In the event that Western is the Selected Bidder at Auction, Western shall timely comply with the requirements to close its bid set forth in the Bid Documents, and shall also deliver to the Escrow Agent an original, fully-completed and executed Groundwater Resources Auction Escrow Agreement (with exhibits) on or before the deadline specified in the Instructions to Bidders. If Western is the Selected Bidder and fails to timely close its bid in the manner and time-frame specified in the Bid Documents and in accordance with the Groundwater Resources Auction Agreement, Western shall pay Watermaster the Minimum Breakup Fee within 10 business days of the deadline specified in the Instructions to Bidders as negotiated and agreed upon liquidated damages for its failure to consummate the transaction

contemplated by its bid at Auction, the parties hereby agreeing that said amount is a reasonable forecast of just compensation for the harm that may be caused Watermaster as a result of Western's failure to close on its bid and that Watermaster's harm in the event of Western's failure to close on its bid would be incapable of accurate estimation or very difficult to estimate accurately. Unless this Agreement terminates as provided in Section 20, payment of said liquidated damages shall not relieve Western of its obligation to close on this Agreement in accordance with the terms of Subsection 9.9 herein in the event that Watermaster is either unable to close on a Higher Conforming Bid at Auction or timely elects to close this Agreement.

9.8 **Disclosure of Buyer/Bid.** At the conclusion of the Auction, Watermaster shall (i) post the name of the Selected Bidder outside the Watermaster office and on Watermaster's Auction website, and (ii) provide Western with a copy of the bid selected by Watermaster, the Bid Form, Bid Confirmation Form (if applicable), Qualified Bidder Form, the Groundwater Resources Auction Agreement, and the Groundwater Resources Auction Escrow Agreement to be entered into between the Selected Bidder and Watermaster. Western must notify Watermaster in writing within 10 business days of receipt by Western of the selected bid if it intends to challenge the bid, and Watermaster shall not close with the Selected Bidder until the expiration of such 10-business-day period and not thereafter pending the final resolution of any challenge brought by Western under this Section 9. Otherwise, Western shall be deemed to have waived its right to challenge the selected bid. The only basis upon which Western may challenge the selected bid is Watermaster's alleged failure to comply with this Section 9. Any challenge to the selected bid will be subject to the dispute resolution provisions in Section 10 herein and the remedial provisions in Section 11 herein.

9.9 **Closing Date.** Subject to the provisions of Subsection 9.8 herein, the Buyer shall have 20 business days from the Auction date to close its bid with Watermaster. In the event the Buyer does not timely close, Watermaster shall immediately notify in writing the next highest bidder, with a bid that is equal to or greater than the Minimum Auction Bid. If the next highest bidder, with a bid that is equal to or greater than the Minimum Auction Bid fails to close its bid within 20 business days of receipt of Watermaster's written notice, subject to the provisions of Subsection 9.8 herein, Watermaster shall immediately notify the next such highest bidder, with a bid that is equal to or greater than the Minimum Auction Bid, in writing, until a close is timely effected. If ultimately no close is timely effected, Watermaster shall so notify Western in writing within 5 days of the final date on which Watermaster was entitled to close with another Buyer, and Western shall close within 10 business days of receipt of Watermaster's written notice; provided, however, Western shall have the sole and absolute discretion whether to close if the Watermaster's written notice is not delivered on or before the 60th day after the Auction date. Notwithstanding the foregoing, Watermaster reserves the right to waive any and all bids and to close the Agreement by notice to Western, and, in such event, Western shall have 10 business days from receipt of Watermaster's written notice to close on this Agreement; provided, however,

Western shall have the sole and absolute discretion whether to close if the Watermaster's written notice is not delivered on or before the 60th day after the Auction date. The date of closing with the Buyer as the case may be is referred to herein as the "Closing Date".

- 9.10 **Closing Location.** Closing will take place in the office of the Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA 91730 commencing at 10:00 a.m. Pacific Standard Time.

**10. Groundwater Resources; Payment Timing.** In the event Watermaster does not receive a Higher Conforming Bid at Auction or no close is timely effected with a bidder other than Western, subject to the terms of Subsection 9.9 herein, Western shall purchase from Watermaster the Groundwater Resources for the Minimum Price under the terms of this Agreement.

