



# CHINO BASIN WATERMASTER



## NOTICE OF MEETINGS

**Thursday, February 12, 2009**

10:00 a.m. – Appropriative & Non-Ag Pool Meeting

*AT THE CHINO BASIN WATERMASTER OFFICES*

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

**Tuesday, February 17, 2009**

9:00 a.m. – Agricultural Pool Meeting

*AT THE INLAND EMPIRE UTILITIES AGENCY OFFICES*

*6075 Kimball Ave. Bldg. A Board Room  
Chino, CA 91710  
(909) 993-1600*



# CHINO BASIN WATERMASTER

**Thursday, February 12, 2009**

10:00 a.m. – Appropriative & Non-Ag Pool Meeting

**Tuesday, February 17, 2009**

9:00 a.m. – Agricultural Pool Meeting

# AGENDA PACKAGE



**CHINO BASIN WATERMASTER  
JOINT APPROPRIATIVE & NON-AGRICULTURAL POOL MEETING  
WITH**

*Mr. Ken Jeske, Chair, Appropriative Pool  
Mr. Mark Kinsey, Vice-Chair, Appropriative Pool  
Mr. Bob Bowcock, Chair, Non-Agricultural Pool  
Mr. Kevin Sage, Vice-Chair Non-Agricultural Pool*

**10:00 a.m. – February 8, 2009**

**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 Annual Non-Agricultural Pool Election Meeting held January 8, 2009  
*(Page 1)*
2. Minutes of the Annual Appropriative Pool Election Meeting held January 8, 2009 *(Page 3)*
3. Minutes of the Joint Annual Appropriative and Non-Agricultural Pool Meeting held January 8, 2009 *(Page 5)*

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of January 2009 *(Page 17)*
2. Watermaster Visa Check Detail *(Page 21)*
3. Combining Schedule for the Period July 1, 2008 through December 31, 2008 *(Page 23)*
4. Treasurer's Report of Financial Affairs for the Period December 1, 2008 through December 31, 2008 *(Page 25)*
5. Budget vs. Actual July 2008 through December 2008 *(Page 27)*

**C. CHINO BASIN WATERMASTER INVESTMENT POLICY**

Resolution 09-01 – Resolution of the Chino Basin Watermaster, San Bernardino County, California, authorizing the Watermaster's Investment Policy *(Page 29)*

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

Non-Agricultural Pool Allocation of Volume Vote effective Calendar Year 2009 *(Page 35)*

**II. BUSINESS ITEM**

**A. BUDGET TRANSFER**

Consider Budget Transfer Request T-09-02-01 relating to: OBMP, HCMP, Desalters, and Storage Program to Groundwater Level Monitoring Program, Recharge Master Plan, and MZ-3 *(Page 37)*

- B. AUCTION PRICE FLOOR AGREEMENT AND STORAGE & RECOVERY AGREEMENT**  
Review and Possible Approval of Auction Price Floor Agreement and Direct Staff to Prepare the Storage and Recovery Agreement *(Page 41)*

**III. REPORTS/UPDATES**

**A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**

- 1. Court Hearings
- 2. Dry Year Yield Agreement

**B. ENGINEERING REPORT**

- 1. Engineering Update

**C. FINANCIAL REPORT**

- 1. Watermaster Budget

**D. CEO/STAFF REPORT**

- 1. Legislative Update
- 2. Recharge Update
- 3. Fontana Barrier Study

**IV. INFORMATION**

- 1. Newspaper Articles *(Page 65)*

**V. POOL MEMBER COMMENTS**

**VI. OTHER BUSINESS**

**VII. FUTURE MEETINGS**

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

**Meeting Adjourn**



**CHINO BASIN WATERMASTER  
AGRICULTURAL POOL MEETING**

**WITH**

*Mr. Bob Feenstra, Chair*

*Mr. Jeff Pierson, Vice-Chair*

**9:00 a.m. – February 17, 2009**

**At The Offices Of**

**Inland Empire Utilities Agency**

6075 Kimball Ave., Bldg. A, Board Room

Chino, CA 91710

**AGENDA**

**CALL TO ORDER**

**AGENDA - ADDITIONS/REORDER**

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**A. MINUTES**

1. Minutes of the Annual Agricultural Pool Meeting held January 20, 2009 *(Page 9)*

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of January 2009 *(Page 17)*
2. Watermaster Visa Check Detail *(Page 21)*
3. Combining Schedule for the Period July 1, 2008 through December 31, 2008 *(Page 23)*
4. Treasurer's Report of Financial Affairs for the Period December 1, 2008 through December 31, 2008 *(Page 25)*
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**II. BUSINESS ITEM**

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2. Dry Year Yield Agreement

**B. ENGINEERING REPORT**

1. Engineering Update

**C. FINANCIAL REPORT**

1. Watermaster Budget

**D. CEO/STAFF REPORT**

1. Legislative Update
2. Recharge Update
3. Fontana Barrier Study

**IV. INFORMATION**

1. Newspaper Articles (*Page 65*)

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**VI. OTHER BUSINESS**

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February 17, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
February 26, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
February 26, 2009	9:00 a.m.	Advisory Committee Meeting
February 26, 2009	11:00 a.m.	Watermaster Board Meeting

**Meeting Adjourn**



# CHINO BASIN WATERMASTER

## I. CONSENT CALENDAR

### A. MINUTES

1. Annual Non-Agricultural Pool Election Meeting – January 8, 2009
  2. Annual Appropriative Pool Election Meeting – January 8, 2009
  3. Annual Joint Appropriative and Non-Agricultural Pool Meeting – January 8, 2009
- 

**Draft Minutes**  
**CHINO BASIN WATERMASTER**  
**ANNUAL NON-AGRICULTURAL POOL ELECTION MEETING**  
January 8, 2009

The Annual Non-Agricultural Pool Election Meeting was held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on January 8, 2009 at 9:30 a.m.

**NON-AGRICULTURAL POOL MEMBERS PRESENT**

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

**Watermaster Staff Present**

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

**Watermaster Consultants Present**

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

**Others Present**

Robert DeLoach	Cucamonga Valley Water District
Mark Kinsey	Monte Vista Water District
Todd Minten	Jurupa Community Services District
Mike McGraw	Fontana Water Company
Charles Moorrees	San Antonio Water Company
Raul Garibay	City of Pomona
Dave Crosley	City of Chino
J. Arnold Rodriguez	Santa Ana River Water Company
Anthony La	City of Upland
Gilbert Aldaco	City of Chino
Tom O'Neill	City of Ontario
David De Jesus	Three Valleys Municipal Water District
Sandra Rose	Monte Vista Water District
Eunice Ulloa	Chino Basin Water Conservation District
Martha Davis	Inland Empire Utilities Agency
Marty Zvirbulis	Cucamonga Valley Water District

Mr. Bowcock called the Annual Non-Agricultural Pool Election Meeting to order at 9:32 a.m.

**AGENDA - ADDITIONS/REORDER**

There were no additions or reorders made to the agenda.

**I. ANNUAL ELECTIONS – Action**

**A. Calendar-Year 2009 Non-Agricultural Pool Officers**

Nominations will be heard for Pool Chair, followed by nominations for Pool Vice-Chair, to serve during Calendar-Year 2009.

Chair	<u>Bob Bowcock, Vulcan Materials Company</u>
Vice-Chair	<u>Kevin Sage, Vulcan Materials Company</u>
Secretary/Treasurer	<u>Watermaster Chief Executive Officer</u>

**B. Calendar-Year 2009 Advisory Committee Members**

Pool member(s) will be asked to elect representatives and alternates to serve on the Advisory Committee during Calendar-Year 2009.

Member: Bob Bowcock                      Alternate: Kevin Sage

**C. Calendar-Year 2009 Advisory Committee Officers**

Based on the rotation sequence established among the pools, the members of the Non-Agricultural Pool will be asked to appoint a designated representative, Chair of the Advisory Committee during Calendar-Year 2009. If the appointed representative is unable to attend an Advisory Committee meeting, a remaining pool officer may serve as his/her alternate.

Chair Agricultural Pool \_\_\_\_\_

Vice-Chair Appropriative Pool \_\_\_\_\_

**2<sup>nd</sup> Vice-Chair Non-Agricultural Pool Bob Bowcock, Vulcan Materials Company**

**D. Calendar-Year 2009 Pool Representation on Watermaster Board**

The Pool members will be asked to select one representative to serve on the Watermaster Board during Calendar-Year 2009 and one alternate representative.

Member: Bob Bowcock                      Alternate: Kevin Sage

The Annual Non-Agricultural Pool election meeting was dismissed by Mr. Bowcock at 9:37 a.m.

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

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

**Draft Minutes**  
**CHINO BASIN WATERMASTER**  
**ANNUAL APPROPRIATIVE POOL ELECTION MEETING**  
January 8, 2009

The Annual Appropriative Pool Election Meeting was held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on January 8, 2009 at 9:45 a.m.

**APPROPRIATIVE POOL MEMBERS PRESENT**

Robert DeLoach	Cucamonga Valley Water District
Mark Kinsey	Monte Vista Water District
Todd Minten	Jurupa Community Services District
Mike McGraw	Fontana Water Company
Charles Moorrees	San Antonio Water Company
Raul Garibay	City of Pomona
Dave Crosley	City of Chino
J. Arnold Rodriguez	Santa Ana River Water Company
Anthony La	City of Upland

**NON-AGRICULTURAL POOL MEMBERS PRESENT**

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

**Watermaster Staff Present**

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

**Watermaster Consultants Present**

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

**Others Present**

Gilbert Aldaco	City of Chino
Tom O'Neill	City of Ontario
Terry Catlin	Inland Empire Utilities Agency
David De Jesus	Three Valleys Municipal Water District
Sandra Rose	Monte Vista Water District
Eunice Ulloa	Chino Basin Water Conservation District
Martha Davis	Inland Empire Utilities Agency
Marty Zvirbulis	Cucamonga Valley Water District

Mr. Kinsey called the Annual Appropriative Pool Election Meeting to order at 9:45 a.m.

**AGENDA - ADDITIONS/REORDER**

There were no additions or reorders made to the agenda.





**Draft Minutes**  
**CHINO BASIN WATERMASTER**  
**JOINT APPROPRIATIVE & NON-AGRICULTURAL POOL MEETING**  
January 8, 2009

The Annual Joint Appropriative and Non-Agricultural Pool Meeting were held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on January 8, 2009 at 10:00 a.m.

**APPROPRIATIVE POOL MEMBERS PRESENT**

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

**NON-AGRICULTURAL POOL MEMBERS PRESENT**

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

**Watermaster Staff Present**

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

**Watermaster Consultants Present**

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

**Others Present**

Gilbert Aldaco	City of Chino
Tom O'Neill	City of Ontario
Terry Catlin	Inland Empire Utilities Agency
David De Jesus	Three Valleys Municipal Water District
Sandra Rose	Monte Vista Water District
Eunice Ulloa	Chino Basin Water Conservation District
Martha Davis	Inland Empire Utilities Agency
Marty Zvirbulis	Cucamonga Valley Water District

Chair Jeske called the Annual Joint Appropriative and Non-Agricultural Pool Meeting to order at 10:03 a.m.

**AGENDA - ADDITIONS/REORDER**

There were no additions or reorders made to the agenda.

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

1. Minutes of the Appropriative Pool Meeting held December 11, 2008
2. Minutes of the Non-Agricultural Pool Meeting held December 11, 2008

**B. FINANCIAL REPORTS**

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

**C. CHINO BASIN WATERMASTER INVESTMENT POLICY**

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

**D. LOCAL AGENCY INVESTMENT FUND**

Resolution 09-02 – Resolution Authorizing Investment of Monies in the Local Agency Investment Fund (LAIF)

**E. LEVYING REPLENISHMENT & ADMINISTRATIVE ASSESSMENTS**

Resolution 09-03 – Resolution of the Chino Basin Watermaster Levying Replenishment and Administrative Assessments for Fiscal Year 2008-2009

**F. NOTICE OF INTENT**

Annual Filing of Notice of Intent Regarding the Determination of Operating Safe Yield

*The Overlying Non-Agricultural Pool pulled Item G2 from the Consent Calendar to be brought back after Allocation of Volume Vote calculation sheet is updated*

**G. ALLOCATION OF VOLUME VOTE**

1. Appropriative Pool Allocation of Volume Vote effective Calendar Year 2009
2. Overlying Non-Agricultural Pool Allocation of Volume Vote effective Calendar Year 2009

**H. INDEPENDENT FINANCIAL AUDIT**

Mayer Hoffman McCann P.C. Independent Watermaster Financial Audit

*Appropriative Pool Motion by Kinsey, second by DeLoach, and by unanimous vote  
Moved to approve Consent Calendar Items A through H, as presented*

*Overlying Non-Agricultural Pool Motion by Sage  
Moved to approve Consent Calendar Items A through F and H, and to bring back the Allocation Volume Vote for the Overlying Non-Agricultural Pool calculation sheet after it is updated, as presented*

**II. BUSINESS ITEM – DISCUSSION/POSSIBLE ACTION****A. SALE/AUCTION OF STRANDED OVERLYING NON-AGRICULTURAL WATER**

Mr. Manning stated staff is requesting the Appropriative Pool consider the sale/auction of the water that is in storage under the name of the Overlying Non-Agricultural Pool, which is authorized to be sold in the Peace II Agreement. The issues have been outlined in the staff letter in the meeting packet including staff's recommendations. Mr. Kinsey noted Monte Vista Water District (MVWD) did submit comments in writing and they have received a response from legal counsel. Mr. Kinsey offered comment on MVWD's concerns and the acknowledged response from legal and staff. Mr. Manning stated the Peace II requirements call for this item is dealt with before the end of this calendar year and noted the process that is being

recommended is lengthy and could take up to nine months to fully implement. Counsel Slater reviewed the options recommended and the responses received in detail and noted the final agreement will be brought back for another review in February and then for final approval in March. Counsel Slater reviewed the potential timeframe for this endeavor and confirmed this needs to be taken care of this calendar year per the Peace II Agreement. A lengthy discussion ensued with regard to this item. It was decided the Appropriative Pool members would form a workgroup to work with staff and legal counsel to analyze this process and the related agreement prior to it coming back through the process. It was noted Mr. DeLoach can host this workgroup at Cucamonga Valley Water District office.

