

RESOLUTION

OF NON-AGRICULTURAL POOL COMMITTEE

The Non-Agricultural Pool Committee (the “NAP”), has received a report that on today’s date the Appropriative Pool Committee (the “AP”) adopted a resolution in the form attached as Exhibit A hereto. In reliance thereon, the NAP, for itself and each of its members voting in favor of this resolution, hereby resolve and affirm that they do not and shall not oppose (or otherwise file or offer to the Court any negative comments about) the Appropriative Pool Pooling Plan and CAMA Amendments which are attached as an exhibit to the AP’s resolution, or entry of an order approving the amendments.

Date: December 20, 2018

In favor: California Speedway Corporation
California Steel Industries, Inc.
CalMat Co.
City of Ontario
County of San Bernardino
Hamner Park Associates
Monte Vista Water District

Against: None

Abstention: None

EXHIBIT A

APPROPRIATIVE POOL

RESOLUTION

The Appropriative Pool, for itself and each of its members voting in favor of this resolution, hereby resolve and affirm that they do not and shall not oppose (or otherwise file or offer to the Court any negative comments about) either the Motion Regarding Amendment of Pooling Plan for the Non-Agricultural Pool filed by the Non-Agricultural Pool Committee (the "NAP") on or about October 3, 2018, or entry of the proposed order submitted by the NAP thereon.

This resolution is contingent upon and shall be effective and irrevocable upon adoption by the NAP, for itself and each of its members voting in favor of the resolution, of a resolution that the NAP will not oppose (or otherwise file or offer to the Court any negative comments about) either the Appropriative Pool Pooling Plan and CAMA Amendments, which are attached, or entry of an order approving the amendments.

Date: December 20, 2018

In favor:

- Fontana Water Company
- City of Chino
- City of Chino Hills
- City of Ontario
- City of Pomona
- Cucamonga Valley Water District
- Jurupa Community Services District
- Monte Vista Water District
- Nicholson Trust

Against: None

Abstention: San Antonio Water Company

Exhibit A

Proposed Changes to Appropriative Pool Pooling Plan and CAMA

1. **Appropriative Pool Pooling Plan.** The introductory sentence to Exhibit H, ¶10 of the Judgment is amended to read as follows:

10. Unallocated Safe Yield Water. To the extent that, in any ~~year~~ ~~five years~~, any portion of the share of Safe Yield allocated to the Overlying (Agricultural) Pool is not produced, such water shall be available for reallocation to members of the Appropriative Pool, as follows:

2. **Early Transfer**

- A. Section 1.1(o) of the Peace Agreement is amended to read as follows:

(o) “Early Transfer” means the reallocation of Safe Yield not Produced by the Agricultural Pool to the Appropriative Pool on an annual basis *after the allocations in subdivisions (a)(1) and (a)(2) of* ~~rather than according to the five year increment described in Paragraph 10 of Exhibit “H” of the Judgment;~~

- B. Section 5.3(g) of the Peace Agreement is amended to read as follows:

(g) Watermaster shall approve an “Early Transfer” of water to the Appropriative Pool ~~in an amount not less than 32,800 acre feet per year that is the expected approximate quantity of water not Produced by the Agricultural Pool~~ *on an annual basis* ~~The quantity of water subject to Early Transfer under this paragraph shall be the greater of (i) 32,800 acre feet of (ii) 32,800 acre feet plus the actual quantity of water not Produced by the Agricultural Pool for that Fiscal Year that is remaining after all the land use conversions are satisfied pursuant to 5.3(h) below.~~