**10.1 Payment Options.**

10.1.1 Concurrent with the Closing Date, Western shall pay Watermaster either:  
a) a lump sum equal to the Groundwater Purchase Price and the first Storage Payment; or b) the first payment pursuant to the "Payment Stream Option," defined below.

10.1.2 As an alternative to the lump sum payment, concurrent with the Closing, Western may elect to pay Watermaster 25% of the sum of the Groundwater Purchase Price and first year Storage Payment, and finance the remaining balance over a period of five years from the Closing Date (the "Payment Stream Option"). If Western elects the Payment Stream Option, Watermaster shall finance the balance of the money owed at a rate of interest equal to the then-prevailing **Federal 5-Year Treasury Rate plus 2%**, compounded quarterly. Payments will be due and payable quarterly, with the first payment due exactly three months after the Closing Date, and the final payment due on the fifth anniversary of the Closing Date, according to amortization schedule attached as Exhibit "**\_\_\_**"; and

10.1.3 Annually, on the anniversary of each Closing Date during the term, Western shall pay to Watermaster the then applicable Storage Payment.

**10.2 Taxes and Liabilities.**

10.2.1 **Transfer Tax.** In the unlikely event that there is are taxes associated with Watermaster's sale of the Groundwater Resources, Watermaster shall be responsible for payment of such taxes in accordance with the terms of the Minimum Price Escrow Agreement or within 30 days of identification of such transfer tax(es) by Western.

10.2.2 **Existing Liabilities.** To the extent that there are any existing liabilities applicable to the Groundwater Resources prior to the Closing Date, Watermaster shall be responsible for payment of such existing liabilities in

accordance with the terms of the Minimum Price Escrow Agreement or within 30 days of the identification of such existing liabilities by Western.

**11. Extraction of Groundwater Resources.** If Western becomes the Buyer of the Groundwater Resources under this Agreement, concurrent with the Closing, Watermaster shall provide Western with a true and correct copy of Watermaster's annual report that quantifies and certifies that: (i) the total acre-feet of Groundwater subject to this Agreement is available to be recovered by Western, (ii) the total Storage Space necessary to retain the Groundwater and any subsequent replenishment up to the Storage Capacity shall remain available in the Chino Basin; and (iii) a copy of the Court approved storage agreement for 40,000 acre-feet. Each year thereafter, Western shall have the right to extract the Groundwater in whole or in part as set forth in this Section 11.

11.1 **Limitations on Extraction of Groundwater.** Western shall make whatever arrangements as may be required to access and extract the Groundwater and utilize the Storage Capacity, subject to the terms of the Judgment and Watermaster's oversight.

11.2 **Requirements for Court Approval.** Western must obtain Court approval, as may be appropriate, to implement a storage and recovery plan to make use of the Groundwater Resources. Watermaster shall make every reasonable effort to facilitate such approval, provided Western's implementation plans are consistent with the Judgment.

**12. Security Interests.** If Western becomes the Buyer of the Groundwater Resources under this Agreement, Watermaster shall have all of the rights and remedies provided to a secured party in law or equity under the laws of the State of California with respect to the security interests, liens or other security granted it in this Section 12 or in any of the Documents to secure Western's payment obligations under the Documents. Western hereby irrevocably authorizes Watermaster at any time (and from time to time) to file and/or record in any jurisdiction any UCC-1 financing statements or other documents and amendments thereto in order to reflect, preserve and perfect the liens and security interests granted to it in this Section 12 and in the Documents. Western shall execute and deliver to Watermaster, upon request from time to time, such additional documents and grants as Watermaster may require relative to the liens and/or security interests granted it in this Section 12 and the Documents. In order to secure Western's obligations with respect to the unpaid purchase price for any Groundwater Resources purchased hereunder, Western hereby grants to Watermaster a first priority security interest in and to such Groundwater Resources. Western shall not grant any other security interest, lien or other encumbrance in and to any Groundwater Resources without the prior written consent of Watermaster.

**13. Watermaster Responsibilities.**

13.1 **Authority to Sell.** It is expressly understood by the Parties that Watermaster assumes no responsibility under this Agreement to arrange for Western's ability to make use of the Groundwater Resources, other than making reasonable efforts to facilitate any Court approval consistent with the terms of the Judgment.