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

***Moved for a three part motion: Approve to have the Appropriative Pool and the Overlying (Non-Agricultural) Pool find that earmarking of excess funds made available from the sale of water acquired by Watermaster from the Overlying (Non-Agricultural) Pool pursuant the Purchase and Sale Agreement for “recharge” improvements will provide broad mutual benefits to the members of the respective Pools. To conceptually approve the earmarking of any excess funds for recharge improvements with the Appropriative Pool to propose further definition of qualifying costs, expenses, and offsets against assessments within sixty days. Approve to form a workgroup of Appropriative Pool members to review this item, as presented***

### III. REPORTS/UPDATES

#### A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

##### 1. February 2, 2009 Hearing

Counsel Fife stated there is a hearing scheduled for February 2 and 3, 2009 and preparations are well underway for this hearing. An outline has been distributed and counsel has received some feedback. No objections have been received on the draft outline so counsel is now in the process of preparing a final outline that will need to go to court prior to the actual hearing date. Counsel Fife stated witness preparation needs to begin and noted counsel will not be telling the witnesses what to say; however, will be letting them know what questions would be asked. Counsel Fife asked those who were on the witness list to see him after the meeting to set up a time to meet.

##### 2. Hanson Aggregates Litigation

Counsel Fife stated a tentative settlement has taken place with Hanson Aggregates' and the final documents are still in the works. A cash settlement for approximately \$450,000 was established and counsel is hoping to have more information to be provided at the Advisory Committee and Watermaster Board meeting later this month. If any details of the settlement need to be discussed it will need to be done in closed session.

#### B. ENGINEERING UPDATES

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

Mr. Wildermuth stated data collection is still taking place on the Recharge Master Plan including analysis of pumping and replenishment. Black & Veatch is doing the supplemental recharge aspect of the plan. The gross replenishment obligations based on the work done by Inland Empire Utilities Agency with some modifications has been complete and that will be brought forward at the Advisory Committee meeting as a handout and discussion. Mr. Wildermuth discussed detailed work plans and work assignments for Wildermuth Environmental staff. Mr. Wildermuth stated he would like to schedule a series of workshops starting in February to bring substantive issues and get feedback. All the monitoring targets were hit last month even though it was a difficult month to do monitoring due to the rain: approximately 90 wells were monitored. Work is being done on the State of the Basin Report and updates will begin shortly on that report. Wildermuth staff continues to work with Ontario International Airport (OIA) consultants and the Regional Board on the OIA plume on monitoring well sites. With regard to HCMP monitoring Wildermuth staff has continued to have discussions with the Regional Board. For the work being done on

INSAR, a progress report will be brought back in March. Mr. Wildermuth discussed the waste load allocations process which is going on in the Santa Ana River in detail. Mr. Wildermuth gave the presentation on Conceptual Approach to Production Optimization. A discussion regarding Mr. Wildermuth's comments on activities and his presentation ensued.

- 2. Background and Conceptual Scoping of the Pumping Optimization Investigation  
This item was discussed under item number 1.
- 3. Oral Progress Report on other Wildermuth Environmental Activities  
This item was discussed under item number 1.

**C. FINANCIAL REPORT**

- 1. Financial Update  
No comment was made regarding this item.

**C. CEO/STAFF REPORT**

- 1. Legislative Update  
Mr. Manning commented the deficit for the State of California continues to grow and it appears parties are having a difficult time coming up with any real solutions.
- 2. Recharge Update  
Mr. Manning stated there was a substantial storm that captured 2,300 acre-feet of recharge during the month of December. Mr. Manning reviewed the updated spreadsheet on recharge and noted the spreadsheet was on the back table.

**IV. INFORMATION**

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

**V. POOL MEMBER COMMENTS**

No comment was made regarding this item.

**VI. OTHER BUSINESS**

It was noted the Appropriative Pool members would go into a brief executive closed session.

**VII. FUTURE MEETINGS**

January 8, 2009	9:30 a.m.	Annual Non-Agricultural Pool Elections
January 8, 2009	9:45 a.m.	Annual Appropriative Pool Elections
January 8, 2009	10:00 a.m.	Annual Joint Appropriative & Non-Agricultural Pool Meeting
January 20, 2009	9:00 a.m.	Annual Agricultural Pool Meeting @ IEUA
January 22, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
January 22, 2009	9:00 a.m.	Annual Advisory Committee Meeting
January 22, 2009	11:00 a.m.	Annual Watermaster Board Meeting

The Annual Joint Appropriative and Non-Agricultural Pool meeting was dismissed by Chair Jeske at 11:49 a.m.

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

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



# CHINO BASIN WATERMASTER

## I. CONSENT CALENDAR

### A. MINUTES

1. Annual Agricultural Pool Meeting – January 20, 2009





***Draft Minutes***  
**CHINO BASIN WATERMASTER**  
**ANNUAL AGRICULTURAL POOL MEETING**  
January 20, 2009

The Annual Agricultural Pool Meeting was held at the offices of the office of Inland Empire Utilities Agency, 6075 Kimball Avenue, Chino, CA, on January 20, 2009 at 9:00 a.m.

**Agricultural Pool Members Present**

Bob Feenstra, Chair	Dairy
Gene Koopman	Milk Producers Counsel
Rob Vanden Heuvel	Milk Producers Counsel
Nathan deBoom	Dairy
Jeff Pierson	Crops
Glen Durrington	Crops
John Huitsing	Dairy
Jennifer Novak	State of California Department of Justice for CIM
Nathan Mackamul	State of California/CIW

**Watermaster Board Members Present**

Paul Hofer	Crops
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**Watermaster Staff Present**

Kenneth R. Manning	Chief Executive Officer
Ben Pak	Senior Project Engineer
Danielle Maurizio	Senior Engineer
Sherri Lynne Molino	Recording Secretary

**Watermaster Consultants Present**

Mark Wildermuth	Wildermuth Environmental Inc.
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**Others Present**

Steven Lee	Reid & Hellyer
Eunice Ulloa	Chino Basin Water Conservation District
Sandra Rose	Monte Vista Water District
Rick Rees	Geomatrix
Robert McCullough	Intex Properties

Chair Feenstra called the Agricultural Pool meeting to order at 9:04 a.m.

**AGENDA - ADDITIONS/REORDER**

It was noted a closed session will be held at the end of the meeting.

**I. ANNUAL ELECTIONS - ACTION**

**A. Calendar-Year 2009 Agricultural Pool Members**

The Agricultural Pool membership shall consist of not less than ten representatives selected at large by members of the pool. Pool members will be asked to make any necessary changes to the following list in order to establish pool membership and alternates during calendar year 2008:

Current Agricultural Pool Members

Dairy: Robert Feenstra  
 Gene Koopman  
 Peter Hettinga  
 Nathan deBoom  
 John Huitsing  
 Rob Vanden Heuvel  
 Crops: Glen Durrington  
 Jeff Pierson  
 State: Pete Hall  
 Edward Gonsman  
 Jennifer Novak  
 Nate Mackamul

Current Alternates:

Dairy: Syp Vander Dussen  
 Crops: Dan Hostetler  
 State: Henry Provencher  
 Richard Alvarado

The Agricultural Pool members reviewed the list of members and alternates and agreed the provided list was correct for 2009.

**B. Calendar Year 2009 Agricultural Pool Officers**

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

Chair	<u>Robert Feenstra</u>
Vice-Chair	<u>Jeff Pierson</u>
Secretary/Treasurer	<u>Watermaster Chief Executive Officer</u>

**C. Calendar Year 2009 Advisory Committee Members & Officers**

The pool members will be asked to determine the ten agricultural representatives to serve on the Advisory Committee and, according to the rotation sequence established among the pools, appoint a representative to serve as Chair of the Advisory Committee during calendar year 2009

Chair	<u>Agricultural Pool Gene Koopman</u>
Vice-Chair	<u>Appropriative Pool</u>
2 <sup>nd</sup> Vice-Chair	<u>Non-Agricultural Pool</u>

**D. Calendar-Year 2009 Pool Representation on Watermaster Board**

The Pool members will be asked to consider selecting two representatives to serve on the Watermaster Board during Calendar-Year 2009 and one or two alternate representatives.

Member: <u>Geoffrey Vanden Heuvel</u>	Alternate: <u>Bob Feenstra or Jeff Pierson</u>
Member: <u>Paul Hofer</u>	Alternate: <u>Bob Feenstra or Jeff Pierson</u>

**II. CONSENT CALENDAR**

**A. MINUTES**

- Minutes of the Agricultural Pool Meeting held December 16, 2008

**B. FINANCIAL REPORTS**

- Cash Disbursements for the month of December 2008
- Watermaster Visa Check Detail
- Combining Schedule for the Period July 1, 2008 through November 30, 2008
- Treasurer's Report of Financial Affairs for the Period October 1, 2008 through November 30, 2008
- Budget vs. Actual July 2008 through November 2008

**C. CHINO BASIN WATERMASTER INVESTMENT POLICY**

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

**D. LOCAL AGENCY INVESTMENT FUND**

Resolution 09-02 – Resolution Authorizing Investment of Monies in the Local Agency Investment Fund (LAIF)

**E. LEVYING REPLENISHMENT & ADMINISTRATIVE ASSESSMENTS**

Resolution 09-03 – Resolution of the Chino Basin Watermaster Levying Replenishment and Administrative Assessments for Fiscal Year 2008-2009

**G. NOTICE OF INTENT**

Annual Filing of Notice of Intent Regarding the Determination of Operating Safe Yield

**H. INDEPENDENT FINANCIAL AUDIT**

Mayer Hoffman McCann P.C. Independent Watermaster Financial Audit

A discussion regarding investment funds and the security of the Agricultural Pool's money ensued.

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

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

**III. REPORTS/UPDATES****A. WATERMASTER GENERAL LEGAL COUNSEL REPORT****1. February 2, 2009 Hearing**

Counsel Fife stated there is a hearing scheduled for February 2 and 3, 2009 and preparations are well underway for this hearing. An outline has been distributed and counsel has received some feedback. No objections have been received on the draft outline so counsel is now in the process of preparing a final outline that will need to go to court prior to the actual hearing date. Preparation of the witnesses has been taking place and he noted a face-to-face meeting to finalize what the presentation is going to look like as well as the finalization of the outline that needs to go to court will take place tomorrow.

**2. Non-Agricultural Pool Stored Water Auction**

Counsel Fife stated this item is primarily for the Appropriative Pool and gave a brief overview of this matter. A discussion regarding the purchase of this water including the price of the water ensued. Mr. Manning commented on storage space for this water. A discussion regarding the Agricultural Pool storage space ensued.

**3. Hanson Aggregates Litigation**

Counsel Fife stated a tentative settlement has taken place with Hanson Aggregates' and the final settlement documents are in the works. A cash settlement for approximately \$450,000 was established and counsel is hoping to have more information to be provided at the Advisory Committee and Watermaster Board meeting later this month.

**B. ENGINEERING UPDATES****1. Progress Report on Recharge Master Plan**

Mr. Wildermuth stated data collection is still taking place on the Recharge Master Plan including analysis of pumping and replenishment. Black & Veatch is doing the supplemental recharge aspect of the plan. The gross replenishment obligations based on the work done by Inland Empire Utilities Agency with some modifications has been complete and that will be brought forward at the Advisory Committee meeting as a handout and discussion. Mr. Wildermuth discussed detailed work plans and work assignments for Wildermuth Environmental staff. Mr. Wildermuth stated he would like to schedule a series of workshops starting in February to discuss substantive issues and get feedback. All the monitoring targets were hit last month even though it was a difficult month to do monitoring due to the rain: approximately 90 wells were monitored. Work is being done on the State of

the Basin Report and updates will begin shortly on that report. Wildermuth staff continues to work with Ontario International Airport (OIA) consultants and the Regional Board on the OIA plume on monitoring well sites. With regard to HCMP monitoring Wildermuth staff has continued to have discussions with the Regional Board. For the work being done on INSAR, a progress report will be brought back in March. Mr. Wildermuth discussed the waste load allocations process which is going on in the Santa Ana River. A lengthy discussion regarding material physical injury and pumping in the basin ensued.

2. Background and Conceptual Scoping of the Pumping Optimization Investigation  
This item was discussed under item number 1.
3. Oral Progress Report on other Wildermuth Environmental Activities  
This item was discussed under item number 1.

**C. FINANCIAL REPORT**

1. Financial Update  
No comment was made regarding this item.

**C. CEO/STAFF REPORT**

1. Legislative Update  
Mr. Manning commented the deficit for the State of California continues to grow and it appears parties are having a difficult time coming up with any real solutions.
2. Recharge Update  
Mr. Manning stated there were substantial storms that captured 2,300 acre-feet of recharge during the month of December. Mr. Manning reviewed the updated spreadsheet on recharge.
3. Update on Well #3600162  
Mr. Pak stated following a request by the Agricultural Pool, he has compiled water quality information for well #3600162. Mr. Pak gave his presentation of the findings on Mary Parente's well. A discussion regarding water quality and possible solutions ensued

**IV. INFORMATION**

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

**V. POOL MEMBER COMMENTS**

No comment was made regarding this item.

**VI. OTHER BUSINESS**

It was noted the Agricultural Pool members would go into an executive closed session.

Chair Feenstra closed the open Annual Agricultural Pool meeting to go into closed session at 10:22 a.m.

A lengthy discussion regarding Special Projects and the TMDL Study was noted to the recording secretary by Counsel Fife and Mr. Manning.

*Motion #1 by Koopman, second by Vanden Heuvel, and by majority vote – one abstention by Novak  
Moved to approve authorization to pay \$21,000 towards the TMDL Study from the Agricultural Pool funds if approval is not given at the next Watermaster Board meeting, as presented*

*Motion #2 by Koopman, second by Vanden Heuvel, and by majority vote – one abstention by Novak  
Moved to approve the Agricultural Pool instructed legal counsel to send a 90 day notice to parties to the Judgment that they are under default under section 9.1 of the Peace Agreement if this issue is not resolved by paying the \$21,000 for the TMDL Study as a "Special Project", as presented – copy of the 90 day notice attached*

**VII. FUTURE MEETINGS**

January 8, 2009	9:30 a.m.	Annual Non-Agricultural Pool Elections
January 8, 2009	9:45 a.m.	Annual Appropriative Pool Elections
January 8, 2009	10:00 a.m.	Annual Joint Appropriative & Non-Agricultural Pool Meeting
January 20, 2009	9:00 a.m.	Annual Agricultural Pool Meeting @ IEUA
January 22, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
January 22, 2009	9:00 a.m.	Annual Advisory Committee Meeting
January 22, 2009	11:00 a.m.	Annual Watermaster Board Meeting

The Annual Agricultural Pool meeting was dismissed by Chair Feenstra at 11:23 a.m.

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

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

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**NOTICE OF DEFAULT BY THE APPROPRIATIVE POOL  
AND DEMAND TO CURE DEFAULT WITHIN 90 DAYS**

**TO: MEMBERS OF THE APPROPRIATIVE POOL  
OF THE CHINO BASIN**

**PLEASE TAKE NOTICE** that your failure to agree to fund the farming portion of the Middle Santa Ana Watershed TMDL Study - Budget Transfer Request by the Agricultural Pool of the Chino Basin, in the amount of \$21,000 on January 22, 2009, constitutes a breach of paragraph 5.4(a) of the Peace Agreement dated June 29, 2000. Paragraph 5.4(a) of the Peace Agreement reads in relevant part as follows:

“During the term of this Agreement, all assessments and expenses of the Agricultural Pool Committee shall be paid by the Appropriative Pool. This includes but is not limited to OBMP Assessments, assessments pursuant to Paragraphs 20, 21, 22, 30, 42, 51, 53, 54 both General Administrative Expenses and Special Project Expenses, 55, and Exhibit F (Overlying Agricultural Pool Plan) of the Judgment . . . .”