- (i) The Early Transfer water shall be annually allocated among the members of the Appropriative Pool in accordance with their pro-rata share of the initial Safe Yield.
- (ii) The Transfer shall not limit the Production right of the Agricultural Pool under the Judgment to Produce up to 82,800 acre-feet of water in any year or 414,000 acre-feet in any five years as provided in the Judgment.
- (iii) The combined Production of all parties to the Judgment shall not cause a Replenishment assessment on the members of the Agricultural Pool. The Agricultural Pool shall be responsible for any Replenishment obligation created by the Agricultural Pool Producing more than 414,000 acre-feet in any five-year period.
- (iv) The parties to the Judgment and Watermaster shall Produce water in accordance with the Operating Safe Yield and shall procure sufficient quantities of Replenishment Water to satisfy over-Production requirements, whatever they may be, and avoid Material Physical Injury to any party to the Judgment or the Basin;

- (v) Nothing herein shall be construed as modifying the procedures or voting rights within or by the members of the Agricultural Pool.
3. **Conversion Claims.** Subparagraph (b)(3)(i) of Exhibit H, ¶ 10 of the Judgment is amended to read as follows:
- (i) For the term of the Peace Agreement *and any extension thereof*, in any year in which sufficient unallocated Safe Yield from the Overlying (Agricultural) Pool is available for such conversion claims, Watermaster shall allocate to each appropriator with a conversion claim 2.0 acre-feet of unallocated Safe Yield water for each converted acre for which conversion has been approved and recorded by the Watermaster.
4. **Controlled Overdraft.** Pursuant to section 7.2(e)(ii) of the Peace II Agreement, 175,000 acre-feet of controlled overdraft (Re-Operation water) will be allocated to Desalter replenishment over a 17-year period, beginning in 2013-14 and ending in 2029-30, according to the schedule attached as Exhibit A.
5. **New Yield.** Section 7.1 of the Peace II Agreement, entitled “New Yield Attributable to Desalters,” is deleted. It is replaced by new section 6.2(b)(ii) as set forth in section 6 below.
6. **Desalter Replenishment.** Section 6.2(b) of the Peace II Agreement is amended to read as follows:
- (b) To the extent available credits are insufficient to fully offset the quantity of groundwater production attributable to the Desalters, Watermaster will use water or revenue obtained by levying the following assessments among the members of the Overlying (Non-Agricultural) Pool and the Appropriative Pool to meet any remaining replenishment obligation as follows.
- (i) A Special OBMP Assessment against the Overlying (Non-Agricultural) Pool as more specifically authorized and described in amendment to Exhibit “G” paragraph ~~8(e)~~ **5(c)** to the Judgment will be dedicated by Watermaster to further off-set replenishment of the Desalters. However, to the extent there is no remaining replenishment obligation attributable to the Desalters in any year after applying the off-sets set forth in 6.2(a), the OBMP Special Assessment levied by Watermaster will be distributed as provided in section 9.2 below. The Special OBMP Assessment will be assessed pro-rata on each member’s share of Safe Yield, ~~followed by~~
- (ii) *The members of the Appropriative Pool will contribute a total of 10,000 afy toward Desalter replenishment, allocated among Appropriative Pool members as follows:*
- (1) *85% of the total (8,500 afy) will be allocated according to the Operating Safe Yield percentage of each Appropriative Pool member; and*
- (2) *15% of the total (1,500 afy) will be allocated according to each land use conversion agency’s percentage of the total land use conversion claims, based on the actual land use conversion allocations of the year.*

The annual desalter replenishment obligation contribution of each Appropriative Pool member will be calculated using the following formula:

*Desalter replenishment obligation contribution = (8,500 * % Appropriator's share of total initial 49,834 afy Operating Safe Yield) + (1,500 * % Appropriator's proportional share of that year's total conversion claims)*

A sample calculation of the desalter replenishment obligation contribution for each Appropriative Pool member is shown on Exhibit __ to this Peace II Agreement, as amended.