Nothing contained herein shall relieve Western of the obligation to conduct its own due diligence prior to entering into this Agreement.

- 13.2 **No Guarantee of Water Resources Reliability.** If Western becomes the Buyer of the Groundwater Resources under this Agreement, it is expressly acknowledged that this Agreement memorializes a transaction involving the sale of Groundwater Resources to Western for use by Western as a reliable water supply. This Agreement does not, by its express terms or by implication, constitute (in whole or part) any grant, issuance, decision, order, permit, finding, conclusion, holding, recommendation, approval, determination or other form of governmental action as to any other matter whatsoever. Western expressly acknowledges and agrees that Watermaster hereby gives no express or implied assurances or guarantees of any kind as to the outcome of any reliance upon the Groundwater Resources for planning purposes, including the preparation or validity of water supply assessments, water supply verifications, or environmental impact reports or analyses which may include such water supply reliability analyses.
- 13.3 **Due Diligence.** Each Party expressly acknowledges that it has been provided the opportunity to inspect and make such investigations regarding this Agreement (including, but not limited to, the Groundwater Resources), and has performed such due diligence inspections and investigations thereof and of its suitability for such Party's purposes (including review of documents and information provided by or on behalf of the other Party and interviews with the other Party's employees and consultants), as such Party deems appropriate, necessary and prudent for such Party to enter into this Agreement and consummate the transaction contemplated hereunder.
- 13.4 **Physical Delivery of Water.** Western expressly acknowledges that this Agreement provides Western with a contractual right to the Groundwater Resources; provided however, this Agreement provides Western with no independent physical access to make use of the Groundwater Resources. It is Western's sole and exclusive responsibility to arrange for such physical access as Western determines is necessary and appropriate to make use of the Groundwater Resources. Western expressly acknowledges and agrees that such access must be consistent with the Judgment and may require court approval.
- 13.5 **Storage and Recovery Facilities.** Western expressly acknowledges that this Agreement provides Western with no independent right to construct, operate, maintain or repair any facilities, including but not limited to, groundwater wells, recharge facilities, or conveyance facilities. It is Western's sole and exclusive responsibility to arrange for such access to such facilities as Western determines is necessary and appropriate to make use of the Groundwater Resources. Western expressly acknowledges and agrees that such access and use of such facilities must be consistent with the Judgment and may require court approval.

**14. Watermaster's Representations, Warranties and Covenants.** Watermaster represents, warrants and covenants to Western as follows:

- 14.1 Watermaster is an entity authorized under the Judgment with a nine-member Board appointed by the Superior Court of San Bernardino County to account for and implement the management of the Chino Basin.
- 14.2 Watermaster has the authority to dispose of the Groundwater Resources subject to, and in accordance with, the requirements of the Judgment and applicable law.
- 14.3 Watermaster is duly authorized to conduct the Auction, select and administer all Auction procedures, bidder and bid requirements, and determine the Buyer at Auction based on the bidder and bid requirements.
- 14.4 Watermaster is authorized to execute this Agreement, and subject to the Court approval(s) that may be required to implement this Agreement, no further actions or approvals (including actions by members of the Non-Ag Pool) are necessary before execution of this Agreement.
- 14.5 Neither the execution and delivery of this Agreement, nor Watermaster's performance of its obligations hereunder, shall breach any known obligation, right or interest of a third party, regulatory agency, Watermaster Party or other governing body with authority over Watermaster.
- 14.6 The Offered Groundwater Resources have not been, and shall not during the term of this Agreement be, pledged or committed to any other use by Watermaster (except as otherwise provided herein).
- 14.7 This is the only agreement entered into by Watermaster that will set a price floor for the Auction. Watermaster has not, and shall not, enter into any other similar agreement prior to Auction.
- 14.8 Watermaster has provided, or otherwise made available, to Western true and accurate copies of all material information in its possession relevant to the Groundwater Resources.
- 14.9 This Agreement does not involve the offer for sale or sale of any "security" pursuant to any state or federal securities law, rule or regulation, and that neither this Agreement or the Groundwater Resources sold herein, nor the offer or sale of either, will require registration under the federal Securities Act of 1933, as amended, or any state securities or "blue sky" law, rule or regulation.
- 14.10 No warrant, either express or implied, is made as to the water quality of the Groundwater or the water that may be introduced into the Storage Capacity for subsequent recapture. The Parties expressly acknowledge that areas of the Chino Basin have compromised quality, and extraction of groundwater, including the Groundwater, may require subsequent treatment before being fit for human consumption.

**15. Western's Representations, Warranties and Covenants.** Western represents, warrants and covenants to Watermaster as follows:

- 15.1 Western is a retail and wholesale California water agency duly organized, validly existing and in good standing under the laws of the State of California.
- 15.2 Western has the authority to participate in the Auction, execute and deliver this Agreement, and perform its obligations hereunder, and all such actions have been duly authorized and approved by all necessary partnership action.
- 15.3 Western has received all consents required in order for it to execute, deliver and perform its obligations under this Agreement.
- 15.4 To the best of Western's knowledge, neither the execution and delivery of this Agreement nor Western's performance of its obligations hereunder shall breach any (i) provision of Western's governing documents, (ii) resolution adopted by Western's governing body, (iii) law, regulation or order to which Western may be subject; or (iv) contract to which Western is a party or to which it may be bound.
- 15.5 To the best of Western's knowledge, there is no pending litigation against Western or any of its partners that may affect its ability to close on this Agreement or to perform its obligations hereunder.
- 15.6 Western has not colluded or conspired with any person or entity to fix the price or terms for the Groundwater Resources.

**16. Dispute Resolution.** Upon the occurrence of any dispute or disagreement between the Parties hereto arising out of, or in connection with, any term or provision of this Agreement, the subject matter hereof, or the interpretation or enforcement hereof ("Dispute"), the Parties shall engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either Party each of the Parties will appoint a designated officer whose task it shall be to meet for the purpose of attempting to resolve such Dispute. The designated officers shall meet as often as the Parties shall deem to be reasonably necessary. Such officers will discuss the Dispute. If the Parties are unable to resolve the Dispute in accordance with this Section 16 within 30 days (or such other period mutually agreed to by Western and Watermaster, not to exceed 90 days), and in the event that either of the Parties concludes in good faith that amicable resolution through continued negotiation with respect to the Dispute is not reasonably likely, then the Parties agree to submit to mediation. The mediation shall be held under the commercial mediation rules of the American Arbitration Association. The matter in dispute shall be submitted to a mediator mutually selected by the Parties. In the event the Parties cannot agree upon the selection of a mediator within 7 days, then within 3 days thereafter the Parties shall jointly request the Judge administering the Judgment to appoint an independent mediator. The mediator selected shall have at least 5 years' experience in mediating or arbitrating disputes. The cost of any such mediation shall be divided equally among the Parties. The results of the mediation shall be nonbinding on the Parties, and any Party shall thereafter be free to initiate litigation pursuant to paragraph 15 of the Judgment.

**17. Termination of Agreement.**

- 17.1 **Automatic Termination.** This Agreement shall automatically terminate, and neither Party shall thereafter have any further obligations or responsibilities to the other Party except as expressly set forth herein, upon the first of the following dates to occur: (i) the date Western elects to terminate this Agreement because Buyer has failed to timely close and Watermaster has deferred closing on the Agreement for at least 60 days after the Auction date to complete the process specified in Subsection 9.9 herein, (ii) the date Watermaster closes on an Groundwater Resources Auction Agreement based on a Higher Conforming Bid for the Offered Groundwater Resources submitted by Western or another bidder at Auction (provided the closing is timely under Subsection 9.9 herein); (iii) the date each of the Parties has completed in full its obligations under this Agreement or (iv) 5:00 p.m. Pacific Standard Time on [DATE].
- 17.2 **Termination by Party.** This Agreement may be terminated (i) by mutual consent of the Parties; (ii) by either Party if the other Party is in breach of a material provision of this Agreement, including without limitation, the failure to hold the Auction as set forth in Subsection 9.1 herein, and the breach has not been (a) cured within 45 days of receipt of written notice reasonably detailing the breach; provided, however, such cure period shall not apply to the obligation to close on or before the Closing Date or to hold the Auction in Accordance with Section 9.1 herein; (b) resolved pursuant to the Dispute Resolution process in Section 19 herein; (c) waived in writing by the non-breaching Party; or (iii) by either Party in the event any of Sections [REDACTED] herein are held to be invalid or unenforceable. Notwithstanding the foregoing, the non-breaching Party may not terminate this Agreement if the material breach is curable but cannot be cured within the 45-day period set forth above for reasons beyond the control of the breaching Party, and the breaching Party is diligently pursuing reasonable efforts to cure such breach.
- 17.3 **Effect of Termination.** The right to terminate as set forth in Subsection [REDACTED] herein shall be in addition to any other rights that may be available to Western or Watermaster in law or equity and shall not be construed as an election of remedies.
- 17.4 **Procedures Upon Termination.** The termination of this Agreement shall not relieve either Party of any liability that accrued prior to such termination. Subject to the terms of Subsection 17.3 and Section 18 herein, upon the termination of this Agreement all of the provisions of this Agreement shall terminate and, if Western purchased the Groundwater Resources under this Agreement:
- 17.4.1 Western shall, within 30 days from the date of termination relinquish to Watermaster in a written notice (“Notice”) all rights and interest in the Groundwater Resources.



17.4.2 Watermaster shall, within 30 days of receipt of the Notice, (i) refund to Western the money received by Watermaster for the Groundwater Resources (without interest except as provided in Subsection \_\_\_\_ herein).

**18. Survival.** Each of the following shall survive the termination of this Agreement: (a) Section \_\_\_\_ herein (Breakup Fee), Section \_\_\_\_ herein (Security Interests), Section \_\_\_\_ herein (Watermaster Responsibilities), Section \_\_\_\_ herein (Watermaster's Representations, Warranties and Covenants), Section \_\_\_\_ herein (Western's Representations, Warranties and Covenants), Section \_\_\_\_ herein (Dispute Resolution), Section \_\_\_\_ herein (Remedies), and Section \_\_\_\_ herein (Indemnification); (b) Subsection \_\_\_\_ herein (Procedure), Subsection \_\_\_\_ herein (Taxes and Liabilities), Subsection \_\_\_\_ herein (Taxes and Liabilities), Subsection \_\_\_\_ herein (Procedures upon Termination); Subsection \_\_\_\_ herein (Assignments; Successors; No Third-Party Rights), Subsection \_\_\_\_ herein (Governing Law), Subsection \_\_\_\_ herein (Notices), Subsection \_\_\_\_ herein (No Liability), Subsection \_\_\_\_ herein (Cooperation and Further Documentation), Subsection \_\_\_\_ herein (Cooperation in the Event of Third-Party Litigation); and (c) those provisions, and the rights and obligations therein, set forth in this Agreement which either by their terms state or evidence the intent of the Parties that the provisions survive the expiration or termination of this Agreement (or must survive to give effect to the provisions of this Agreement); PROVIDED, HOWEVER, THAT THIS SECTION SHALL NOT APPLY IF WESTERN IS THE SELECTED BIDDER AT AUCTION AND TIMELY CLOSES ON THE GROUNDWATER SUPPLY AUCTION AGREEMENT.

**19. Remedies.**

19.1 **Remedies upon Breach or Default.** In the event of a breach or default by a Party hereto, which is not cured within the period specified in Subsection \_\_\_\_ herein, and in addition to its other remedies specified in this Agreement or available under applicable law, the non-breaching Party shall have the right to: (i) seek specific performance of the breaching Party's duties and obligations under this Agreement to the extent the non-breaching Party has not elected to terminate this Agreement pursuant to Subsection \_\_\_\_ herein, (ii) recover from the breaching Party all damages and losses incurred or suffered by the non-breaching Party as a result of such breach or default, and (iii) perform the breaching Party's unperformed duties and obligations (in which event the breaching Party shall, within 5 days of request by the non-breaching Party, reimburse the non-breaching Party for all sums, amounts, costs and expenses expended by said Party in connection therewith).

19.2 **Successful Challenge.** To the extent any legal action or proceeding is initiated challenging the validity of the Auction or the effectiveness of Watermaster's material obligations under this Agreement (a "Challenge Proceeding"), Watermaster will be solely responsible for the defense of such Challenge Proceeding, subject to the cooperation provisions in Subsections \_\_\_\_ herein, including any and all costs and expenses associated therewith. To the extent that the results of any Challenge Proceeding is to deem the Auction or Watermaster's material obligations under this Agreement unlawful or unenforceable, Western may relinquish, in writing, all rights and interest in the Groundwater Resources to

Watermaster in exchange for Watermaster refunding to Western the money received by Watermaster for the applicable Groundwater Resources without interest. Such refund shall be paid by Watermaster within 30 days of receipt of the aforementioned notice and refund demand from Western, or within such other period as mutually agreed to by the Parties.

- 19.3 **Expiration of Agreement.** This Agreement shall expire on [DATE] unless earlier terminated as provided in this Agreement. [30 YEAR TERM]

**20. Indemnification.**

20.1 **Indemnification by Watermaster.** Watermaster shall indemnify and hold harmless Western and its partners, directors, officers, managers, employees, agents, consultants, advisors, accountants, financial advisors, legal counsel or other representatives (collectively, "Western Indemnified Persons"), and will reimburse the Western Indemnified Persons for any loss, liability, claim, damage, expense (including costs of investigation and defense and reasonable attorneys' fees and expenses), whether or not involving a claim by a third party (collectively, "Damages"), arising from or in connection with:

- 20.1.1 any breach of any representation or warranty made by Watermaster in this Agreement or any other agreement, certificate, document or other writing delivered in connection herewith;
- 20.1.2 any breach of any covenant, agreement or obligation of Watermaster in this Agreement or any other agreement, certificate, document or other writing delivered in connection herewith;
- 20.1.3 any liability arising out of the ownership of any Groundwater Resources prior to the time that such Groundwater Resources are transferred in full to Western pursuant to this Agreement;
- 20.1.4 any brokerage or finder's fees or commissions or similar payments based upon any agreement or understanding made, or alleged to have been made, by any person with Watermaster (or any person acting on its behalf) in connection with this Agreement or the Groundwater Resources;
- 20.1.5 any noncompliance by Watermaster with any laws applicable to the Groundwater Resources or this Agreement;
- 20.1.6 any Challenge Proceeding, including without limitation any and all Damages incurred by Western as a result of a Challenge Proceeding resulting in either the Auction or Watermaster's material obligations under this Agreement being deemed unlawful or unenforceable; and
- 20.1.7 any misrepresentation by Watermaster or its agents relating to the Auction or the interests being sold thereunder.

20.2 **Indemnification by Western.** Western shall indemnify and hold harmless Watermaster and its directors, officers, managers, employees, agents, consultants, advisors, accountants, financial advisors, legal counsel or other representatives (collectively, "Watermaster Indemnified Persons"), and will reimburse the Watermaster Indemnified Persons for any Damages arising from or in connection with:

20.2.1 any breach of any representation or warranty made by Western in this Agreement or any other agreement, certificate, document or other writing delivered to Watermaster in connection herewith;

20.2.2 any breach of any covenant, agreement or obligation of Western in this Agreement or any other agreement, certificate, document or other writing delivered to Watermaster in connection herewith;

20.2.3 any brokerage or finder's fees or commissions or similar payments based upon any agreement or understanding made, or alleged to have been made, by any person with Western (or any person acting on its behalf) in connection with this Agreement; and

20.2.4 any noncompliance by Western with any laws applicable to the Groundwater Resources or this Agreement.

20.3 **Indemnification Procedures.** In the event of any claim, action or demand ("Claim") where any Party hereto seeks indemnification from the other, the Party seeking indemnification ("Indemnified Party") shall give the Party from whom indemnification is sought ("Indemnifying Party") written notice of such Claim promptly after the Indemnified Party first becomes aware thereof. Provided, however, that failure to give such notice shall not preclude indemnification with respect to such Claim except to the extent of any additional or increased Losses or other actual prejudice directly caused by such failure. The Indemnifying Party shall have the right to choose counsel to defend such Claim (subject to the approval of such counsel by the Indemnified Party, which approval shall not be unreasonably withheld, conditioned or delayed), and to control, compromise and settle such Claim, and the Indemnified Party shall have the right to participate in the defense at its sole expense. Provided further, however, the Indemnified Party shall have the right to take over the control of the defense or settlement of such Claim at any time if the Indemnified Party irrevocably waives all rights to indemnification from and by the Indemnifying Party. The Indemnifying Party and the Indemnified Party shall cooperate in the defense or settlement of any Claim and no Party shall have the right to enter into any settlement agreement that materially affects the other Party's material rights or material interests without such Party's prior written consent (which consent will not be unreasonably withheld or delayed).

21. **Assignments Successors No Third-Party Rights.** Except as expressly provided herein, no Party may assign, in whole or in part, any of its rights or delegate any of its obligations under

this Agreement without the prior written consent of the other Party (which consent shall not be unreasonably withheld or delayed). Furthermore, no Party may convey all or any portion of its rights hereunder unless either (a) the corresponding obligations of that Party are completely assumed by the assignee, the assignee accepts such obligations and demonstrates its ability to perform them to the reasonable satisfaction of the other Party, the obligations are specifically listed in the assignment and the assignee expressly agrees to be bound by the provisions of Sections \_\_\_\_, or (b) the Party remains obligated to perform said corresponding obligations after such assignment; provided, however, Western (after written notice to Watermaster), may assign any of its rights and delegate any of its obligations under this Agreement to any solvent, duly authorized, and lawfully existing affiliate of Western that can fulfill the representations and warranties and other covenants herein, and may collaterally assign its rights hereunder to any financial institution providing financing in connection with the transactions contemplated herein provided that the financial institution shall take such rights subject to Watermaster's security interests set forth herein. Subject to the foregoing, this Agreement will apply to, be binding in all respects upon, and inure to the benefit of, the successors and permitted assigns of the Parties. Except as set forth in Section \_\_\_\_ herein, nothing expressed or referred to in this Agreement will be construed to give any Person other than the Parties to this Agreement any legal or equitable right, remedy or claim under this Agreement, except such rights as shall inure to a successor or permitted assignee pursuant to this Subsection \_\_\_\_.

**22. Miscellaneous.**

- 22.1 **Expenses.** Except as otherwise provided in this Agreement, each Party to this Agreement shall bear its respective fees and expenses incurred in connection with this Agreement.
- 22.2 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be considered part of the whole. Further, the Parties agree that valid execution of this Agreement may be accomplished by signatures exchanged between the Parties by facsimile transmission and that such signatures shall be valid and binding as though they were original signatures.
- 22.3 **Attorneys' Fees.** Should a Party be required to consult or engage attorneys to represent it with regard to enforcement of any material part of this Agreement, the prevailing Party shall be entitled to (and the non-prevailing Party shall be responsible for), the payment of all costs and expenses incurred by the prevailing Party, including reasonable attorneys' fees.
- 22.4 **Waivers.** No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver be a continuing waiver. Except as expressly provided for in this Agreement, no waiver shall be binding unless executed in writing, by the Party making the waiver. Any Party may waive any provision of this Agreement intended for its benefit, Provided, however, such waiver shall in no way excuse the other Party from the performance of any of its other obligations under this Agreement.

- 22.5 **Governing Law.** This Agreement shall be deemed an California contract and construed according to California law. This Agreement shall only be enforceable in a court of competent jurisdiction in the State of California, and not in any other state.
- 22.6 **Construction.** The Parties acknowledge that they were each represented by counsel in connection with this Agreement, that each of them (and their respective counsel) reviewed this Agreement, that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement, and that the language in all parts of this Agreement shall in all cases be construed as a whole and in accordance with its fair meaning. Any provision of this Agreement which requires a Party to perform an action shall be construed so as to require the Party to perform the action or to cause the action to be performed. Any provision of this Agreement which prohibits a Party from performing an action shall be construed so as to prohibit the Party from performing the action or from permitting others to perform the action. Except to the extent, if any, to which this Agreement specifies otherwise, each Party shall be deemed to be required to perform its obligations under this Agreement at its own expense, and each Party shall be permitted to exercise its rights and privileges only at its own expense.
- 22.7 **Severability.** Except as otherwise provided herein (including, without limitation, Subsection [REDACTED] herein), if any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement shall remain in full force and effect and the Parties shall negotiate an equitable adjustment in the provisions of this Agreement with a view toward effecting the purpose of this Agreement. The validity and enforceability of the remaining provisions or portions, or applications thereof, shall not be affected thereby.
- 22.8 **Notices.** Notices shall be in writing and shall be given by personal or air courier service delivery to a responsible person, by telephone facsimile, or by deposit in the United States mail, certified mail, and return-receipt requested, postage prepaid. Notices shall be delivered or addressed to Watermaster and Western at the addresses set forth below, or at such other address as a Party may designate in writing. The date notice is deemed to have been given, received and become effective shall be the date on which the notice is delivered (if notice is given by personal or air courier service delivery or by telephone facsimile), or 2 days following the date of deposit in the mail (if the notice is sent through the United States mail).

If to Watermaster: [ADDRESS]  
ADDRESS  
ADDRESS  
ADDRESS

If to Western: ADDRESS  
ADDRESS  
ADDRESS  
ADDRESS

Copy to: ADDRESS  
ADDRESS  
ADDRESS  
ADDRESS

All notices served by a Party, that may trigger a right, obligation or duty to be fulfilled by the other Party under this Agreement, shall be served by Certified Mail, return receipt requested.

- 22.9 **No Liability.** Watermaster and Western expressly acknowledge and agree that neither the Watermaster Council members, other officers, employees, attorneys or agents of Watermaster nor Western's members, managers, employees, officers or agents shall have any personal obligation or liability under this Agreement.
- 22.10 **Cooperation and Further Documentation.** Each Party agrees in good faith to (i) cooperate with one another, the Court having jurisdiction over the Judgment and/or other third parties, and (ii) execute such further or additional documents as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.
- 22.11 **Cooperation in the Event of Third-Party Litigation.** Subject to Subsection [REDACTED] herein and the indemnification provisions of Section [REDACTED] herein, in the event that any legal action is instituted by a third party or other governmental entity or official against the Parties challenging the validity or enforceability of any provision of this Agreement, or any other action by a Party performing hereunder, the Parties hereby agree to affirmatively cooperate in defending such action and to pay their own expenses associated with such defense. In the event of any litigation challenging the effectiveness of this Agreement (or any portion hereof), this Agreement shall remain in full force and effect while such litigation (including any appellate review) is pending.
- 22.12 **No Agency Created.** Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the Parties.
- 22.13 **Time Periods.** If the time for performance of any obligation or taking any action under this Agreement falls or expires on a Saturday, Sunday or legal holiday, the time for performance or taking such action shall be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday.
- 22.14 **Headings.** The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of any provision of this Agreement.

- 22.15 **Entire Agreement.** This Agreement and the exhibits hereto and the Minimum Price Escrow Agreement constitute the entire agreement between the Parties pertaining to the subject matter contained herein and therein. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are superseded by, and merged into, this Agreement and the exhibits hereto and the Minimum Price Escrow Agreement. This Agreement shall not be modified, changed or amended by any subsequent written or oral agreement unless agreed to in writing by Western and Watermaster.
- 22.16 **Authorizations.** The signatories to this Agreement represent that they have been appropriately authorized to enter into this Agreement on behalf of the Party for which they sign, and that no further action or approvals (including actions by Watermaster. Council) are necessary before execution of this Agreement.
- 22.17 **Conflict of Interest.** Notice is hereby given of the provisions of [Cal. Code re: Conflicts], as amended by this reference, the provisions of this statute are incorporated in this Agreement to the extent of their applicability to contracts of the nature of this Agreement under the laws of the State of California
- 22.18 **Knowledge.** For purposes of this Agreement, (a) an individual will be deemed to have “knowledge” of a particular fact or other matter if that individual is actually aware of that fact or matter or if a prudent individual could be expected to discover or otherwise become aware of that fact or matter in the course of conducting a reasonably comprehensive investigation regarding the accuracy of any representation or warranty contained in this Agreement, and (b) a person other than an individual will be deemed to have ‘knowledge’ of a particular fact or other matter if any individual who is serving, or who has at any time served as a director, officer, partner, official, executor or trustee of that person (or in any similar capacity) has or at any time had, knowledge of that fact or other matter, and any such individual (and any individual party to this Agreement) will be deemed to have conducted a reasonably comprehensive investigation regarding the accuracy of the representations and warranties made herein by that person or individual.
- 22.19 **Days.** Any and all references to a number of days herein, unless otherwise specified, shall refer to calendar days.

IN WITNESS WHEREOF, the Parties hereto have executed this instrument by and through their authorized representatives effective on the day and year first-above written.