Furthermore, section 4.1(b) of Article IV of the Rules and Regulations, entitled Assessments, Reimbursements and Credits reads in relevant part as follows:

“Special Project Expenses shall consist of special engineering, economic or other studies, litigation expense, meter testing or major operating expenses. . . .”

As a result of the above breach, the Agricultural Pool of the Chino Basin has been required to fund the TMDL Study out of its own funds. If the Appropriate Pool does not reimburse the Agricultural Pool for this expense, within 90 days from the date of service of this Notice of Default (as provided for in Paragraph 9.1(a) of the Peace Agreement), the Agricultural Pool intends to seek the appropriate remedy upon default as contained in Paragraph 9.2(a) of the Peace Agreement.

DATED: January 23, 2009



Steven G. Lee  
Legal Counsel for the  
Agricultural Committee  
Of The Chino Basin

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# CHINO BASIN WATERMASTER

## I. CONSENT CALENDAR

### **B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of January 2009
2. Watermaster Visa Check Detail
3. Combining Schedule of Revenue, Expenses and Changes in Working Capital for the Period July 1, 2008 through December 31, 2008
4. Treasurer's Report of Financial Affairs for the Period December 1, 2008 through December 31, 2008
5. Profit & Loss Budget vs. Actual July 2008 through December 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:** February 12, 2009  
February 17, 2009  
February 26, 2009

**TO:** Committee Members  
Watermaster Board Members

**SUBJECT:** Cash Disbursement Report

### SUMMARY

**Issue** – Record of cash disbursements for the month of January 2009.

**Recommendation** – Staff recommends the Cash Disbursements for January 2009 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 January 2009 were \$1,405,454.10. The most significant expenditures during the month were Inland Empire Utilities Agency in the amount of \$906,222.58, Wildermuth Environmental Inc. in the amount of \$229,881.20, Brownstein, Hyatt, Farber & Schreck in the amount of \$59,880.08, and Black & Veatch in the amount of 19,044.00.

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**CHINO BASIN WATERMASTER**  
**Cash Disbursement Detail Report**  
**January 2009**

Type	Date	Num	Name	Amount
Jan 09				
Bill Pmt -Check	1/5/2009	12902	ACWA	-435.00
Bill Pmt -Check	1/5/2009	12903	APPLIED COMPUTER TECHNOLOGIES	-3,975.85
Bill Pmt -Check	1/5/2009	12904	BOWCOCK, ROBERT	-125.00
Bill Pmt -Check	1/5/2009	12905	BOWMAN, JIM	-125.00
Bill Pmt -Check	1/5/2009	12906	CITISTREET	-2,595.66
Bill Pmt -Check	1/5/2009	12907	COMPUTER NETWORK	-70.04
Bill Pmt -Check	1/5/2009	12908	DE BOOM, NATHAN	-375.00
Bill Pmt -Check	1/5/2009	12909	DURRINGTON, GLEN	-375.00
Bill Pmt -Check	1/5/2009	12910	FEENSTRA, BOB	-875.00
Bill Pmt -Check	1/5/2009	12911	GROUNDWATER RESOURCES ASSOCIA...	-100.00
Bill Pmt -Check	1/5/2009	12912	HETTINGA, PETER	-375.00
Bill Pmt -Check	1/5/2009	12913	HUITSING, JOHN	-375.00
Bill Pmt -Check	1/5/2009	12914	INLAND EMPIRE UTILITIES AGENCY	-2,985.82
Bill Pmt -Check	1/5/2009	12915	JAMES JOHNSTON	-885.00
Bill Pmt -Check	1/5/2009	12916	KOOPMAN, GENE	-250.00
Bill Pmt -Check	1/5/2009	12917	KUHN, BOB	-125.00
Bill Pmt -Check	1/5/2009	12918	OFFICE DEPOT	-236.59
Bill Pmt -Check	1/5/2009	12919	PARK PLACE COMPUTER SOLUTIONS, I...	-4,125.00
Bill Pmt -Check	1/5/2009	12920	PIERSON, JEFFREY	-500.00
Bill Pmt -Check	1/5/2009	12921	PRE-PAID LEGAL SERVICES, INC.	-103.60
Bill Pmt -Check	1/5/2009	12922	RBM LOCK & KEY	-152.19
Bill Pmt -Check	1/5/2009	12923	STANDARD INSURANCE CO.	-575.76
Bill Pmt -Check	1/5/2009	12924	VANDEN HEUVEL, ROB	-875.00
Bill Pmt -Check	1/5/2009	12925	WHEELER METER MAINTENANCE	-2,000.00
Bill Pmt -Check	1/5/2009	12926	WILLIS, KENNETH	-125.00
Bill Pmt -Check	1/5/2009	12927	CITISTREET	-2,395.66
Bill Pmt -Check	1/5/2009	12928	INLAND EMPIRE UTILITIES AGENCY	-140,388.41
Bill Pmt -Check	1/5/2009	12929	VANDEN HEUVEL, GEOFFREY	-125.00
Bill Pmt -Check	1/5/2009	12930	ARROWHEAD MOUNTAIN SPRING WATER	-11.84
Bill Pmt -Check	1/5/2009	12931	BLACK & VEATCH CORPORATION	-10,864.00
Bill Pmt -Check	1/5/2009	12932	DIRECTV	-76.98
Bill Pmt -Check	1/5/2009	12933	INLAND EMPIRE UTILITIES AGENCY	-2,597.85
Bill Pmt -Check	1/5/2009	12934	KONICA MINOLTA BUSINESS SOLUTIONS	-273.80
Bill Pmt -Check	1/5/2009	12935	OFFICE DEPOT	-79.34
Bill Pmt -Check	1/5/2009	12936	PAYCHEX	-330.91
Bill Pmt -Check	1/5/2009	12937	PURCHASE POWER	-2,075.92
Bill Pmt -Check	1/5/2009	12938	SPAM SOAP, INC	-201.60
Bill Pmt -Check	1/5/2009	12939	STATE COMPENSATION INSURANCE FU...	-967.06
Bill Pmt -Check	1/5/2009	12940	TLC STAFFING	-688.00
Bill Pmt -Check	1/5/2009	12941	UNION 76	-61.33
Bill Pmt -Check	1/5/2009	12942	VERIZON	-395.27
Bill Pmt -Check	1/5/2009	12943	VISION SERVICE PLAN	-62.19
Bill Pmt -Check	1/5/2009	12944	WESTERN DENTAL SERVICES, INC.	-26.50
Bill Pmt -Check	1/5/2009	12945	YUKON DISPOSAL SERVICE	-142.88
Bill Pmt -Check	1/13/2009	12946	ACWA SERVICES CORPORATION	-209.95
Bill Pmt -Check	1/13/2009	12947	AMERICAN GROUND WATER TRUST	-1,400.00
Bill Pmt -Check	1/13/2009	12948	BLACK & VEATCH CORPORATION	-8,180.00
Bill Pmt -Check	1/13/2009	12949	CALPERS	-300.00
Bill Pmt -Check	1/13/2009	12950	CITISTREET	-200.00
Bill Pmt -Check	1/13/2009	12951	CPR AND SPORTS MEDICINE SERVICES...	-1,262.79
Bill Pmt -Check	1/13/2009	12952	ELLISON, SCHNEIDER & HARRIS, LLP	-1,665.32
Bill Pmt -Check	1/13/2009	12953	FISH WINDOW CLEANING	-95.00
Bill Pmt -Check	1/13/2009	12954	KONICA MINOLTA BUSINESS SOLUTIONS	-577.65
Bill Pmt -Check	1/13/2009	12955	MCI	-2,339.90
Bill Pmt -Check	1/13/2009	12956	MWH LABORATORIES	-195.00
Bill Pmt -Check	1/13/2009	12957	NAKANO, JUSTIN	-2,000.00
Bill Pmt -Check	1/13/2009	12958	PREMIERE GLOBAL SERVICES	-284.34
Bill Pmt -Check	1/13/2009	12959	REID & HELLYER	-5,566.18
Bill Pmt -Check	1/13/2009	12960	SAFEGUARD DENTAL & VISION	-57.68
Bill Pmt -Check	1/13/2009	12961	SAFETY CLEAN JANITORIAL SERVICES	-760.74
Bill Pmt -Check	1/13/2009	12962	SECRETARY OF STATE	-20.00
Bill Pmt -Check	1/13/2009	12963	THE STANDARD INSURANCE COMPANY	-156.56
Bill Pmt -Check	1/13/2009	12964	UNITED PARCEL SERVICE	-118.36
Bill Pmt -Check	1/13/2009	12965	VERIZON WIRELESS	-537.22
Bill Pmt -Check	1/13/2009	12966	W.C. DISCOUNT MOBILE AUTO DETAILI...	-75.00
Bill Pmt -Check	1/13/2009	12967	WHEELER METER MAINTENANCE	-800.00
Bill Pmt -Check	1/13/2009	12968	INLAND EMPIRE UTILITIES AGENCY	-10,000.00
Bill Pmt -Check	1/13/2009	12969	INLAND EMPIRE UTILITIES AGENCY	-750,000.00



**CHINO BASIN WATERMASTER**  
**Cash Disbursement Detail Report**  
**January 2009**

Type	Date	Num	Name	Amount
Bill Pmt -Check	1/13/2009	12970	PUBLIC EMPLOYEES' RETIREMENT SYS...	-3,273.39
Bill Pmt -Check	1/13/2009	12971	PUBLIC EMPLOYEES' RETIREMENT SYS...	-9,479.24
Bill Pmt -Check	1/13/2009	12972	PUBLIC EMPLOYEES' RETIREMENT SYS...	-5,903.50
Bill Pmt -Check	1/15/2009	12973	PETTY CASH	-494.58
Bill Pmt -Check	1/21/2009	12974	ALL PURPOSE SAFETY TRAINING SOLU...	-400.00
Bill Pmt -Check	1/21/2009	12975	BANC OF AMERICA LEASING	-3,186.17
Bill Pmt -Check	1/21/2009	12976	BANK OF AMERICA	-1,238.79
Bill Pmt -Check	1/21/2009	12977	BROWNSTEIN HYATT FARBER SCHRECK	-59,880.08
Bill Pmt -Check	1/21/2009	12978	CALPERS	-4,008.12
Bill Pmt -Check	1/21/2009	12979	CINDY NAVAROLI CONSULTING SERVIC...	-862.50
Bill Pmt -Check	1/21/2009	12980	COMPUTER NETWORK	-91.59
Bill Pmt -Check	1/21/2009	12981	CUCAMONGA VALLEY WATER DISTRICT	-5,495.00
Bill Pmt -Check	1/21/2009	12982	DAILY BULLETIN	-216.00
Bill Pmt -Check	1/21/2009	12983	FIRST AMERICAN REAL ESTATE SOLUTI...	-125.00
Bill Pmt -Check	1/21/2009	12984	INLAND EMPIRE UTILITIES AGENCY	-250.50
Bill Pmt -Check	1/21/2009	12985	MWH LABORATORIES	-20,816.00
Bill Pmt -Check	1/21/2009	12986	PITNEY BOWES CREDIT CORPORATION	-468.72
Bill Pmt -Check	1/21/2009	12987	PRE-PAID LEGAL SERVICES, INC.	-103.60
Bill Pmt -Check	1/21/2009	12988	PRINTING RESOURCES	-70.68
Bill Pmt -Check	1/21/2009	12989	RBM LOCK & KEY	-356.09
Bill Pmt -Check	1/21/2009	12990	RICOH BUSINESS SYSTEMS-Lease	-888.94
Bill Pmt -Check	1/21/2009	12991	STANDARD INSURANCE CO.	-575.76
Bill Pmt -Check	1/21/2009	12992	STAULA, MARY L	-136.61
Bill Pmt -Check	1/21/2009	12993	TLC STAFFING	-480.00
Bill Pmt -Check	1/21/2009	12994	W.C. DISCOUNT MOBILE AUTO DETAILI...	-75.00
Bill Pmt -Check	1/21/2009	12995	WILDERMUTH ENVIRONMENTAL INC	-229,881.20
Bill Pmt -Check	1/21/2009	12996	OFFICE DEPOT	-552.15
General Journal	1/22/2009	09/01/06	PAYROLL	-8,493.01
General Journal	1/22/2009	09/01/06	PAYROLL	-26,790.32
Bill Pmt -Check	1/23/2009	12997	PUBLIC EMPLOYEES' RETIREMENT SYS...	-5,348.28
Bill Pmt -Check	1/23/2009	12998	CITISTREET	-2,595.66
Bill Pmt -Check	1/23/2009	12999	PUBLIC EMPLOYEES' RETIREMENT SYS...	-5,791.08
Bill Pmt -Check	1/23/2009	13000	CITISTREET	-2,595.66
Bill Pmt -Check	1/28/2009	13001	CUCAMONGA VALLEY IAAP	-52.00
General Journal	1/29/2009	09/01/08	PAYROLL	-7,360.08
General Journal	1/29/2009	09/01/08	PAYROLL	-25,812.06

Jan 09

**-1,405,454.10**

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CHINO BASIN WATERMASTER  
Check Detail  
January 2009

Type	Num	Date	Name	Account	Paid Amount
Bill Pmt -Check	12976	1/21/2009	BANK OF AMER...	1012 · Bank of America Gen'l Ckg	
Bill	4024...	12/31/2008		6191 · Conferences	-501.75
				6212 · Meeting Expense	-161.49
				6312 · Meeting Expenses	-161.49
				6141.3 · Admin Meetings	-311.01
				6909.1 · OBMP Meetings	-103.05
TOTAL					-1,238.79

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

	WATERMASTER ADMINISTRATION	OPTIMUM BASIN MANAGEMENT	POOL APPROPRIATE	POOL AGRICULTURAL NON-AGRIC.	POOL GROUNDWATER REPLENISHMENT	EDUCATION FUNDS	GRAND TOTALS	BUDGET 2008-2009
Administrative Revenues								
Administrative Assessments		7,993,307	172,817				8,166,124	\$7,841,054
Interest Revenue		54,254	1,328			18	61,858	174,368
Mutual Agency Project Revenue				6,258			-	148,410
Grant Income							-	0
Miscellaneous Income							-	0
Total Revenues	-	8,047,561	174,145	6,258	-	18	8,227,982	8,163,832
Administrative & Project Expenditures								
Watermaster Administration	340,789						340,789	619,960
Watermaster Board-Advisory Committee	29,580						29,580	61,201
Pool Administration		11,496	64,372	2,412			78,280	166,523
Optimum Basin Mgmt Administration		663,847					663,847	1,913,484
OBMP Project Costs		2,541,229					2,541,229	5,392,289
Education Funds Use							-	375
Mutual Agency Project Costs							-	10,000
Total Administrative/OBMP Expenses	370,369	3,205,076	64,372	2,412			3,653,725	8,163,832
Net Administrative/OBMP Income	(370,369)	(3,205,076)					-	-
Allocate Net Admin Income To Pools	370,369	3,205,076					-	-
Allocate Net OBMP Income To Pools							-	-
Agricultural Expense Transfer		847,342	(847,342)				-	-
Total Expenses	3,540,613	21,206	(14,948)	91,906		18	3,653,725	8,163,832
Net Administrative Income	4,506,948			82,239			4,574,257	-
Other Income/(Expense)					6,437,643		6,437,643	0
Replenishment Water Assessments							-	0
MZ1 Supplemental Water Assessments							-	0
Water Purchases							-	0
Balance Adjustment							-	0
Groundwater Replenishment							-	0
Net Other Income					6,437,643		6,437,643	0
Net Transfers To/(From) Reserves						18	11,011,900	-
Working Capital, July 1, 2008								
Working Capital, End Of Period		5,413,216	481,995	143,157	294,397	1,343	6,492,359	
		9,920,164	467,047	225,396	6,732,040	1,361	17,504,259	
<b>07/08 Assessable Production</b>		103,077,958	30,909,693	3,439,822			137,427,473	
<b>07/08 Production Percentages</b>		75.005%	22.492%	2.503%			100.000%	

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

<b>DEPOSITORIES:</b>		
Cash on Hand - Petty Cash	\$	500
Bank of America		
Governmental Checking-Demand Deposits	\$	1,018,941
Zero Balance Account - Payroll		
Local Agency Investment Fund - Sacramento		<u>8,240,455</u>
<b>TOTAL CASH IN BANKS AND ON HAND</b>		<b>12/31/2008</b>
<b>TOTAL CASH IN BANKS AND ON HAND</b>		<b>11/30/2008</b>
	\$	9,259,896
		2,974,519
<b>PERIOD INCREASE (DECREASE)</b>		<b><u>\$ 6,285,377</u></b>

**CHANGE IN CASH POSITION DUE TO:**

Decrease/(Increase) in Assets: Accounts Receivable	\$	(25,377)
Assessments Receivable		6,714,703
Prepaid Expenses, Deposits & Other Current Assets		-
(Decrease)/Increase in Liabilities		269,616
Accrued Payroll, Payroll Taxes & Other Current Liabilities		(65,384)
Transfer to/(from) Reserves		<u>(608,181)</u>
<b>PERIOD INCREASE (DECREASE)</b>		<b><u>\$ 6,285,377</u></b>

**SUMMARY OF FINANCIAL TRANSACTIONS:**

	Petty Cash	Gov't'l Checking Demand	Zero Balance Account Payroll	Local Agency Investment Funds	Totals
Balances as of 11/30/2008	\$ 500	\$ 133,564	\$ -	\$ 2,840,455	\$ 2,974,519
Deposits	-	6,714,703	-	-	6,714,703
Transfers	-	(5,525,868)	125,868	5,400,000	-
Withdrawals/Checks	-	(303,458)	(125,868)	-	(429,326)
Balances as of 12/31/2008	\$ 500	\$ 1,018,941	\$ -	\$ 8,240,455	\$ 9,259,896
<b>PERIOD INCREASE OR (DECREASE)</b>	-	885,377	-	5,400,000	<b><u>\$ 6,285,377</u></b>

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

**INVESTMENT TRANSACTIONS**

Effective Date	Transaction	Depository	Activity	Redeemed	Days to Maturity	Interest Rate(*)	Maturity Yield
12/17/2008	Deposit	L.A.I.F.	\$ 2,000,000				
12/23/2008	Deposit	L.A.I.F.	\$ 3,400,000				
<b>TOTAL INVESTMENT TRANSACTIONS</b>			<b>\$ 5,400,000</b>	<b>-</b>			

\* The earnings rate for L.A.I.F. is a daily variable rate; 2.54% was the effective yield rate at the Quarter ended December 31, 2008.

**INVESTMENT STATUS  
December 31, 2008**

Financial Institution	Principal Amount	Number of Days	Interest Rate	Maturity Date
Local Agency Investment Fund	\$ 8,240,455			
<b>TOTAL INVESTMENTS</b>	<b>\$ 8,240,455</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

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

	<u>Jul - Dec 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	7,993,307	7,708,817	284,490	103.69%
4120 · Admin Asmnts-Non-Agri Pool	172,817	132,237	40,580	130.69%
4700 · Non Operating Revenues	61,857	174,368	-112,511	35.48%
<b>Total Income</b>	<u>8,227,982</u>	<u>8,163,832</u>	<u>64,150</u>	<u>100.79%</u>
<b>Gross Profit</b>	8,227,982	8,163,832	64,150	100.79%
<b>Expense</b>				
6010 · Salary Costs	297,801	484,302	-186,501	61.49%
6020 · Office Building Expense	41,992	102,000	-60,008	41.17%
6030 · Office Supplies & Equip.	9,553	46,500	-36,947	20.54%
6040 · Postage & Printing Costs	34,653	87,380	-52,727	39.66%
6050 · Information Services	66,988	144,000	-77,012	46.52%
6060 · Contract Services	38,797	98,000	-59,203	39.59%
6080 · Insurance	15,706	17,730	-2,024	88.58%
6110 · Dues and Subscriptions	10,286	16,750	-6,464	61.41%
6140 · WM Admin Expenses	828	4,000	-3,172	20.7%
6150 · Field Supplies	864	2,500	-1,636	34.54%
6170 · Travel & Transportation	14,541	39,200	-24,659	37.1%
6190 · Conferences & Seminars	13,523	26,500	-12,977	51.03%
6200 · Advisory Comm - WM Board	7,667	19,181	-11,514	39.97%
6300 · Watermaster Board Expenses	21,913	42,020	-20,107	52.15%
8300 · Appr PI-WM & Pool Admin	11,496	24,008	-12,512	47.89%
8400 · Agri Pool-WM & Pool Admin	9,870	24,820	-14,950	39.77%
8467 · Ag Legal & Technical Services	49,802	98,000	-48,198	50.82%
8470 · Ag Meeting Attend -Special	4,700	12,000	-7,300	39.17%
8500 · Non-Ag PI-WM & Pool Admin	2,412	7,695	-5,283	31.35%
6500 · Education Funds Use Expens	0	375	-375	0.0%
9500 · Allocated G&A Expenditures	-204,742	-448,902	244,160	45.61%
	<u>448,653</u>	<u>848,059</u>	<u>-399,406</u>	<u>52.9%</u>
6900 · Optimum Basin Mgmt Plan	603,285	1,845,421	-1,242,136	32.69%
6950 · Mutual Agency Projects	0	10,000	-10,000	0.0%
9501 · G&A Expenses Allocated-OBMP	60,562	137,959	-77,397	43.9%
	<u>663,847</u>	<u>1,993,380</u>	<u>-1,329,533</u>	<u>33.3%</u>
7101 · Production Monitoring	63,293	107,515	-44,222	58.87%
7102 · In-line Meter Installation	24,714	87,931	-63,217	28.11%
7103 · Grdwtr Quality Monitoring	95,584	210,458	-114,874	45.42%
7104 · Gdwtr Level Monitoring	218,154	342,538	-124,384	63.69%
7105 · Sur Wtr Qual Monitoring	2,433	46,717	-44,284	5.21%



	<u>Jul - Dec 08</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
7107 · Ground Level Monitoring	123,949	651,468	-527,519	19.03%
7108 · Hydraulic Control Monitoring	244,213	743,476	-499,263	32.85%
7200 · PE2- Comp Recharge Pgm	509,652	1,185,883	-676,232	42.98%
7300 · PE3&5-Water Supply/Desalte	56,084	148,477	-92,393	37.77%
7400 · PE4- Mgmt Plan	137,989	217,371	-79,382	63.48%
7500 · PE6&7-CoopEfforts/SaltMgmt	21,588	76,411	-54,823	28.25%
7600 · PE8&9-StorageMgmt/Conj Use	387,503	76,909	310,594	503.85%
7690 · Recharge Improvement Debt Pymt	511,894	1,110,000	-598,106	46.12%
7700 · Inactive Well Protection Prgm	0	6,296	-6,296	0.0%
9502 · G&A Expenses Allocated-Projects	144,179	310,943	-166,764	46.37%
	<u>2,541,229</u>	<u>5,322,393</u>	<u>-2,781,164</u>	<u>47.75%</u>
<b>Total Expense</b>	<u>3,653,729</u>	<u>8,163,832</u>	<u>-4,510,103</u>	<u>44.76%</u>
<b>Net Ordinary Income</b>	4,574,252		4,574,252	100.0%
<b>Other Income/Expense</b>				
<b>Other Income</b>				
4210 · Approp Pool-Replenishment	6,427,596			
4220 · Non-Ag Pool-Replenishment	10,047			
<b>Total Other Income</b>	<u>6,437,643</u>			
<b>Other Expense</b>				
9999 · To/(From) Reserves	11,011,895			
<b>Total Other Expense</b>	<u>11,011,895</u>			
<b>Net Other Income</b>	<u>-4,574,252</u>			
<b>Net Income</b>	<u><u>                    </u></u>	<u><u>                    </u></u>	<u><u>                    </u></u>	<u><u>                    </u></u>



# CHINO BASIN WATERMASTER

## I. CONSENT CALENDAR

- C. RESOLUTION 09-01  
WATERMASTER INVESTMENT  
POLICY



RESOLUTION 09-01

RESOLUTION OF THE CHINO BASIN WATERMASTER,  
SAN BERNARDINO COUNTY, CALIFORNIA, ESTABLISHING  
A WATERMASTER INVESTMENT POLICY

**WHEREAS;** the Legislature of the State of California has declared that the deposit and investment of public funds by local officials and local agencies is an issue of statewide concern; and

**WHEREAS;** the legislative body of a local agency may invest monies not required for the immediate necessities of the local agency in accordance with the provisions of California Government Code Sections 5922 and 53601 et seq.; and

**WHEREAS;** the Chief Executive Officer ("CEO") of the Chino Basin Watermaster ("Watermaster") shall annually prepare and submit a statement of investment policy and such policy, and any changes thereto, shall be considered by the Board of Directors at a public meeting;

**NOW THEREFORE,** it shall be the policy of the Watermaster to invest funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the Watermaster and conforming to all statutes and judgments governing the investment of Watermaster funds.

**APPROVED** by the Advisory Committee this 26<sup>th</sup> day of February 2009.  
**ADOPTED** by the Watermaster Board on this 26<sup>th</sup> day of February 2009.

By: \_\_\_\_\_  
Chairman, Watermaster Board

APPROVED:

\_\_\_\_\_  
Chairman, Advisory Committee

ATTEST:

\_\_\_\_\_  
Board Secretary  
Chino Basin Watermaster

STATE OF CALIFORNIA            )  
  ) ss  
COUNTY OF SAN BERNARDINO    )

I, Ken Manning, Secretary of the Chino Basin Watermaster, DO HEREBY CERTIFY that the foregoing Resolution being No. 09-01, was adopted at a regular meeting of the Chino Basin Watermaster Board by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CHINO BASIN WATERMASTER

\_\_\_\_\_  
Secretary

Date: \_\_\_\_\_

# CHINO BASIN WATERMASTER

## INVESTMENT POLICY

### 1.0 POLICY

**WHEREAS;** the Legislature of the State of California has declared that the deposit and investment of public funds by local officials and local agencies is an issue of statewide concern; and

**WHEREAS;** the legislative body of a local agency may invest monies not required for the immediate necessities of the local agency in accordance with the provisions of California Government Code Sections 5922 and 53601 et seq.; and

**WHEREAS;** the Chief Executive Officer ("CEO") of the Chino Basin Watermaster ("Watermaster") shall annually prepare and submit a statement of investment policy and such policy, and any changes thereto, shall be considered by the Board of Directors at a public meeting;

**NOW THEREFORE,** it shall be the policy of the Watermaster to invest funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the Watermaster and conforming to all statutes and judgments governing the investment of Watermaster funds.

### 2.0 SCOPE

This investment policy applies to all financial assets of the Watermaster. These funds are accounted for in the annual Watermaster audit.

### 3.0 PRUDENCE

Investments shall be made with judgment and care, under circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the Watermaster, which persons of prudence, discretion and intelligence exercise in the management of their own affairs; not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. The standard of prudence to be used by investment officials shall be the "prudent investor" standard California Government Code (53600.3) and shall be applied in the context of managing an overall portfolio. Investment officers (the CEO and his/her designees) acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

#### **4.0 OBJECTIVES**

When investing, reinvesting, purchasing, acquiring, exchanging, selling and managing public funds, the primary objectives, in priority order, of the investment activities shall be:

1. Safety: Safety of principal is the foremost objective of the investment program. Investments of the Watermaster shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

2. Liquidity: The investment portfolio will remain sufficiently liquid to enable the Watermaster to meet all operating requirements which might be reasonably anticipated.

3. Return on Investments: The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and the cash flow characteristics of the portfolio.

#### **5.0 DELEGATION OF AUTHORITY**

Authority to manage the investment program is derived from the Judgment Paragraph 23, and from California Government Code 53600, et seq. Management responsibility for the investment program is hereby delegated to the Advisory Committee, who with the CEO shall establish written procedures for the operation of the investment program consistent with this investment policy. Procedures should include references to: safekeeping, repurchase agreements, wire transfer agreements, collateral/depository agreements and banking service contracts, as appropriate. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions, such as the Chief Financial Officer. No person may engage in an investment transaction except as provided under the terms of this policy and pursuant to Watermaster rules and regulations 2.16, derived from the Judgment, Paragraph 23. The Board shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. Under the provisions of California Government Code 53600.3, the CEO is a trustee and a fiduciary subject to the prudent investor standard.

#### **6.0 ETHICS AND CONFLICTS OF INTEREST**

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

## **7.0 AUTHORIZED AND SUITABLE INVESTMENTS**

The Watermaster is empowered by California Government Code 53601 et seq. to invest in the following:

1. Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the Financial Code), or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed \$500,000 in any one Bank at a time.
2. Local Agency Investment Fund (LAIF) in Sacramento, CA.

Such investments shall be limited to securities that at the time of the investment have a term remaining to maturity of five years or less, or as provided above.

## **8.0 COLLATERALIZATION**

All certificates of deposit must be collateralized. Collateral must be held by a third party trustee and valued on a monthly basis.

## **9.0 DIVERSIFICATION**

The Watermaster will diversify its investments by security type and institution. Assets shall be diversified to eliminate the risk of loss resulting from over concentration of assets in a specific maturity, a specific issuer or a specific class of securities.

## **10.0 REPORTING**

The Watermaster Chief Financial Officer shall prepare Monthly Investment Reports which reflect investment transactions for review by the Pool Committees and the Advisory Committee prior to presentation to the Watermaster Board at their next regularly scheduled meeting.

Following formats used in prior years, said Investment Report will reflect the following information.

- a. Funds held in each Bank at the beginning and ending of the reporting period; and
- b. Investments deposited and/or redeemed by type and by Bank (including interest rates, days invested and maturity yield rates) during the reporting period; and

- c. Investments outstanding at the close of the reporting period (including interest rates, days invested and maturity date); and
- d. Elements effecting the change in Watermaster's cash position; and
- e. A statement signed by the Chief Financial Officer as to the ability of the cash on hand to meet foreseen expenditures during the next six months.

#### **11.0 INVESTMENT POLICY ADOPTION**

The Investment Policy shall be adopted by resolution of the Watermaster on an annual basis. The Policy Statement will be reviewed by each Pool Committee. Should any Pool Committee recommend revisions to the Policy Statement, it shall be amended prior to presentation to the Advisory Committee for their review and comment. If necessary the Policy Statement will be further amended to reflect the comments of the Advisory Committee. The final Policy Statement will then be presented to the Watermaster Board for adoption at the next regularly scheduled meeting.





# CHINO BASIN WATERMASTER

## I. CONSENT CALENDAR

### D. ALLOCATION OF VOLUME VOTE FOR THE NON-AGRICULTURAL POOL



## OVERLYING (NON-AGRICULTURAL) POOL

### ALLOCATION OF VOLUME VOTE

Based on 2007-2008 Production

	2007-2008 Assessable Production	Poduction Vote	OSY Vote	Allocated Vote
Ameron Steel	0.000	0.00	9.88	9.88
Angelica Rental Service	22.871	4.93	1.90	6.83
Auto Club Speedway	601.485	129.75	100.95	230.70
Calif Steel Industries	1,331.400	287.19	131.23	418.42
CCG Ontario, LLC	0.000	0.00	63.62	63.62
General Eletric (Geomatrix)	16.142	3.48	0.00	3.48
KCO, LLC/The Koll Company	0.000	0.00	2.22	2.22
Praxair, Inc.	128.070	27.63	43.15	70.78
Reliant Energy	793.245	171.11	96.36	267.47
San Bernardino County	196.157	42.31	13.51	55.82
Southern California Edison	0.000	0.00	2.82	2.82
Space Center Mira Loma	104.120	22.46	10.51	32.97
Sunkist Growers	197.819	42.67	186.90	229.57
Swan Lake	43.758	9.44	46.86	56.30
Vulcan Materials (Calmat)	4.755	1.03	32.09	33.12
West Venture Development	0.000	0.00	0.00	0.00
<b>TOTAL</b>	<b>3,439.822</b>	<b>742.00</b>	<b>742.00</b>	<b>1,484.00</b>

NOTES:

MOTION: \_\_\_\_\_

\_\_\_\_\_

DATE: \_\_\_\_\_

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# CHINO BASIN WATERMASTER

## II. BUSINESS ITEMS

### A. BUDGET TRANSFER





# 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:** February 12, 2009  
February 17, 2009  
February 26, 2009

**TO:** Committee Members  
Watermaster Board Members

**SUBJECT:** Budget Transfer 09-02-01

**SUMMARY:** Budget transfer request for accounts relating to: OBMP, HCMP, Desalters, and Storage Program to Groundwater Level Monitoring Program, Recharge Master Plan, and MZ-3.

### BACKGROUND

Watermaster, working with Wildermuth Environmental, Inc. (WEI), prepared a planning level cost estimate in March 2008 for engineering work that was to be performed in Fiscal Year 2008/09. This cost estimate was incorporated into the Watermaster budget after a series of reviews and revisions by Watermaster and WEI staff. The budget for FY 2008/09 spawned 16 task orders (TOs) of engineering services provided by WEI to Watermaster. Watermaster staff reviewed and approved the task orders.

### DISCUSSION

At the end of each quarter, Watermaster staff convenes a meeting with its consultant, WEI, to review the status of the technical work accomplished to date, milestones achieved, and performance as to schedule and budget. Watermaster also reviews the task orders to determine if there was previously unanticipated work that Watermaster requested WEI to do or may ask WEI to do in upcoming quarters. Likewise, Watermaster and WEI determine if there are tasks within each task order that may not be performed or may not require the anticipated level of effort.

WEI staff processed transducer water level data for the HCMP wells as part of the Groundwater Level Monitoring Program (TO9) rather than the HCMP (TO11), therefore, we are requesting that budget be shifted from HCMP to the Groundwater Level Monitoring Program.

Three other Task Orders had and/or are projected to have less activity than was initially estimated:

- **TO1 – Watermaster Meetings (Watermaster Account #6906).** The level of effort for Watermaster meetings (pool, advisory, board, and other ad hoc meetings) was not as great and is not projected to be as great as anticipated last spring when the budget was finalized.
- **TO13 – Engineering Support for Desalters (7303).** WEI anticipated a considerable amount of hydrogeological, water quality, and groundwater modeling in support of the preliminary design of the Chino Creek Desalter Well Field. Because of schedule delays, much of this work will not be performed in FY 2008/09.
- **TO17 – Storage Program (7602).** A portion of this task order was to provide engineering support and modeling projects for proposed storage agreements with the San Diego County Water Authority. These agreements and the associated engineering work will not occur in FY 2008/09.

Two other Task Orders had engineering tasks that are out-of-scope or where there were changed conditions.

- **TO12 – Recharge Master Plan (7202.2).** A necessary component of the Recharge Master Plan is a production optimization study. This production optimization effort was not included in the original scope of the recharge master plan. This study is required to demonstrate that the increased production by appropriators projected to occur by 2020 – and thereafter – is sustainable and to determine how best to replenish overproduction given the new projected production.
- **TO15 – Management Zone Strategies – MZ-3 (7402).** There were significant delays in securing the drilling contractor, which increased the timeline of the project. Due to noise considerations with neighbors, the drilling schedule was also decreased from 12-hour shifts to 9-hour shifts, which also increased the timeline of the project. The increased timeline of the project also resulted in more physical sampling events. Finally, there was an extra round of review with staff at DWR that was not anticipated in the initial planning budget.

## RECOMMENDATIONS

Approve attached budget transfer request 09-02-01



**CHINO BASIN WATERMASTER  
BUDGET TRANSFERS**

Fiscal Year 2008-2009

# T-09-02-01

To: **All Parties**

From: Sheri Rojo Date: 5-Feb-09

**Describe reason for the transfer between budget categories here:** To transfer funds to cover anticipated cost overages in accounts referenced below.

<b>Budgetary account reduction</b>			
<i>Line Item Description</i>	<i>Account Number</i>	<i>Current Budget</i>	<i>Amount</i>
OBMP	6906	\$ 645,519	\$ (60,000)
Hydraulic Conrol Monitoring Program	7108.3	\$ 427,426	\$ (29,527)
Water Supply/Desalter	7303	\$ 125,512	\$ (40,000)
StorageMgmt/Conj Use	7602	\$ 67,468	\$ (15,000)

<b>Budgetary account addition</b>			
Groundwater Level Monitoring	7104.3	\$ 202,212	\$ 30,000
Recharge Master Plan	7202.2	\$ 335,464	\$ 59,383
Management Zone Strategies	7402	\$ 158,892	\$ 55,144
			\$ -

Should be zero

<b>Transfer Procedure</b>	<b>Finance Use Only</b>
<p>1. Staff brings the transfer request to the Appropriate Pool for information purposes if the transfer is under \$25,000. Transfers over \$25,000 within the same budget category require Pools, Advisory Committee and Board approval. Transfers between budget categories, regardless of amount must be approved by the Pools, Advisory Committee and Board .</p> <p>2. Once the form has been completed by the CFO, and approved by the board if required, the Chief Financial Officer will prepare and process the budget transfer in the accounting system.</p> <p>3. A log will be maintained by the CFO detailing the transfer.</p> <p>4. A fiscal year file will also be kept to hold all budget amendment forms for auditor review.</p>	<p>Date Board Approved _____</p> <p>Date Posted _____</p> <p>Posted By _____</p> <p>Approved by _____</p> <p>Date approved _____</p>

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# CHINO BASIN WATERMASTER

## II. BUSINESS ITEMS

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





# 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:** February 12, 2009  
February 17, 2009  
February 26, 2009

**TO:** Committee Members  
Watermaster Board Members

**SUBJECT:** Auction Price Floor Agreement and Storage & Recovery Agreement

### SUMMARY

#### Recommend Action:

1. Review and approval of Auction Price Floor Agreement subject to: (a) preparation of a conforming Storage and Recovery Agreement; (b) a finding of broad regional benefit; (c) a finding of No Material Physical Injury; and (d) a recommendation to retain a competent consulting firm to provide services in support of the auction.
2. Direct Staff to prepare the Storage and Recovery Agreement, a recommendation regarding broad regional benefit, an examination of Material Physical Injury and a recommendation for a consulting firm, all to be considered in March.

#### Background:

The concept of the Price Floor Auction has been presented to the Appropriative Pool on several occasions. The concept was presented to the Watermaster Advisory Committee and Board in January of 2009.

The draft Auction Price Floor Agreement has been revised to reflect comments received from the members of the Appropriative Pool during the December and January Appropriative Pool meetings. Specifically, a concern was raised that a successful bidder may not be making a sufficient investment in the Basin to warrant a 2% loss figure. Staff's and Legal Counsel's reply is that the storage asset is not being offered in isolation: it is being offered as a storage interest coupled with water. The buyer must take both.

Moreover, it is not an adequate comparison to look at the pricing arrangements whereby Watermaster (and the parties to the Judgment) also incur an obligation to recover the water from the Basin. The Price Floor auction concept also differs in that it would use existing storage capacity that is already occupied. In many ways, the proposed Price Floor concept is to assign the storage from one class of users to another. In summary, it represents an efficient and economically rewarding redistribution of an existing asset to a buyer that will pay the highest cost for the highest and best use of the water and storage resources.

Notwithstanding Staff's and Legal Counsel's view, we have revised the proposed Auction Price Floor Agreement to accommodate comments received from Pool members and consultants.

**Changes:**

The revised Auction Price Floor Agreement has been modified in three material ways. One change is designed to improve competitiveness and the second is designed to create a greater return from third parties, other than Western Municipal Water District, which is providing the base bid.

First, the Agreement still requires the sale of the entire quantity of water held in storage, approximately 36,000 acre-feet (after dedication to desalter replenishment), but the quantity has been broken up into two quantities of 18,000 acre-feet each. This is designed to increase competition for the resource.

Second, to address the concern that third parties may not be contributing a sufficient quantity of money to justify a two percent loss figure, we have adjusted the minimum bids and the annual storage fees to increase the minimum net present value by \$1 million. While Staff and Counsel do that feel this is required to impose the two percent loss figure, we have made this change to give further evidence of an "equity" contribution.

Third, the draft introduces the notion of Watermaster financing a portion of the floor purchase price over a number of years. The financing option would otherwise be a discretionary item for Watermaster under an auction and would be dependent upon the identification of the buyer and other relevant considerations.

**Storage and Recovery Agreement:**

A Storage and Recovery Agreement is required to implement this option. All Storage and Recovery Agreements must be approved by the Court. Each Storage and Recovery Agreement also requires a determination that it will result in broad regional benefit and a finding of no Material Physical Injury. Each of these three items will be the subject of a separate staff report in March.

## 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. The Groundwater shall be divided and auctioned in separate but equal increments of 18,000 acre-feet each, referred to as "Groundwater Pool A" and "Groundwater Pool B."

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. The Storage Capacity shall be divided and auctioned in separate but equal increments of 20,000 acre-feet each, referred to as "Storage Capacity Pool A" and "Storage Capacity Pool B."

2.2.3 The Groundwater Pool A and Storage Capacity Pool A shall be auctioned together as a single unit referred to as Groundwater Resources Pool A and Groundwater Pool B and Storage Capacity Pool B shall be auctioned together as a single unit referred to as Groundwater Resources Pool B. Groundwater Resources Pool A and Groundwater Resources Pool B are collectively referred to as "Groundwater Resources".

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; 18,000 of the 20,000 acre-feet allocated each to Storage Capacity Pool A and B shall be considered initially occupied as of the Closing Date. The volume of Storage Capacity in either Storage Capacity Pool A or B occupied and useable at any time shall be based upon the use of the Groundwater within each pool, the subsequent replenishment and use of other water stored



over time, and shall be accounted for separately pursuant to Watermaster's ongoing 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 "C."

**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 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 "X". 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 17 herein.

**8. Breakup Fee.** In the event this Agreement terminates because Watermaster closes on a Higher Conforming Bid with a Buyer other than Western for either or both the Groundwater



Resources Pool A and Groundwater Resources Pool B 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 Pool A and Groundwater Pool B under the Groundwater Resources Auction Agreement; provided, however, that Western shall receive a minimum of \$ [REDACTED] within three years of the Closing Date ("Minimum Breakup Fee"). If Western's total share of the payments received by Watermaster for the Groundwater 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 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 Groundwater Resources Pool A and Groundwater Resources Pool B shall be offered and auctioned separately. However, Any Qualified Bidder may bid and be the Selected Bidder on either or both Groundwater Resources Pool. 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 \$700 per acre-foot for Groundwater and \$33 per acre-foot per year for Storage Capacity ("Minimum Auction Bid"). Any bid (a) to purchase less than the full increment of either of the Groundwater Resources Pool A or Pool B, (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(s) outside the Watermaster office and on Watermaster's Auction website, and (ii) provide Western with a copy of the bid(s) selected by Watermaster, the Bid Form(s), Bid Confirmation Form(s) (if applicable), Qualified Bidder Form(s), the Groundwater Resources Auction Agreements, and the Groundwater Resources Auction Escrow Agreements to be entered into between the Selected Bidder(s) 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(s). The only basis upon which Western may challenge the selected bid(s) is Watermaster's alleged failure to comply with this Section 9. Any challenge to the selected bid(s) will be subject to the dispute resolution provisions in Section [redacted] herein and the remedial provisions in Section [redacted] 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 XXX% of the sum of the Groundwater Purchase Price and first year Storage Payment, and finance the remaining balance over a period of ten 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 **Expiration of Agreement.** This Agreement shall expire on [DATE] unless earlier terminated as provided in this Agreement. [30 YEAR TERM]
- 17.2 **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].
- 17.3 **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 \_\_\_\_\_ 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.

17.4 **Effect of Termination.** The right to terminate as set forth in Subsection \_\_\_\_\_ 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.

17.5 **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:

17.5.1 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.

17.5.2 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.

**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]

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If to Western: ADDRESS

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Copy to:

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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.



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# CHINO BASIN WATERMASTER

## IV. INFORMATION

1. Newspaper Articles



# WATER EFFICIENCY

## January-February 2009

### Toilet to Tap: Once Again

Indirect potable reuse is assuming a life of its own in the American West. Are we heading in the right direction?



Photo: Southern California Water Replenishment District

By Penelope B. Grenoble

Toilet to Tap—with all that's gone on in the West in the last half-dozen years, from drought to reallocation of Colorado River water, and restrictions coming out of California's Sacramento Delta, the once-maligned, supply-side strategy seems to be an idea whose time has finally come.

Supposedly attributed to a clever copy editor at the *Los Angeles Daily News*, "Toilet to Tap" brought down a 33,000-acre-foot groundwater recharge project slated for Los Angeles' San Fernando Valley, as well as projects in San Diego and Dublin, CA. But the continuing issue for water professionals is that the negative and potentially divisive phase suggests that developing new sources of potable reuse is a simple and capacious undertaking.

In traditional water systems, raw water is diverted from its source in a lake, stream, or aquifer; treated; and distributed, with little more to do. Wastewater is subsequently collected, treated, and discharged to a receiving body. The fact that, in many places in the US, this results in unplanned potable reuse (as the Southern Nevada Water Authority puts it, "borrowing water") does not in any way diminish the well-developed planned reuse projects emerging in this country.

Planned potable reuse in the US is largely indirect, wherein treated effluent is subject to multiple contaminant-removing barriers, from extensive chemical and physical treatment to dilution and natural cleansing in soil or a body of water. In a 1998 report, the Water Science and Technology Board of the National Research Council's Commission on Geosciences, Environment, and Resources concluded that, while analytical and toxicological testing, as well as epidemiological studies, have identified no significant health risks in communities using reclaimed water, indirect potable reuse projects should exceed the requirements for conventional water treatment and should employ strong chemical disinfection processes in addition to physical treatment systems. Also, barriers for microbiological contaminants should be more robust than in conventional water treatment.

So, what does it look like out there? Is jumping on the reverse osmosis (RO) bandwagon the way to go? Or is nature perhaps a resource we've bypassed in our regulatory zeal? Is it more effective to pull out all the stops before the effluent

goes into the ground or treat it as it's drawn out?

Southern California is served by a complicated mix of city and county utilities, which are in turn regulated by a Byzantine web of agencies, so it might be surprising to learn that Los Angeles has been practicing potable reuse since the 1960s. While Orange County has made a splash with its huge 70-million-gallon-per-day Groundwater Replenishment Project, the Water Replenishment District of Southern California (WRD) has been quietly recharging groundwater with tertiary-treated wastewater, in part with effluent supplied by West Basin Municipal Water District. The WRD's original rationale was similar to Orange County's emphasis in its groundbreaking public outreach campaign—protection of natural groundwater by maintaining the barrier that keeps saltwater from contaminating the region's aquifers. And if some of this water also makes it into raw supplies used for drinking water, well, so be it.

Over the years, WRD has used a mix of treated effluent, stormwater running off the San Gabriel Mountains, and potable water supplied by the Metropolitan Water District of Southern California to recharge the Central and West Basin aquifers, two of the most heavily used groundwater basins in California, serving four million Los Angeles County residents.

Recurrent drought convinced various powers-that-be that neither nature nor the Metropolitan Water District was reliable enough to keep the aquifers and the sea barriers supplied, and, in 1995, West Basin christened its own advanced water treatment plant. Today, it produces what it describes as five distinctive grades of "designer" recycled water: *tertiary*, *nitrified tertiary* (with the ammonia removed for use in industrial cooling towers), *softened RO* (secondary treated wastewater pretreated by either lime clarification or ultrafiltration, then followed by RO and disinfection—the water that's now used for groundwater recharge), *pure RO* (secondary treated wastewater that had undergone microfiltration, RO, and disinfection for low-pressure boiler feed water), and *ultrapure RO* (microfiltration, RO, disinfection, and second-pass RO for high-pressure boiler feed).

Both West Basin and WRD have committed to increasing use of recycled water as a means of diversifying their water supply portfolios. To this, West Basin has added more efficient water conservation and ocean desal. The target shared by both agencies, to increase the amount of recycled water used in Los Angeles' seawater barriers from 75% to 100%, is also a goal in Orange County.

At least one industry observer suggests that West Basin's effluent treatment chain, which mimics what Orange County established at its original Waterworks 21 and is currently using in its Groundwater Recharge Project, has set a standard that has caused state regulators to be preoccupied with RO. An extensive groundwater basin underlies northern Orange County, although, as in Los Angeles County, the aquifers are subject to seawater intrusion. And, although the Groundwater Replenishment project was largely sold to the public as a way to shore up the saltwater barrier and manage wastewater effluent, the project's spreading grounds are only six month's travel time from the groundwater supplies that local utilities depend on for drinking water.

These factors considered, the Orange County Advanced Purification Facility first subjects secondarily treated effluent to microfiltration, which—as Ron Wildermuth, former public information point person for Orange County and now West Basin, suggests—can be thought of as the last step in tertiary treatment, or the first step in RO. Out come suspended particles, protozoa, bacteria, and some viruses freeing up the RO to concentrate on smaller microscopic salts and organic constituents. Ultraviolet (UV) and hydrogen peroxide then eliminate any remaining organic compounds. According to Shivaji Deshmukh, program manager of the Orange County's Groundwater Replenishment System, the advantage of disinfecting with UV instead of chlorine is that it avoids creating any additional trihalomethanes.

The highly purified effluent is either injected into wells at the saltwater barrier or sent to the Santa Ana spreading grounds where it is blended with other water sources. The California Department of Health Services considers a stay underground to be an additional barrier to viruses, and blending as a means to control unregulated chemicals. Extensive monitoring at multitudinous critical stages is slated to cost the district an estimated \$1 million annually.

Orange County's Groundwater Recharge Project is now the largest of its type in the world, but Scottsdale, AZ, has a similar history of using effluent to recharge its groundwater. Lacking ample surface supplies, for years Scottsdale used its groundwater as an exclusive source of supply. As late as 1996 with a population of just under 200,000, the city was using some 23 billion gallons per day. At that rate, with the population expected to jump to 285,000 by 2012, the city would need twice that supply.

This unsustainable level of groundwater pumping came to a halt with Arizona's 1980 Groundwater Management Act, which established safe yield as the goal statewide. Through a combination of strategies that included using effluent for aquifer recharge, the city hit its safe yield milestone in 2006, when as much water was recharged into the aquifer as was pumped out from its wells. In addition to effluent, which is treated to drinking water standards before it's injected, the Scottsdale Water Campus also injects surface water from the Central Arizona Project into shallow dry wells, as well as treated drinking water directly in the aquifer.



Scottsdale's effluent treatment chain includes: 400-micrometer strainers, followed by ammonia to eliminate free chlorine, which is followed by microfiltration and an antiscalant. Next comes pH adjustment using sulfuric acid, then 20 micrometer cartridge filters, a thin film composite polyamide RO in a three-stage configuration of 24:10:5 with a recovery rate of 85%, degasifier towers for reduction of carbon dioxide, and, finally, lime feed for RO permeate stabilization. The injected water percolates through several hundred feet of soil, where it commingles with local groundwater and is pulled out by down-gradient production wells.

Emergency wells are designed to recharge tertiary effluent diverted from the water treatment plant when necessary, to prevent hydraulic overloading during Scottsdale's short wet season. These are monitored and controlled collectively and discharged into a three-fourth-inch gravel pack roughly 20 feet below the ground surface. While Central Arizona Project water is used for recharge primarily during the summer months when irrigation demand is high, reclaimed water is used for recharge primarily during the winter months. To achieve the goal of 450 milligrams per liter total dissolved solids (TDS) per liter prior to recharge, some reclaimed water receives RO treatment year-round to blend with water from the Central Arizona project, which has a TDS of about 700 milligrams per liter.



Photo: Tom Stewart  
Highly purified RO is one step in the process to turn wastewater into a purified product.

To do all of this, the Arizona Department of Environmental Quality requires a wastewater reuse permit and an Aquifer Protection Permit. The Arizona Department of Water Resources requires an underground storage facility permit. All aquifers in Arizona are currently classified for drinking water protected use, and the state has adopted national primary drinking water maximum contaminant levels as its aquifer water quality standards. The initial construction costs for the first two phases of the Scottsdale Water Campus for tertiary and advanced water treatment facilities totaled \$75 million (compared to the multi-millions required today), and Scottsdale estimates its cost to produce potable quality water via this method is less than \$1.30 per 1,000 gallons.

"Although Scottsdale has been reclaiming water since 1984, it wasn't until 1998 that we started reusing it," says Water and Wastewater Treatment Director Art Nuñez. "Until then, we just poured usable water down the drain and paid to dispose of it."

Aside from its groundwater recharge program, Scottsdale also markets its reclaimed water for irrigation to the city's numerous golf courses.

Close to the border in El Paso, TX, the El Paso Water Utilities once had similar ideas about ensuring potable supply sustainability. Circumstances changed, however, such as the utility finding it more cost effective to sell effluent than put it in the ground.

"In 1979, we undertook an assessment that suggested we would be in serious trouble by the year 2030, with respect to our groundwater pumping," says Water Resources Manager Bill Hutchison. "Actions were taken including expanding our surface water use, implementing a pretty stringent conservation program, and increasing our reclaimed water use. All of this has helped make the Heco Bolson essentially sustainable."

In addition, the utility constructed the essentials for a groundwater recharge project, including a water reclamation facility, injection wells, and monitoring systems. "Then the golf course opened and the power plant started sniffing around, and we built lines to supply them both with recycled water, which meant less and less water was going in the ground," says Hutchison. "But it also decreased potable water use. In addition, the injection wells were presenting their own set of problems with clogging, collapsing, and having to be re-drilled. At one time, we were putting as much as 20,000 acre-feet a year in the ground. Now it's down to about 1,500 acre-feet a year."

To hedge its bets, however, El Paso also instituted studies which determined that spreading basins were a better alternative to wells, so that the water that goes into the ground these days goes through spreading basins.

And, while El Paso is feeling comfortable with less is more, the 700 resident community of Cloudcroft is among a number of New Mexico communities committing to technological innovation. Cloudcroft relies on snow melt to recharge the small pockets of groundwater that provide the town's drinking water supply, and, with less precipitation than normal over recent years, the community literally found itself running out—to the point that the National Guard had to bring in truckloads to sooth the dry throats of summer tourists. Stuck in a considerable bind, the residents of the small community were saved by the Governor, who, concerned about drought conditions throughout the state, established a water innovation fund to

finance the development of additional water supplies and help conserve what supplies were available.

Thus, Cloudcroft was able to secure the \$3.5 million it needed to build the system that its designer, Eddie Livingston, of Livingston and Associates in Alamogordo, NM, likes to point out is the first of its kind in the country. ITT/Advanced Water Treatment supplied the equipment for the wastewater treatment/reuse project.

As Livingston describes it, the elaborately redundant system will reclaim 100% of the town's wastewater to drinking water quality, blend this with existing well and spring water, and then retreat everything before the water is introduced into the town's drinking water supply. On average, 100,000 gallons will be added to the Cloudcroft system annually. This elaborate treatment chain was necessary, in part because the town has no opportunities for groundwater storage, is not on top of a mountain, and has no natural surface resources.

Cloudcroft's water treatment begins with a membrane bioreactor wastewater treatment plant, which replaces the town's existing trickling filter plant. The effluent is filtered through microfiltration membranes, disinfected with chloramines, and pumped to a storage tank, from which it gravity feeds three miles to the town's potable water facilities. Here it receives its first run through RO.

"Because the facility is downhill, we have enough pressure that we don't need a pump on the RO system, which is very energy efficient," says Livingston. "We end up with about 175 psi pressure."

Again, local conditions help define the treatment process. "The spring water is moderately hard, and it gets higher in dissolved solids by the time it goes through the wastewater plant, so we're using the same RO membranes Orange County used in Water Factory 21," he adds.

For redundancy and public health concerns, the system also mimics Orange County's use of advanced oxidation, using hydrogen peroxide and UV light.

The highly purified RO permeate is then stored in a million-gallon, lined and covered reservoir. From there, it's blended approximately half with spring water and the other half with well water at another reservoir, and the blended water is subjected to ultrafiltration to remove not only particulates and large pathogens like giardia and cryptosporidium, but also bacteria and viruses. The blended water is then disinfected again with UV.

"We use UV after ultrafiltration for a couple of reasons," says Livingston. "Number one, it's a very good disinfection method, but also the state required us to have at least 5.5 LOG [inactivation versus contact time plotted on a Logarithmic (LOG) scale] removal of cryptosporidium. The regulators gave us 4.5 LOG for the ultrafiltration membranes and two LOG for the UV. After the UV disinfection, we polish everything off with activated carbon to remove emerging contaminants, then disinfect one last time with chlorine."

Too much of a good thing? It depends. Given the restrictions of Cloudcroft's geology and the relatively small amount of water that will be processed, the town will not be facing the same challenges with RO brine disposal that inland facilities treating large amounts of water are exposed to, and will, in fact, use the brine to keep the dust down on its roads and to make snow at the local ski area.

Anything extra will be injected into one of the dry wells the consultants dug when they were looking for additional sources of water. And as Livingston points out, not only will residents now have a reliable source of water, the quality of that water will improve, meaning their hot water heaters will last longer than three years.

An entirely different set of circumstances prevailed outside metropolitan Dallas that convinced the North Texas Municipal Water District (NTMWD) to take a more natural approach to indirect potable reuse. Taking advantage of treated effluent that flows down the East Fork of The Trinity River from facilities the district either owns or manages, it will use constructed wetlands to treat the river water, which will then be blended with raw water to help sustain the region's potable supply.

As a state agency, NTMWD provides water, wastewater, and solid waste services to 61 municipalities on the north and east side of Dallas, one of the fastest growing areas of the nation. Surface water storage is provided by four manmade lakes, which are fed by an annual rainfall of 40 inches a year, but which recede considerably under drought conditions. An additional consideration is that NTMWD's service area is currently growing at the rate of 4–5% annually, and it expects to serve 700,000 additional residents by 2020.

According to Assistant General Manager Mike Rickman, the district had developed all easily developable local resources. "There are no additional reservoirs that can be constructed in or adjacent to our area," he says. "We were having to go



further out, at considerably more expense, so we started looking at what options we had locally.”



Photo: Southern California Water Replenishment District

Both West Basin and WRD have committed to increasing use of recycled water as a means of diversifying their water supply portfolios.

The utility took its cue from neighboring Tarrant Regional Water District, which will construct a similar project to serve the Fort Worth area. NTMWD will draw water out of the river, run it through a 2,000-acre constructed wetlands to reduce phosphorous and nitrogen, and reintroduce it to 22,000-acre Lake Lavon, one of its four reservoirs, where it will remain for over a year before it's drawn out and treated as raw water for potable use. The lake serves as a blending basin for fresh water from the three other lakes, so the river water will also be diluted.

The project required a deal with the state that NTMWD would only capture 70% of the flow its upstream facilities contribute to the river, leaving 30% for the environment and downstream uses. Estimates are that the \$300-million project, which was financed by selling bonds, will produce 102,000 acre-feet of water in the next 10 years.

“We're making very efficient use of the land to produce water,” says Rickman. “Using current technology, we can't put any more reuse water into Lake Lavon, because it will have reached its assimilative capacity once this project is fully operational. But that doesn't mean we can't take additional reuse water that has gone through wetlands

to another supply source and do the same thing. What we're doing with this project is allowing nature to help us.”

A similar river source water project is underway in Aurora, CO. When completed, the \$750-million Prairie Waters Project is expected to move as much as 50 million gallons of water a day, boosting the community's water supply by approximately 3.3 billion gallons per year and effectively doubling the value of its \$300-million water rights. The project will draw water from the South Platte River, use it, treat it, and then discharge it back into the river. The water then flows downstream, where it is recaptured in wells the city has constructed, filtered through the riverbank, and pumped back to Aurora for additional treatment. Travel time is seven to 10 days, and this riverbank natural filtration method—which is in regular use in Europe—will remove most of the nitrates, phosphorous, and other organic compounds.

From there, the recovered water will be pumped to an artificial aquifer, where it will remain for approximately 30 days to provide enhanced biological and organic treatment. Next comes a water purification facility where the water is softened and treated with advanced ultraviolet oxidation, then flocculation, sedimentation, and filtration. After this, it will be subjected to an activated-carbon gravity filter and, finally, disinfected with chloramines before it enters the regular distribution system.

The two river projects warm the heart of Peter Fox, who is a Professor of Civil and Environmental Engineering at Arizona State University and a long-time advocate of using natural systems to treat reclaimed wastewater, in particular soil aquifer treatment (SAT).

“In my viewpoint, soil aquifer treatment has the potential of using biological processes to remove the majority of the organics that are present in a lot of different waters,” says Fox. “Given sufficient time—a year or so in the subsurface—you can expect that the amount of organic carbon might be reduced to one milligram per liter or less, which is similar to a lot of natural groundwater. So if you're thinking of RO, maybe you should also look at soil aquifer treatment.

“In the Aurora project,” he continues, “after soil aquifer treatment, they're going to treat that water with activated carbon and advanced oxidation to destroy or remove residual compounds. That way they don't have to use reverse osmosis to remove everything, because the matrix is so much cleaner that the oxidation technologies should be much more effective. To my mind, this is a much more sustainable type of operation.”

Fox further gives his opinion: “My thought is we should be looking a lot closer for other types of indirect potable reuse, instead of doing all of this reverse osmosis,” he says. “The Montebello Forebay in Los Angeles County has been doing basically soil aquifer treatment since 1962, and they've done epidemiological studies to show there's been no health effects. Scottsdale has seriously considered getting rid of their system—which they modeled after Water Factory 21—because they're having such problems with salt disposal. They're saying maybe they should look to just doing groundwater recharge and treat the water when they recover it. With Hydrosystems Inc., in Phoenix [AZ], they've pioneered Beta zone injection wells, which can be used where you don't have enough land for SAT.”

“I think we need to think ‘big picture,’” says Hoover Ing, of the WRD. “RO is a very energy-intensive process, and you've got the salts. The studies I've seen have shown that soil does a tremendously effective job of removing a lot of

contaminants. A few more pharmaceuticals tend to go through the soil than persist with RO, but a lot of these are removed with organic carbon. And, the water begins to look like what it was before it became wastewater.

"In Los Angeles, we are trying to get the regulators to allow us to use 100% recycled water in our seawater barriers," Ing goes on to say. "Right now, this is kind of uncharted territory. One concern is the RO water may leach out chemicals in the ground—that it's so pure it hasn't been quite stabilized. Which means, all things considered, percolation may not be as rudimentary as we've been thinking. Have enough barriers, have enough blending, and have enough travel time—these are at the heart of any kind of requirements. Monitor it carefully, and, if something isn't going right, shut it off."

From Los Angeles comes news that the city has revised its 1990 "Toilet to Tap" project. Ing remembers that, at the time it was first conceived and then abandoned, \$60 million in combined federal, state, and local funds had gone into constructing a 10-mile, 60-inch pipeline to take disinfected tertiary effluent from the Donald C. Tillman Wastewater Treatment Plant in the eastern San Fernando Valley, to spreading grounds at the far northern end of the San Fernando Valley Aquifer. Today, under Mayor Antonio Villaraigosa, indirect potable reuse has been given a new lease on life, although, at 15,000 acre-feet per year, the project will be approximately half the size of what was originally planned.

According to Jim McDaniel, Assistant General Manager at the Los Angeles Department of Water and Power (LADWP), a significant determining factor has been restoration of the Los Angeles River, in that effluent from the Tillman plant is needed to keep the river running in the summer. The city's recently completed comprehensive water supply plan emphasizes increased water conservation and expanded use of recycled water to generate an additional 100,000 acre-feet of new water a year, with 35,000 acre-feet of the recycled total coming from purple pipe uses and the remainder from the groundwater replenishment project.

The city is currently in the process of developing a Recycled Water Master Plan, which it hopes to have completed by 2011, and then the effluent flowing by 2019. Although the treatment chain is yet to be developed, McDaniel says the project will include a \$500-million upgrade of the Tillman plant.

In the meantime, LADWP is tackling the nemesis that brought down the 1990 East Valley Recycling Project. Taking a page from Orange County's book, it is already in the process of developing its public outreach campaign.

Topics: Reuse, Treatment, Rivers



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## Upland to participate in Green Valley Initiative

Sandra Emerson, Staff Writer

Created: 01/18/2009 07:04:51 AM PST

UPLAND - The city is joining a number of Inland Empire cities in an initiative to promote clean and green technology.

The Green Valley Initiative - which was launched in June 2007 - is a regional business and economic development program to promote investment in San Bernardino and Riverside counties as well as establish the region as a leader in green and clean technologies.

"Green Valley Initiative is just an effort on our part to join a group that's also involved and say we believe it and support it," Upland City Manager Robb Quincey said.

"It's very important to a community like ours because it's a lush and gorgeous community, and it's important we maintain that and continue to promote it."

The city plans to implement a recycled

water program to irrigate parks, school campuses and the Euclid Avenue median in order to conserve drinking water.

Solar- and wind-power alternatives have also been researched.


"The city is taking a very productive stance in initiating a myriad of practices that are taking us down that road. Whenever there's a situation that we can implement that will make us more efficient, more green, more on the cutting edge," Mayor John Pomierski said. "Then, just naturally, a lot of this stuff is just common sense in today's realm."

Being part of the initiative means the city will be conscious of different ways to becoming efficient and environmentally friendly.

"What it will change is thinking. It will continue to promote thinking in this area no different than anything else," Quincey said. "Unless we spend time focusing on it, then we won't find ourselves in the forefront of these technologies."


Chino, Fontana, Coachella, Desert Hot Springs and Corona are also taking part in the initiative.

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"We don't anticipate every city to join, but if it does happen that would be really great," said Deniene Husted, communications director for the Corona-based Green Valley Initiative.

"What we are looking for is broad support from the region because as a region we speak a lot louder than individual cities."

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## Judge issues go-ahead for perchlorate hearings

Jason Pesick, Staff Writer

Posted: 01/17/2009 03:09:45 PM PST

A Los Angeles Superior Court judge decided Thursday that state hearings to determine whether three companies need to help clean up contaminated drinking water in the Rialto area can proceed.

The State Water Resources Control Board has been trying since 2007 to hold hearings to decide whether Black & Decker, Goodrich and Pyro Spectaculars should pay to help cleanup the local water supply that is contaminated with a number of chemicals, including perchlorate.

The perchlorate, which interferes with the thyroid gland, is flowing from an industrial area in northern Rialto through the city and toward the Santa Ana River. The thyroid gland is necessary for mental and physical development, though local water purveyors are either treating highly contaminated water or not serving it to residents.

"The point is that it is a green light with conditions to proceed, to do what the State Water Board has wanted to do for a few years now," said Bill Rukeyser, the board's spokesman.

In 2007, the accused companies sued, saying the state's process was so flawed, the hearings could

not go forward. Acting board Executive Director Thomas Howard announced in 2007 that the board would take the matter from a local board that found itself unable to adjudicate the case.

A Los Angeles judge who has since retired halted the hearings to decide whether the companies were right. Then in the spring of 2008, the full state board tried to fix that potential procedural error by voting to take the case. The companies then sued again.

Though he has not yet issued his written order, Judge James Chalfant decided after oral arguments Thursday that the board had indeed erred in 2007 when Howard announced the board would take the case from the local board, but Chalfant also said the state board could hold hearings because of the 2008 vote by the full board.

The state board's lawyers will meet early this week and most likely send a letter to all the parties in the case explaining the board's plans "to get the hearings back on track," Rukeyser said.

"The process has been validated. It makes sense that you have a body which the law set up as being quasi judicial. It makes sense that state law has been validated," Rukeyser said.

Though state officials say the judge only had minor procedural quibbles with the board's actions, the judge's ruling that a state staffer could not exercise certain board powers may

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indicate many staff actions exceed staff authority on a whole host of matters not related to the Rialto case.

Regardless of what the state board decides to do next about perchlorate in Rialto, a number of suspected polluters in the case - Rialto's lawyers have identified dozens - are in settlement talks with officials from the Riverside-based Santa Ana Regional Water Quality Control Board to resolve the ongoing saga involving Rialto and Colton's water.

"We're very much engaged and focused on those and those remain our priority," said Goodrich spokesman Patrick Palmer.

The U.S. Environmental Protection Agency has also brought in a Superfund team because of fears the state will not be able to clean up the basin.

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## Water rationing may come by early spring

Ben Baeder, Staff Writer

Created: 01/13/2009 10:47:44 PM PST

There is a 50 percent chance Southern California's main water agency could ration water deliveries by spring, according to a report released Tuesday.

Previously, the agency said there was a 33 percent chance of rationing.

"We would basically be ... capping water supplies to our local agencies," said Bob Muir, a spokesman for the Metropolitan Water District of Southern California.

The MWD is the umbrella agency responsible for providing water to smaller water districts and cities serving 18 million Southern Californians.

If the rationing takes place, agencies that dole out too much water would have to pay extra.

"It imposes some pretty sizeable penalties, triple penalties," said Tim Jochem, general manager of the Upper San Gabriel Valley Municipal Water District, which buys some of its water from the MWD.

"It'll take water from like \$500 an acre-foot to like \$1,500 an acre-foot," Jochem said.

The Upper District covers most of the San Gabriel Valley, stretching from South Pasadena to Glendora.

In a worst-case scenario, the plan would likely result in higher water prices, said Tony Fellow, a director of the Upper District and MWD.

"What's going to happen, is you're going to see water prices going up," he said. "Water has been cheap. I hate to say that, because I pay a lot here where I live in Arcadia. But it's going to be like gasoline."

The policy change followed a decision by the Department of Fish and Game to restrict water deliveries to Southern California from waters near Sacramento.

Pumping water into aqueducts kills the delta smelt, according to the Department of Fish and Game.

"The population of the delta smelt has dropped to an all-time low," said Harry Morse, a spokesman for Department of Fish and Game.

The MWD gets up to 70 percent of its water from the Sacramento area, Muir said.

This year, the MWD is eligible for only 15 percent of its normal share of Sacramento-area water, he said.

In addition, drought conditions near Sacramento - possibly caused by the La Niña weather condition - are further decreasing the habitat of

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the small fish.

"The state needs to quit messing around and get something done," he said.

La Ni a's cold-water conditions force Alaskan storms to stay north of California, often leading to dry winters.

Biologists think that leaving more water in the San Joaquin/Sacramento delta will help fish breed.

Because many water agencies in the San Gabriel Valley have their own wells, the area is somewhat buffered from scaling back by the MWD, said Brian Dickinson, general manager of the Valley County Water District in Baldwin Park.

In Whittier, Councilman Greg Nordbak oversees water delivery to about half of his city. He also sits on the San Gabriel Basin Water Quality Authority, which is charged to clean up the area's groundwater.

He said it would be "disappointing" if the water agencies started penalizing homeowners and other water users.

"I think government can get carried away with these penalties," he said. "I'd like to see them do a voluntary program with incentives. Give them some incentives to reduce and then put some teeth in it if people go too far over."

Fellow said California needs to get serious about finding a long-term solution for water needs, such as taking water from further north in the river system near Sacramento.

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# Ontario helping homeowners save water

Liset Marquez, Staff Writer

Created: 01/11/2009 07:08:31 AM PST

ONTARIO - The city is in the process of converting some public and private landscapes to implement a water efficient design.

The new design blends native and drought-tolerant plants and trees into low-maintenance, sustainable water-saving landscapes, said Brent Schultz, Housing & Neighborhood Revitalization director for the city.

"Southern California is an area that doesn't get a lot of water so all the water we save now can go to some other need in the city," Schultz said.

The region is facing several issues with its water supply, from drought to low snowmelt runoff and court-ordered water restrictions in the Sacramento-San Joaquin Delta region.

The city has been engaged in water conservation efforts in partnership with

the Inland Empire Utilities Agency, Metropolitan Water District and the U.S. Bureau of Reclamation.

With the recent collaborations, the CARES program (Code Enforcement, Arterial Street Improvement, RE-Leaf Program, Sidewalk Program - Safe Route to School) has installed California friendly landscape in seven homes and there are plans for seven more, Schultz said.

The CARES program improves homes located in a designated area. The city is currently working on the homes in the Jay Littleton Park area.

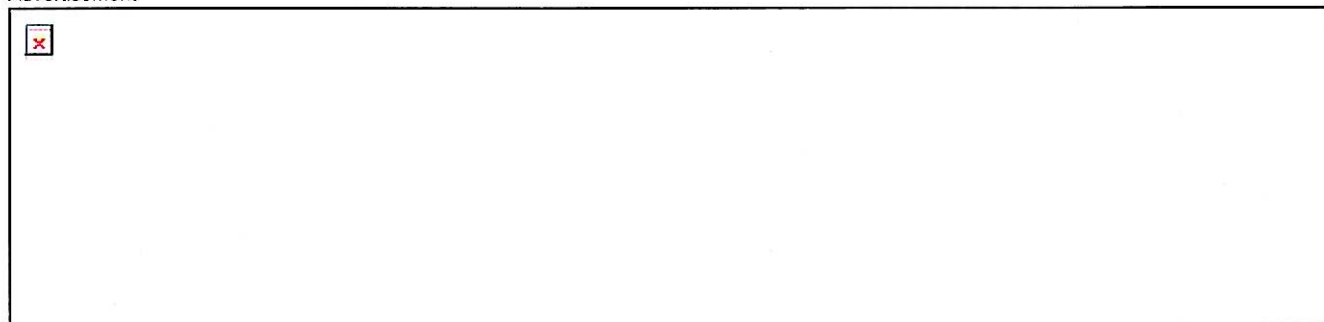
About six months ago Schultz and Scott Melendrez, a senior analyst in the department, met with officials at Inland Empire Utilities Agency regarding a partnership.

Besides receiving technical assistance, the city was also able to secure a grant with the water agency to help out with some of the costs.

Incorporating a water efficient design costs about \$800 more per home, Schultz said.

Melendrez said they are not sure how

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much the changes will save residents or the city but will know more once the year end reports are available.

"We think it's well worth the effort because it helps us with water conservation and also creating a sustainable community," he said.

Besides drought tolerant plants, the new design also comes with a state-of-the art irrigation system, The new system uses less water and has no water runoff, Melendrez said.

The CARES program is not the only one in the city making the switch to be more water efficient. In September the City Council passed a resolution to promote voluntary water conservation measures throughout the city.

Recently the Parks and Maintenance Department converted a landscape garden along the Euclid Avenue median near the 60 Freeway to be water efficient.

There are plans to convert more city-owned properties such as medians and parks in the next couple of months, said Ken Jeske, director of Public Works/Community Services.

There are also several businesses in the community that are now using recycled or nonpotable water in their landscape.

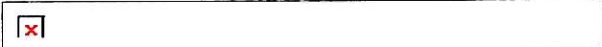
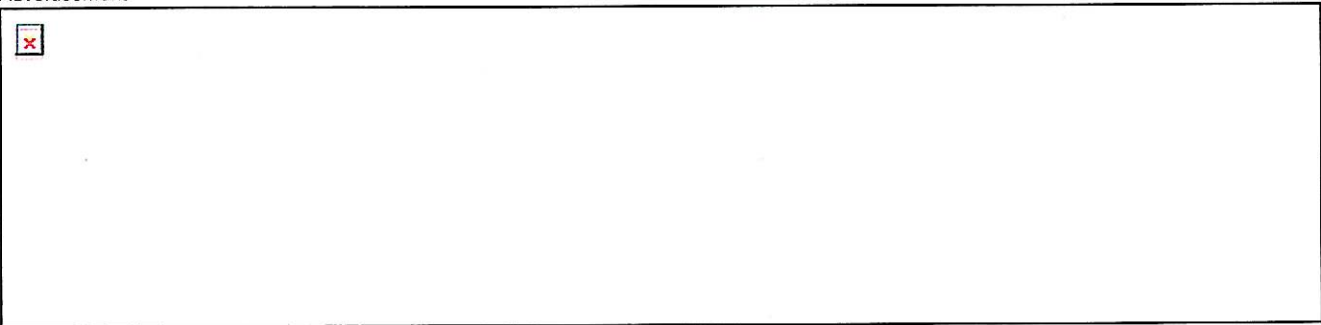
The city is in the process of converting its own facilities, where possible, to recycled water, Jeske said.

To help with conservation efforts, Jeske said residents can look to their own lawns. Residents need to make sure they have adjusted the sprinklers to accurately reflect the current conditions.

"That's a key element to saving water," Jeske said. "The water we save right now will become available to us for the summer."

To find out if you qualify for the CARES program contact the Ontario Housing and Neighborhood Revitalization Agency at (909) 395-2006 or [here](#) .

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## Water project to commence on Central

Neil Nisperos, Staff Writer

Created: 01/08/2009 05:01:48 PM PST

CHINO - Scheduling a water project on Central Avenue during night hours will result in higher costs for the city, but it prevents the loss of daytime water service to nearby businesses.

The City Council on Tuesday approved a \$145,900 contract to AR Sarmiento Inc., of La Habra, for work related to deactivation of a leaky water main dating from 1912, and the rerouting of water lines from nearby businesses to a newer 1960s-era main.

"This project is required because the six-inch water main was constructed in 1912, and the deterioration is so bad now, our water utilities people are fixing water leaks almost on a weekly basis, sometimes several times a week, and this line needs to be repaired," said City Engineer Jim Hill.

"The 16-inch main was constructed in the 1960s, but it's in relatively good

condition," he added.

To accommodate surrounding businesses that depend on daytime water service, including the Canyon Ridge Hospital mental health facility and three restaurants, work will be done from 9 p. m. to 5 a.m.

Work along Central between Schaefer and Chino avenues, is expected to begin later this month, for a period of about 8 to 9 weeks, "weather allowing," officials said.

"There will be lane closures and, at some point, a possible road closure," said Jose Alire, Chino public works director.

The council had earlier approved a budget of \$136,000 for the design and construction of the water project.

"Our original estimate was based on the idea that we would do the work during the day, however Canyon Ridge Hospital and other businesses down the street need uninterrupted water services during the day and they requested that we perform the work in the evening," said Hill.

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"For this reason, the specifications were such that the work did require the work be done at night and this requirement did increase the level of the bids."

About \$10,000 has been expended for engineering services leaving \$126,000 in the budget remaining. Council also approved a request for \$14,600 for contingencies to fund unanticipated work and \$1,500 for construction engineering services.

Since the total construction cost, including contingencies and construction engineering services is estimated at \$162,000, an appropriation of \$36,000 from the Water Fund was approved. Officials said there is enough money in the Water Fund fund reserves to accommodate the additional cost.

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## MWD vice chairman removed from water board

Posted: 01/07/2009 12:11:05 PM PST

EL MONTE - An elected water official who has served for 16 years on the board to Southern California's largest water board was replaced on Tuesday.

The El Monte-based Upper San Gabriel Valley Municipal Water District voted 3-1 on Tuesday to replace Director Tony Fellow, who has served as Vice Chairman to the Metropolitan Water District of Southern California for the three years, with Director Bill Robinson.

Robinson has served as director on the Upper District for nearly 20 years, and Fellow was elected in 1990.

"It was a political vote," said Fellow, who was the lone dissenting vote. "It is very odd to replace the first vice chairman who has represented the San Gabriel Valley with distinction."

The Metropolitan Water District of Southern California imports water from

the Bay Area and from the Colorado River. The 37 member board is made up of appointed and elected water directors from other water agencies throughout Southern California.

MWD Chairman Timothy Brick said he was disappointed to hear Fellow would no longer serve as "his right hand man." "Tony plays an instrumental role in shaping legislative policy, and he is an absolutely indispensable director," Brick said on Wednesday. "He's been really a leader in shaping public policy in (MWD) for all of Southern California."

-Jennifer McLain, Staff Writer

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## Eastern Municipal Water District OKs modified tiered rate system



07:22 PM PST on Wednesday, January 7, 2009

By JANET ZIMMERMAN  
The Press-Enterprise

One of the Inland region's largest water agencies approved a tiered rate system Wednesday but adopted a lower per-unit cost following complaints from almost 200 customers, many of them on fixed incomes.

The board of directors for Eastern Municipal Water District, which serves 130,000 households in Moreno Valley, Hemet and other parts of western Riverside County, approved the rates to take effect March 1. The system penalizes household that use excessive amounts.

"We don't have any water to waste," board President Ronald Sullivan said. "Those that don't care can pay the freight."

The board has received more than 150 letters from customers who objected to the tiered system or had concerns that it might increase their bills. Another two dozen people attended a public hearing Wednesday at the board's Perris headquarters.

The board approved tiered rates that are 5 to 33 cents lower than the staff had recommended, depending on the tier. It will mean delaying \$4 million in spending for operations and maintenance.

Board members said tiered rates are a proven tool for curbing water waste.

The board also raised the daily service charge, effective next month, to cover higher prices charged by the district's supplier, Metropolitan Water District. The 6.2 percent increase will cost most customers about \$2.71 per month.

Similar rate systems, which impose higher prices on heavy consumers, are used nationwide to encourage water conservation.

The issue has become more critical in light of a statewide drought, depleted reservoirs and court rulings that have further reduced supplies.

Water districts that have implemented tiered rates report a 22 percent to 37 percent drop in water use.



Other areas that have adopted or are considering such systems include Coachella, Redlands, Rancho Cucamonga, southwest Riverside County, San Francisco and several cities in Nevada and North Carolina.

Now, Eastern's customers pay a flat \$1.91 per unit of water no matter how much they use.

Eastern customers will be given a "budget" of how much water they are expected to need based on household size, lot dimensions and weather conditions.

Preview bills in February and March will give customers an idea of how much they will pay under the new system, and the district's Web site, [www.emwd.org](http://www.emwd.org), now offers a calculator to figure the cost. The new rates will show up on April bills.

"Most people's fears will be eliminated once they see their shadow bills and how it works out for them," district spokesman Peter Odencrans said.

The budgets are based on a family of three for single-family homes, with each person being allotted 60 gallons per day, and 3,000 to 6,000 square feet of landscaping.

Those with acreage, large animals and large families will be able to apply for a variance.

The district estimates that more than 70 percent of customers will be within their water budgets. About 28 percent of users will be penalized for high use, unless they cut back or apply for a variance, according to the district.

For those who have already taken conservation measures, the district offers free home water audits to see where further cuts can be made.

Most of the speakers at Wednesday's meeting were angry, calling the system unfair in light of recent economic upheaval.

"There should be some consideration for those who have done all you asked" toward conservation, said Jackie McDonald, of Perris.

She told the board that while she and her husband, who are on a fixed income, have no grass, they do have fruit trees, a vegetable garden and cattle.

"Stop approving new tracts if you don't have enough water for the people who are already here," she said.

Winchester resident Dennis Kaczor urged the crowd to calm down, because they haven't seen what their bills will be.

"I think we're being crazy to jump up and down at this point.

"If we conserve ... they don't have to buy as much water and our rates will go down," he said.

*Reach Janet Zimmerman at 951-368-9586 or [jzimmerman@PE.com](mailto:jzimmerman@PE.com)*

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### **New Water Rates**

Eastern Municipal Water District is among the first Inland water agencies to penalize consumers who waste water. The new rates become effective March 1.

Customers now pay a flat rate of \$1.91 per unit (748 gallons) of water. Rates would vary under the new system:

Tier 1: Indoor use, based on number in household: \$1.30

Tier 2: Outdoor use, based on weather and size of irrigated area: \$2.382

Tier 3: Excessive use, for consumption exceeding the combined budget for tiers 1 and 2: \$4.26

Tier 4: Wasteful use, when consumption exceeds 150 percent of water budget: \$7.80

### **Comparisons based on 18 units:**

Current rates: \$44.30

Flat-rate with base rate increase: \$47.08

Tiered rates, with no excessive or wasteful use: \$45.68

Source: Eastern Municipal Water District

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## Test of snow pack shows some improvement in water supply

Rebecca Kimitch, Staff Writer  
Created: 01/04/2009 02:59:16 PM PST

California's mountains from south to north may be capped with beautiful white snow, but so far it's looking like the state will face its third dry year in a row.

The results of the state's first measurement of snow pack this season are an improvement over last year, officials said last week. However, they don't promise enough water to secure water supplies and neither do long-term weather forecasts.

Despite storms that hit the state before Christmas, officials are once again urging conservation and threatening water rationing.

Like many people heading the the mountains, Frank Gehrke threw his skis in his truck and headed for the hills. He was greeted by sunshine, 45-degree weather, and exactly 41 inches of snow pack.

Gehrke is the state's chief snow surveyor for the Department of Water Resources. His trip to the Sierras took him to the department's Phillips Station, 90 miles east of Sacramento near South Lake Tahoe, at 6,800 feet. There he plunged into the snow an aluminum tube about 1.5 inches in diameter, with a sharpened steel cutter on one end.

What he found by measuring and weighing the snow depth is that the snow that has so far fallen in that area is the equivalent of approximately 10 inches of water - about 83 percent of the average for this time of year. Last year at this point, snow pack was at about 60 percent. Throughout the state, precipitation is about 80 to 90 percent of normal, according to DWR senior meteorologist

Elissa Lynn.

Snow pack measurements are necessary to help officials determine how much water can be delivered to Southern California. Earlier this year, officials said they could only deliver 15 percent of requested amounts.

Two years of drought have left state reservoirs at half what they should be.

Though this year is looking better, the National Oceanic and Atmospheric Administration said that La Niña is back, meaning the Pacific will be colder than normal and rain and snowfall could end abruptly by March, Lynn said.

"We are worried we will have our third dry year if this happens," she said.

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Southern California gets about 30 percent of its water from the Sierras. That supply has been slashed not only by drought, but also by recent regulatory decisions meant to prevent the environmental collapse of the Sacramento-San Joaquin River Delta. The delta serves as the epicenter of California's water delivery system - pumping northern water south.

To make up for the shortfall, Southern California has had to increasingly rely on local water sources.

"We know some areas have already found alternatives, and gone to their reserves, and those reserves may be running out. If we don't end up with more precipitation in Northern California, if we have a third dry year, we are going to end up with a supply crisis," Lynn said.

The Main San Gabriel Basin Watermaster, which is responsible for managing groundwater in the Main San Gabriel Basin, has already asked cities to cut water demand by 20 percent.

The Watermaster won't know until this week the effects of recent rain and snow on groundwater levels, but director Carol Williams said she certainly hopes there is more to come.

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"If that is all we have to look forward to, we are going to see a big push for more conservation," she said.

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## Water retailer reports \$4.5 million earnings for 3Q

Matt Wrye, Staff Writer

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On Friday, American States Water Co. reported \$4.5 million in earnings for its third quarter, which ended Sept. 30.

The \$590 million market-capitalized water and electricity retailer made \$19.1 million in the first nine months of 2008 versus \$22 million over the same period in 2007.

Robert Spowls became president and CEO of the San Dimas-based company on Thursday.

Spowls, who was formerly chief financial officer, replaces Floyd Wicks, who will receive a \$105,000 cash bonus for his performance in 2008.

Spowls couldn't be reached for comment on Friday afternoon.

Eva Tang will become chief financial officer. Tang is the former vice president of finance for American States' main subsidiary, Golden State Water Co.

New York-based investment banking firm Jesup and Lamont upgraded American States shares from "hold" to "buy" status in December.

Like other publicly traded companies, American States shares experienced major volatility over the last few months as American stock markets got jolted by 2008's financial crisis and recession projections.

The company - founded in 1929 - saw its income and stock price steadily gain momentum since 1990. Earnings were almost \$12 million in 2003 and grew to more than \$28 million in 2007. Shares peaked at \$45 in late 2007.

Most of American States Water Co.'s earnings comes from its Golden State Water division, which sells water to about 240,000 customers and distributes electricity to more than 20,500 customers across California and Arizona.

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