- (iii) ~~(ii)~~ *A Replenishment Assessment against the Appropriative Pool for any remaining Desalter replenishment obligation after applying both 6(b)(i) and 6(b)(ii), allocated pro-rata to each Appropriative Pool member according to the combined total of the member's share of Operating Safe Yield and the member's Adjusted Physical Production, as defined below. pro-rata based on each Producer's combined total share of Operating Safe Yield and the previous year's actual production. Desalter Production is excluded from this calculation. A sample calculation of the allocation of the remaining desalter obligation is shown in Exhibit __ to this Peace II Agreement. However, if there is a material reduction in the net cost of Desalter product water to the purchasers of product water, Watermaster may re-evaluate whether to continue the exclusion of Desalter Production but only after giving due regard to the contractual commitment of the parties.*
- (iv) *Adjusted Physical Production is the Appropriative Pool member's total combined physical production (i.e., all groundwater pumped or produced by the Appropriative Pool member's groundwater wells in the Chino Basin, including water transferred from the Non-Agricultural Pool under Exhibit G, ¶9 of the Judgment), with the following adjustments:*
- (1) *In the case of assignments among Appropriative Pool members, or between Appropriative Pool members and Non-Agricultural Pool members under Exhibit G, ¶6 of the Judgment, resulting in pumping or production by one party to the Judgment for use by another party to the Judgment, the production for purposes of Adjusted Physical Production shall be assigned to the party making beneficial use of the water, not the actual producer.*
 - (2) *Production offset credits pursuant to voluntary agreements under section 5.3(i) of the Peace Agreement are calculated at 50% of the total voluntary agreement credit in the determination of Adjusted Physical Production for an Appropriative Pool member participating in a voluntary agreement for that year. In the determination of Adjusted Physical Production, the voluntary agreement credit is subtracted from physical production. Reduction of the voluntary agreement credit from 100% to 50% is applicable only to the calculation of the Adjusted Physical Production hereunder; but in all other applications, the voluntary agreement credit shall remain unchanged (i.e. remain at 100%).*

- (3) *Production associated with approved storage and recovery programs (e.g., Dry Year Yield recovery program with MWD) is not counted in Adjusted Physical Production, except for in-lieu participation in such programs: in-lieu put quantities shall be added to physical production, and in-lieu take quantities shall be subtracted from physical production.*
 - (4) *Metered pump-to-waste Production that is determined by Watermaster to be subsequently recharged to the groundwater basin is deducted from physical production; unmetered pump-to-waste production that is determined by Watermaster not to be subsequently recharged to the groundwater basin is added to physical production.*
 - (5) *The Appropriative Pool may approve, by unanimous vote, the inclusion of other items in the determination of Adjusted Physical Production, with the exception of Non-Agricultural Pool water assigned or transferred under Exhibit G, ¶6 or ¶10 of the Judgment.*
 - (v) *Any member of the Non-Agricultural Pool that is also a member of the Appropriative Pool may elect to transfer (a) some or all of the annual share of Operating Safe Yield of the transferor in and for the year in which the transfer occurs (except that such transfer shall exclude any dedication to the Watermaster required by section 6.2(b)(1)), and (b) any quantity of water held in storage by the transferor (including without limitation carryover and excess carryover) to any member of the Appropriative Pool, in either case at any price that the transferor and transferee may deem appropriate and for the purpose of satisfying the transferee's desalter replenishment obligation. The transferee's desalter replenishment obligation shall be credited by the number of acre-feet so transferred.*
 - (vi) ~~(iii)~~ *The quantification of any Party's share of Operating Safe Yield does not include either land use conversions or Early Transfers.*
7. **Allocation of Non-Agricultural Pool OBMP Special Assessment.** The introductory sentence of section 9.2(a) of the Peace II Agreement is amended to read as follows:
- a. For a period of ten years from the effective date of the Peace II Measures, any water (or financial equivalent) that may be contributed from the Overlying (Non-Agricultural) Pool in accordance with paragraph ~~8(e)~~-5(c) of Exhibit G to the Judgment (as amended) will be apportioned among the members of the Appropriative Pool in each year as follows: