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5
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7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN BERNARDINO

10
11 CHINO BASIN MUNICIPAL WATER
DISTRICT,
12
13 Plaintiff,
14 v.
15 CITY OF CHINO, et al.,
16 Defendants.

Case No. RCV 51010

BRIEF OF THE AG POOL
COMMITTEE OF THE CHINO
BASIN REGARDING WATERMASTER
MEETING OF SEPTEMBER 15,
1999

17 I

18 INTRODUCTION

19 The Agricultural Pool of the Chino Basin ("Ag Pool") submits
20 the following memorandum relating to the approval of the Optimum
21 Basin Management Program ("OBMP") report. The Ag Pool supports
22 the recommendation of the Watermaster in its August 31, 1999
23 Memorandum of Points and Authorities that Section 5 of the OBMP
24 report should be studied further before submitting a report. The
25 Ag Pool further supports court approval of OBMP report sections 1
26 through 4 as a Report only, if the Watermaster chooses to approve
27 sections 1 through 4 without further study.

28 The Ag Pool disagrees with the factual analysis and

1 conclusions found in OBMP report sections 1 through 4,
2 particularly section 2, and believes that further study is
3 necessary to characterize the historical causes of the water
4 quality problems facing the Chino Basin, or in the alternative,
5 the portion of the OBMP which seeks to characterize these causes
6 be deleted as unnecessary. The Ag Pool does not disagree with
7 the Goals of the OBMP found in section 3. The Ag Pool agrees
8 that the Program elements found in Section 4 should be
9 implemented. Finally as will be seen further below, the Ag Pool
10 strongly objects to section 5 and its default financing tool of
11 assessment of the pools. As section 5 of the OBMP is still set
12 for hearing, Ag Pool comments relating to section 5 are set forth
13 hereafter.

14 II

15 THE OBMP DOES NOT ADEQUATELY ADDRESS THE DEGRADATION OF WATER 16 QUALITY CAUSED BY THE OVERLYING APPROPRIATIVE POOL

17 The OBMP does not adequately address degradation of
18 groundwater due to the effect of the recharge and pumping
19 patterns in the northern portion of the Chino Basin. The
20 position of the Ag Pool is that the degradation of water quality
21 in the south half of the basin is largely caused by the
22 historical citrus operation and the interception of the
23 groundwater by the Appropriative Pool. The expenses of the
24 solution should be borne by the Appropriative Pool.

25 It is also unfortunate that the OBMP addresses in minute
26 detail the impact upon groundwater of the historical agricultural
27 practices in the southern portions of the basin. The Ag Pool
28 believes the detailed analysis regarding the impact upon the

1 groundwater based upon historic agricultural practices is
2 unproductive and misleading. Testimony will be presented on
3 September 15, 1999, indicating that the calculations are in
4 error. The contaminated nature of the basin is the legacy of
5 many generations of different farming and dairy practices, as
6 well as the historic pumping patterns of municipal wells. The
7 current owners of former agricultural property should not bear
8 this burden simply due to the history of this basin, regardless
9 of whether it has always been agricultural property or whether it
10 is residential property which constitutes former agricultural
11 property.

12 The OBMP suggests the historic agricultural use is to blame
13 for the poor groundwater quality. It fails to analyze the
14 historic "flushing action" of the water influx from the north and
15 discharge to the south thereby improving groundwater quality.
16 It also fails to adequately address the fact that the water
17 influx in the north is intercepted by the Appropriative Pool
18 wells on the north half of the basin causing the recirculation of
19 water and long term degradation of water quality in the south.

20 The only mention of this very significant phenomenon is
21 found at section 4 page 16. If agricultural production were to
22 cease, the rising groundwater discharge into the Santa Ana River
23 would have an associated TDS concentration of 1,300 milligrams
24 per liter and a nitrogen concentration of 30 milligrams per
25 liter. Moreover, the ability to produce in the north would be
26 reduced and the waste discharge requirements would become more
27 stringent. Current agricultural production in the southern
28 portion of the basin is critical to improvement of the water

1 quality and maintaining the water quantity in the Chino basin.

2 Any "basin management plan" must analyze ways to encourage
3 Agricultural production, not discourage it. The OBMP fails to
4 address and certainly does not analyze or estimate the impact on
5 the basin from reduced agricultural water production which would
6 certainly occur if an assessment were placed upon such
7 production.

8 Finally, little or no analysis has been done relating to the
9 phenomenon that the agricultural production during the last 20
10 years may not have reached the groundwater due to perched
11 aquifers or minimal water recharge occurring in the south portion
12 of the basin. In order to properly assess the physical state of
13 the Basin which is stated intent of Section 2 of the OBMP,
14 further study is necessary. Ag Pool does not dispute that there
15 is a water quality problem in the Chino Basin, and has no
16 objection to those findings in Section 2, it does dispute the
17 methodology and incomplete studies which formed many of the
18 conclusions set forth in Section 2.

19 III

20 THE HISTORICAL DATA HAS NOT BEEN ADEQUATELY ADDRESSED

21 In the event Section 5 is to be considered, there are
22 important historical agreements and facts which have not been
23 addressed by the OBMP that critically bear upon the financial
24 allocation of responsibilities in the future. These include the
25 Judgment provisions as well as the circumstances and intent of
26 the Judgment, the Agreement pertaining to the first Desalter
27 entered into in July 1996 as well as Resolution No. 93-10-1
28 relating to Replenishment Water for the Chino Basin Desalters.

1 1. The Chino Basin Judgment. The Chino Basin Judgment (Exhibit
2 "A" hereto) filed January 30, 1978, was crafted in a manner not
3 consistent with similar Basins. The parties acknowledged and
4 agreed that the Overlying Agricultural Pool would not be given
5 ownership or a transferrable water right. The parties
6 anticipated that Agriculture would slowly be phased out of the
7 basin due to development which was predicted even in the 1970's.
8 The trade-off for this diminishing and restricted water right was
9 the agreement that the Ag Pool would not be liable for the
10 increased cost of replenishment water or for the cost to import
11 water due to the overdraft in the Chino Basin (unless it
12 overproduces). The costs of curing the shortfall in the water
13 quantity fell upon the remaining pools. The Ag Pool could be
14 responsible only for its share of Administrative Expenses
15 described in section 54 of the Judgment. These expenses include:
16 "(a) General Watermaster Administrative Expense shall include
17 office rental, general personnel expense, supplies and office
18 equipment, and related incidental expense and general overhead."
19 "(b) Special Project Expense shall consist of special
20 engineering, economic or other studies, litigation expense, meter
21 testing or other major operating expenses. Each such project
22 shall be assigned a Task Order number and shall be separately
23 budgeted and accounted for."
24 "General Watermaster administrative expense shall be allocated
25 and assessed against the respective pools based upon allocations
26 made by the Watermaster, who shall make such allocations based
27 upon generally accepted cost accounting methods. Special Project
28 Expense shall be allocated to a specific pool, or any portion

1 thereof, only upon the basis of prior express and finding of
2 benefit by the Pool Committee, or pursuant to written order of
3 the Court."

4 The Judgment does not anticipate undertaking a project in
5 the magnitude anticipated by the OBMP, nor, does it appear that
6 the Watermaster will be the entity owning or operating the
7 facility. As will be demonstrated further below, the OBMP effort
8 to maximize water use within the basin is best addressed by
9 assessments upon those parties demanding the additional supply.
10 The Watermaster certainly does have the authority under the
11 Judgment to undertake the OBMP as a study as well as the
12 engineering, testing and other monitoring functions required in
13 the OBMP for the future. The Watermaster does not have the
14 authority under the Judgment to undertake construction or funding
15 of projects to increase water quality or water quantity. A vast
16 array of other public agencies have the jurisdiction and
17 responsibility to resolve water quality concerns. Moreover, the
18 projects which are to be implemented constitute a "project" under
19 the California Environmental Quality Act and any further action
20 designed to implement these goals requires an Environmental
21 Impact Report. The Ag Pool is not to be assessed under the
22 Judgment for projects to increase water quantity. The OBMP
23 appears to be a program intended to maximize water use for the
24 benefit of the Appropriative Pool, and the expenses of OBMP
25 implementation should be allocated accordingly.

26 Finally, if the intent of the Watermaster is to amend the
27 Judgment to expand the authority of the Watermaster to undertake
28 such projects and assess the Ag Pool for maximizing water use

1 within the Chino Basin as any other water producer, the Judgment
2 should be amended to provide the Ag Pool with water rights which
3 are transferrable and marketable. The Ag Pool should be given
4 similar water rights enjoyed by other basin overlying pools.

5 2. Desalter 1 Agreement and Resolution 93-10. The Ag Pool has
6 entered into an agreement resolving its liability for water
7 quality issues in the Desalter 1 agreement entered into in July
8 1996 (Exhibit "B" hereto). This agreement was the product of
9 many months of negotiations between the Regional Water Quality
10 Control Board, Santa Ana Region ("RWQCB"), the Chino Basin
11 Watermaster, and the Ag Pool as well as the Appropriative Pool
12 and Overlying (Non-Agricultural) Pool. These negotiations
13 resulted in an agreement between all the above parties to
14 facilitate construction of a Desalter. This Desalter was
15 necessary to remove excess salts from the basin groundwater. The
16 Ag Pool agreed to contribute the replenishment water necessary to
17 operate the Desalter(Para. 8.) The Appropriative Pool agreed to
18 pay for the operating expenses of the Desalter(Para. 6.) The
19 Appropriative Pool will benefit from the water created by the
20 Desalter(Para. 9.)

21 The Desalter agreement contained the agreement of the
22 parties as follows:

23 "This contribution shall satisfy salt offset requirements
24 mandated for Basin clean-up on the Overlying (Agricultural) Pool
25 members by the RWQCB, if the Overlying (Agricultural) Pool
26 reasonably utilizes the Chino Basin co-composting facility.
27 Subject to Paragraph 3 of this Agreement, the RWQCB further
28 agrees that those parties to the Judgment which are members of

1 the Overlying (Agricultural) Pool, as such parties are identified
2 in the Judgment, shall have no further liability or
3 responsibility for mitigating any adverse impacts of salts or
4 nitrates in the Chino Basin Groundwater. The RWQCB and the
5 Overlying (Agricultural) Pool and its members expressly agree not
6 to assert or demand that any portion of the water supplies of the
7 Chino Basin over and above the 12,000 acre feet per year
8 specified in this Agreement should be dedicated for the purpose
9 of mitigating any adverse impacts of salts or nitrates in the
10 Chino Basin groundwater."

11 More importantly, paragraph six of the agreement provided:

12 "The annual and special assessments will be levied 50% based
13 on the prior year's Appropriative Pool total agricultural
14 transfers, and 50% based on the prior years' Appropriative Pool
15 total production. The annual and special assessment costs will
16 be reduced by any amount covered by MWD's Groundwater Recovery
17 Program. The Overlying (Agricultural) Pool and the Overlying
18 (Non-Agricultural) Pool shall not be assessed for the costs
19 identified in Section 5 hereinabove."

20 Thus, it is clear that the Ag Pool was not to be assessed
21 for the cost of the Desalters. The Watermaster and other pools
22 were parties to this contract which facilitated construction of
23 the first Desalter which is currently underway. The first
24 Desalter will be removing salts from the Chino Basin long after
25 the Agricultural interests in the Chino Basin are gone. Pursuant
26 to this agreement, the Ag Pool has already paid its debt for
27 water quality. The Watermaster and other pools have agreed to
28 this contribution and were parties to the agreement which limited

1 the Ag Pool's responsibility to contribution of a certain amount
2 of replenishment water. The Ag Producers cannot afford a
3 financial contribution for future Desalters in addition to the
4 contribution they have made, nor is it legally responsible for
5 additional contributions of water or money.

6 Resolution No. 93-10-1 adopted by the Watermaster similarly
7 anticipated the construction of two Desalters. This resolution
8 of the Watermaster (attached hereto as Exhibit "C") provided at
9 Section Three:

10 "In consideration of the accelerated transfer of unproduced Safe
11 Yield from the Overlying (Agricultural) Pool to the Appropriative
12 Pool as provided in Resolution No. 88-3, (providing for the
13 accelerated transfer), the desalters' replenishment obligation
14 offset provided by this Resolution shall be considered a
15 contribution by the Overlying (Agricultural) Pool to the
16 desalters which should satisfy the salt offset requirements
17 mandated upon Overlying (Agricultural) Pool members by the
18 Regional Water Quality Control Board."

19 Thus, it can be seen that the need for at least two
20 Desalters was anticipated as early as 1993, and the Watermaster
21 has already established the Ag Pool's contribution for the
22 Desalters.

23 Finally, Watermaster Resolution 96-3 (Exhibit "D") has
24 clearly stated that the purpose of the first Desalter was to
25 begin to clean-up the southern portion of Chino Basin and
26 increase the safe yield of the basin. Further Desalters are
27 necessary to develop water "for domestic use and to protect the
28 Safe Yield of the basin".

1 Basin are anticipated to increase to a total of between
2 \$12,000,000 and \$18,120,000 during the next two years to comply
3 with the current permit demands (Exhibit "E"). It would be
4 imprudent to simply assume that an assessment of the Ag Pool
5 could be made to pay for the facilities without considerable
6 inquiry as to the impact on Agriculture resulting from such
7 assessment.

8 One solution to this dilemma is to simply provide in the
9 OBMP that construction of the Desalters are contingent on the
10 primary financing tools (Chino Basin Water Conservation District
11 ad valorem revenue, San Bernardino County Flood Control District,
12 and Proposition 204 Bond funds) or the many alternative funding
13 sources identified in section 5 other than Watermaster
14 Assessments. If the financing tools become unavailable and no
15 water user or pool contracts to fund the balance, the parties
16 agree to return to the drawing board and reconsider the need for
17 the Desalters and the remaining funding sources. Perhaps a
18 scaled down project or expansion of existing Desalters would
19 suffice if the only financing tool were Watermaster Assessments.
20 Moreover, the impact on Agriculture and its obligation to pay for
21 future Desalters could be analyzed at that time.

22 IV

23 THE OBMP DOES NOT ADDRESS RESOLUTION 88-3 AND ITS FUTURE 24 IMPLEMENTATION

25 Resolution 88-3 and its future implementation is not
26 adequately addressed in the OBMP. Resolution 88-3 and its
27 predecessor 84-2 created an accounting procedure whereby
28 unallocated safe yield was transferred from the Ag Pool to the

1 Appropriative Pool. In exchange for this contribution, the
2 Appropriative Pool assumed the financial responsibility for the
3 assessments and expenses of the Ag Pool.

4 This agreement has constituted one of the most successful
5 and significant basin management arrangements heretofore
6 undertaken within the Chino Basin. The OBMP does not discuss its
7 future.

8 A recent study by Wildermuth Environmental, Inc. indicates
9 that this contribution has a value of up to \$9,800,000 per year
10 and will equal \$49,000,000 over the five year period from 1999
11 through 2003. It appears likely that the Appropriative Pool
12 would continue this relationship indefinitely based upon this
13 benefit, but this must not be assumed. The OBMP should provide
14 for and require that this arrangement be continued for the
15 indefinite future. It should further analyze and establish the
16 parameters upon which the arrangement would terminate, if at all.

17 V

18 CONCLUSION

19 The Ag Pool greatly appreciates the considerable effort put
20 forth in the OBMP. The Ag Pool has always supported the
21 construction of the facilities necessary to maximize beneficial
22 water use within the Chino Basin.

23 Ag Pool disputes the factual reports set forth in sections 1
24 through 4 and particularly section 2. If the OBMP must assess
25 blame for the water quality problems in the basin, it should be
26 based upon a more complete study of the basin. In any case, it
27 is the position of the Ag Pool that it has made its required
28 contribution for water quality. The further projects intending

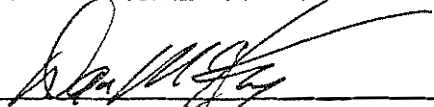
1 to maximize water quantity are worthwhile projects, but must be
2 financed by the water users other than the 300 families and the
3 state facilities within the Agricultural Pool.

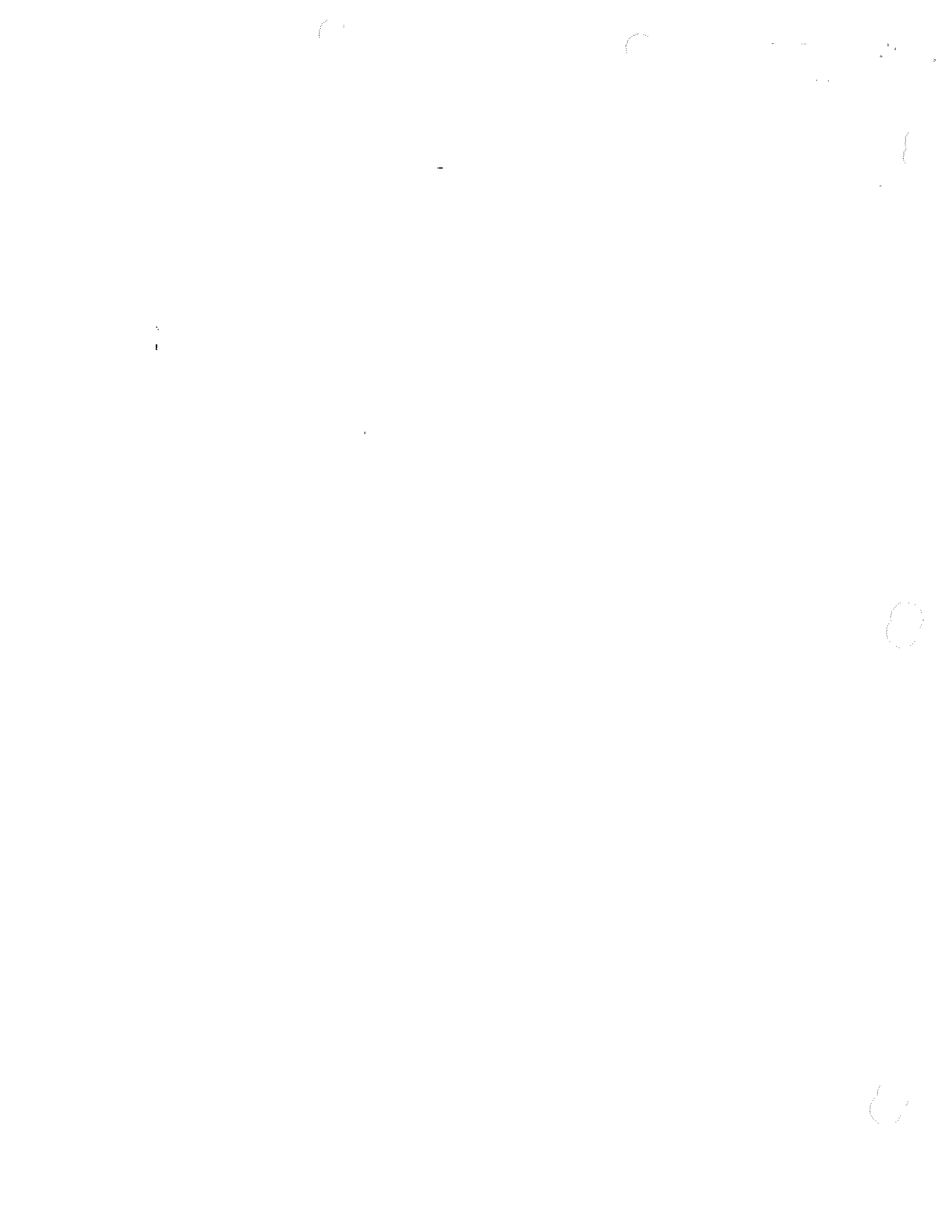
4 In conclusion, Section 5 requires much more study and
5 analysis and should not be submitted for court approval at this
6 time. Sections 1-4 also require further analysis and should be
7 revised. If they are submitted for court approval, it should be
8 as a "Report."

9 DATED: September 7, 1999

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By: 
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V. DENNIS WARDLE
COUNTY CLERK

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN BERNARDINO

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12 CHINO BASIN MUNICIPAL WATER)
DISTRICT,)

13)
14 Plaintiff,)

No. 164327

15 v.)

16 CITY OF CHINO, et al.)

17 Defendants.)
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JUDGMENT

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1 parties. This Court has jurisdiction of the subject matter of
2 this action and of the parties herein.

3 2. Stipulation For Judgment. Stipulation for entry of
4 judgment has been filed by and on behalf of a majority of the
5 parties, representing a majority of the quantitative rights herein
6 adjudicated.

7 3. Trial; Findings and Conclusions. Trial was commenced on
8 December 16, 1977, as to the non-stipulating parties, and findings
9 of fact and conclusions of law have been entered disposing of the
10 issues in the case.

11 4. Definitions. As used in this Judgment, the following
12 terms shall have the meanings herein set forth:

13 (a) Active Parties. All parties other than those who
14 have filed with Watermaster a written waiver of service of
15 notices, pursuant to Paragraph 58.

16 (b) Annual or Year -- A fiscal year, July 1 through
17 June 30, following, unless the context shall clearly indicate
18 a contrary meaning.

19 (c) Appropriative Right -- The annual production right
20 of a producer from the Chino Basin other than pursuant to an
21 overlying right.

22 (d) Basin Water -- Ground water within Chino Basin which
23 is part of the Safe Yield, Operating Safe Yield, or replen-
24 ishment water in the Basin as a result of operations under the
25 Physical Solution decreed herein. Said term does not include
26 Stored Water.

27 (e) CBMWD -- Plaintiff Chino Basin Municipal Water
28 District.

1 (p) PVMWD -- Defendant Pomona Valley Municipal Water
2 District.

3 (q) Produce or Produced -- To pump or extract ground
4 water from Chino Basin.

5 (r) Producer -- Any person who produces water from Chino
6 Basin.

7 (s) Production -- Annual quantity, stated in acre feet,
8 of water produced.

9 (t) Public Hearing -- A hearing after notice to all
10 parties and to any other person legally entitled to notice.

11 (u) Reclaimed Water -- Water which, as a result of
12 processing of waste water, is suitable for a controlled use.

13 (v) Replenishment Water -- Supplemental water used to
14 recharge the Basin pursuant to the Physical Solution, either
15 directly by percolating the water into the Basin or indirectly
16 by delivering the water for use in lieu of production and use
17 of safe yield or Operating Safe Yield.

18 (w) Responsible Party -- The owner, co-owner, lessee or
19 other person designated by multiple parties interested in a
20 well as the person responsible for purposes of filing reports
21 hereunder.

22 (x) Safe Yield -- The long-term average annual quantity
23 of ground water (excluding replenishment or stored water but
24 including return flow to the Basin from use of replenishment
25 or stored water) which can be produced from the Basin under
26 cultural conditions of a particular year without causing an
27 undesirable result.

28 (y) SBVMWD -- San Bernardino Valley Municipal Water

1 "I" -- Engineering Appendix.

2 "J" -- Map of In Lieu Area No. 1.

3 "K" -- Legal Description of Chino Basin.

4
5 II. DECLARATION OF RIGHTS

6 A. HYDROLOGY

7 6. Safe Yield. The Safe Yield of Chino Basin is 140,000 acre
8 feet per year.

9 7. Overdraft and Prescriptive Circumstances. In each year
10 for a period in excess of five years prior to filing of the First
11 Amended Complaint herein, the Safe Yield of the Basin has been
12 exceeded by the annual production therefrom, and Chino Basin is and
13 has been for more than five years in a continuous state of over-
14 draft. The production constituting said overdraft has been open,
15 notorious, continuous, adverse, hostile and under claim of right.
16 The circumstances of said overdraft have given notice to all
17 parties of the adverse nature of such aggregate over-production.

18 B. WATER RIGHTS IN SAFE YIELD

19 8. Overlying Rights. The parties listed in Exhibits "C" and
20 "D" are the owners or in possession of lands which overlie Chino
21 Basin. As such, said parties have exercised overlying water
22 rights in Chino Basin. All overlying rights owned or exercised by
23 parties listed in Exhibits "C" and "D" have, in the aggregate, been
24 limited by prescription except to the extent such rights have been
25 preserved by self-help by said parties. Aggregate preserved
26 overlying rights in the Safe Yield for agricultural pool use,
27 including the rights of the State of California, total 82,800 acre
28 feet per year. Overlying rights for non-agricultural pool use

1 1007 of the Civil Code, said rights are immune from reduction
2 or limitation by prescription.

3 10. Rights of the State of California. The State of
4 California, by and through its Department of Corrections, Youth
5 Authority and Department of Fish and Game, is a significant pro-
6 ducer of ground water from and the State is the largest owner of
7 land overlying Chino Basin. The precise nature and scope of the
8 claims and rights of the State need not be, and are not, defined
9 herein. The State, through said departments, has accepted the
10 Physical Solution herein decreed, in the interests of implementing
11 the mandate of Section 2 of Article X of the California Constitu-
12 tion. For all purposes of this Judgment, all future production by
13 the State or its departments or agencies for overlying use on
14 State-owned lands shall be considered as agricultural pool use.

15 C. RIGHTS TO AVAILABLE GROUND WATER STORAGE CAPACITY

16 11. Available Ground Water Storage Capacity. There exists in
17 Chino Basin a substantial amount of available ground water storage
18 capacity which is not utilized for storage or regulation of Basin
19 Waters. Said reservoir capacity can appropriately be utilized for
20 storage and conjunctive use of supplemental water with Basin
21 Waters. ~~It~~ It is essential that said reservoir capacity utilization
22 for storage and conjunctive use of supplemental water be undertaken
23 only under Watermaster control and regulation, in order to protect
24 the integrity of both such Stored Water and Basin Water in storage
25 and the Safe Yield of Chino Basin.

26 12. Utilization of Available Ground Water Capacity. Any
27 person or public entity, whether a party to this action or not, may
28 make reasonable beneficial use of the available ground water.

1 Appropriative Pool, its officers, agents, employees, successor
2 and assigns, is and they are each ENJOINED AND RESTRAINED from
3 producing ground water of Chino Basin in any year hereafter in
4 excess of such party's decreed share of Operating Safe Yield,
5 except pursuant to the provisions of the Physical Solution or
6 a storage water agreement.

7 14. Injunction Against Unauthorized Storage or Withdrawal
8 of Stored Water. Each party, its officers, agents, employees,
9 successors and assigns is and they each are ENJOINED AND RESTRAINED
10 from storing supplemental water in Chino Basin for withdrawal, or
11 causing withdrawal of, water stored by that party, except pursuant
12 to the terms of a written agreement with Watermaster and in
13 accordance with Watermaster regulations. Any supplemental water
14 stored or recharged in the Basin, except pursuant to such a Water-
15 master agreement, shall be deemed abandoned and not classified as
16 Stored Water. This paragraph has no application, as such, to
17 supplemental water spread or provided in lieu by Watermaster pur-
18 suant to the Physical Solution.

19
20 IV. CONTINUING JURISDICTION

21 15. Continuing Jurisdiction. Full jurisdiction, power and
22 authority are retained and reserved to the Court as to all matters
23 contained in this judgment, ~~except:~~

24 (a) The redetermination of Safe Yield, as set forth in
25 Paragraph 6, during the first ten (10) years of operation of
26 the Physical Solution;

27 (b) The allocation of Safe Yield as between the several
28 pools as set forth in Paragraph 44 of the Physical Solution;

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1 at least 30 days' notice thereof, and after hearing thereon, to
2 make such further or supplemental orders or directions as may be
3 necessary or appropriate for interpretation, enforcement or carry-
4 ing out of this Judgment, and to modify, amend or amplify any of
5 the provisions of this Judgment.

6
7 V. WATERMASTER

8 A. APPOINTMENT

9 16. Watermaster Appointment. CBMWD, acting by and through a
10 majority of its board of directors, is hereby appointed Water-
11 master, to administer and enforce the provisions of this Judgment
12 and any subsequent instructions or orders of the Court hereunder.
13 The term of appointment of Watermaster shall be for five (5) years
14 The Court will by subsequent orders provide for successive terms or
15 for a successor Watermaster. Watermaster may be changed at any
16 time by subsequent order of the Court, on its own motion, or on the
17 motion of any party after notice and hearing. Unless there are
18 compelling reasons to the contrary, the Court shall act in con-
19 formance with a motion requesting the Watermaster be changed if
20 such motion is supported by a majority of the voting power of the
21 Advisory Committee.

22 B. POWERS AND DUTIES

23 17. Powers and Duties. Subject to the continuing supervision
24 and control of the Court, Watermaster shall have and may exercise
25 the express powers, and shall perform the duties, as provided in
26 this Judgment or hereafter ordered or authorized by the Court in
27 the exercise of the Court's continuing jurisdiction.

28 18. Rules and Regulations. Upon recommendation by the

1 devices or meters as Watermaster may deem appropriate. Such
2 measuring devices shall be inspected and tested as deemed necessary
3 by Watermaster, and the cost thereof shall constitute an expense of
4 Watermaster.

5 22. Assessments. Watermaster is empowered to levy and
6 collect all assessments provided for in the pooling plans and
7 Physical Solution.

8 23. Investment of Funds. Watermaster may hold and invest any
9 and all Watermaster funds in investments authorized from time to
10 time for public agencies of the State of California.

11 24. Borrowing. Watermaster may borrow from time to time
12 amounts not exceeding the annual anticipated receipts of Water-
13 master during such year.

14 25. Contracts. Watermaster may enter into contracts for the
15 performance of any powers herein granted; provided, however, that
16 Watermaster may not contract with or purchase materials, supplies
17 or services from CBMWD, except upon the prior recommendation and
18 approval of the Advisory Committee and pursuant to written order of
19 the Court.

20 26. Cooperation With Other Agencies. Subject to prior
21 recommendation or approval of the Advisory Committee, Watermaster
22 may act jointly or cooperate with agencies of the United States and
23 the State of California or any political subdivisions, municipi-
24 palities or districts or any person to the end that the purpose of
25 the Physical Solution may be fully and economically carried out.

26 27. Studies. Watermaster may, with concurrence of the
27 Advisory Committee or affected Pool Committee and in accordance
28 with Paragraph 54(b), undertake relevant studies of hydrologic

1 or explanation as the Advisory Committee may recommend from time
2 to time. Expenditures within budgeted items may thereafter be
3 made by Watermaster in the exercise of powers herein granted, as a
4 matter of course. Any budget transfer in excess of 20% of a
5 budget category during any budget year or modification of such
6 administrative budget during any year shall be first submitted to
7 the Advisory Committee for review and recommendation.

8 31. Review Procedures. All actions, decisions or rules of
9 Watermaster shall be subject to review by the Court on its own
10 motion or on timely motion by any party, the Watermaster (in the
11 case of a mandated action), the Advisory Committee, or any Pool
12 Committee, as follows:

13 (a) Effective Date of Watermaster Action. Any action,
14 decision or rule of Watermaster shall be deemed to have
15 occurred or been enacted on the date on which written
16 notice thereof is mailed. Mailing of copies of approved
17 Watermaster minutes to the active parties shall constitute
18 such notice to all parties.

19 (b) Noticed Motion. Any party, the Watermaster (as
20 to any mandated action), the Advisory Committee, or any
21 Pool Committee may, by a regularly noticed motion, apply
22 to the Court for review of any Watermaster's action,
23 decision or rule. Notice of such motion shall be served
24 personally or mailed to Watermaster and to all active
25 parties. Unless otherwise ordered by the Court, such
26 motion shall not operate to stay the effect of such
27 Watermaster action, decision or rule.
28

1 respective Pool Committee. WMWD, PVMWD and SBVMWD shall each be
2 entitled to one non-voting representative on said Advisory Com-
3 mittee.

4 33. Term and Vacancies. Members of any Pool Committee, shall
5 serve for the term, and vacancies shall be filled, as specified in
6 the respective pooling plan. Members of the Advisory Committee
7 shall serve at the will of their respective Pool Committee.

FOR APPROVAL - SEE PG 8. RULES & REGS OF NEW POOL

8 34. Voting Power. The voting power on each Pool Committee
9 shall be allocated as provided in the respective pooling plan. The
10 voting power on the Advisory Committee shall be one hundred (100)
11 votes allocated among the three pools in proportion to the total
12 assessments paid to Watermaster during the preceding year; pro-
13 vided, that the minimum voting power of each pool shall be

- 14 (a) Overlying (Agricultural) Pool 20,
- 15 (b) Overlying (Non-agricultural) Pool 5, and
- 16 (c) Appropriative Pool 20.

17 In the event any pool is reduced to its said minimum vote, the re-
18 maining votes shall be allocated between the remaining pools on
19 said basis of assessments paid to Watermaster by each such remain-
20 ing pool during the preceding year. The method of exercise of
21 each pool's voting power on the Advisory Committee shall be as
22 determined by the respective pool committees.

23 35. Quorum. A majority of the voting power of the Advisory
24 Committee or any Pool Committee shall constitute a quorum for the
25 transaction of affairs of such Advisory or Pool Committee; pro-
26 vided, that at least one representative of each Pool Committee
27 shall be required to constitute a quorum of the Advisory Committee.
28 No Pool Committee representative may purposely absent himself or

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1 such Pool or Advisory Committee.

2 (b) Regular Meetings. All Pool Committees and the
3 Advisory Committee shall hold regular meetings at a place and
4 time to be specified in the rules to be adopted by each Pool
5 and Advisory Committee. Notice of regular meetings of any
6 Pool or Advisory Committee, and of any change in time or
7 place thereof, shall be mailed to all active parties in said
8 pool or pools.

9 (c) Special Meetings. Special meetings of any Pool or
10 Advisory Committee may be called at any time by the Chair-
11 person or by any three (3) members of such Pool or Advisory
12 Committee by delivering notice personally or by mail to each
13 member of such Pool or Advisory Committee and to each active
14 party at least 24 hours before the time of each such meeting
15 in the case of personal delivery, and 96 hours in the case of
16 mail. The calling notice shall specify the time and place of
17 the special meeting and the business to be transacted. No
18 other business shall be considered at such meeting.

19 (d) Minutes. Minutes of all Pool Committee, Advisory
20 Committee and Watermaster meetings shall be kept at Water-
21 master's offices. Copies thereof shall be mailed or otherwise
22 furnished to all active parties in the pool or pools con-
23 cerned. Said copies of minutes shall constitute notice of any
24 Pool or Advisory Committee action therein reported, and shall
25 be available for inspection by any party.

26 (e) Adjournments. Any meeting of any Pool or Advisory
27 Committee may be adjourned to a time and place specified in
28 the order of adjournment. Less than a quorum may so adjourn

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1 pursuant to recommendation or advice from the Advisory
2 Committee (other than such mandatory recommendations),
3 Watermaster shall hold a public hearing, which shall be
4 followed by written findings and decision. Thereafter,
5 Watermaster may act in accordance with said decision,
6 whether consistent with or contrary to said Advisory
7 Committee recommendation. Such action shall be subject
8 to review by the Court, as in the case of all other
9 Watermaster determinations.

10 [2] Committee Review. In the event Watermaster
11 proposes to take any discretionary action, other than
12 approval or disapproval of a Pool Committee action or
13 recommendation properly transmitted, or execute any
14 agreement not theretofore within the scope of an Advisory
15 Committee recommendation, notice of such intended action
16 shall be served on the Advisory Committee and its members
17 at least thirty (30) days before the Watermaster meeting
18 at which such action is finally authorized.

19 (c) Review of Watermaster Actions. Watermaster (as to
20 mandated action), the Advisory Committee or any Pool Committee
21 shall be entitled to employ counsel and expert assistance in
22 the event Watermaster or such Pool or Advisory Committee seeks
23 Court review of any Watermaster action or failure to act. The
24 cost of such counsel and expert assistance shall be Water-
25 master expense to be allocated to the affected pool or pools.

26 - - - - -
27 - - - - -
28 - - - - -

1 quantity and quality of said water resources may thereby be pre-
2 served and the beneficial utilization of the Basin maximized.

3 42. General Pattern of Operations. It is contemplated that
4 the rights herein decreed will be divided into three (3) operating
5 pools for purposes of Watermaster administration. A fundamental
6 premise of the Physical Solution is that all water users dependent
7 upon Chino Basin will be allowed to pump sufficient waters from the
8 Basin to meet their requirements. To the extent that pumping
9 exceeds the share of the Safe Yield assigned to the Overlying
10 Pools, or the Operating Safe Yield in the case of the Appropriative
11 Pool, each pool will provide funds to enable Watermaster to replace
12 such overproduction. The method of assessment in each pool shall
13 be as set forth in the applicable pooling plan.

14 B. POOLING

15 43. Multiple Pools Established. There are hereby established
16 three (3) pools for Watermaster administration of, and for the
17 allocation of responsibility for, and payment of, costs of re-
18 plenishment water and other aspects of this Physical Solution.

19 (a) Overlying (Agricultural) Pool. The first pool shall
20 consist of the State of California and all overlying producers
21 who produce water for other than industrial or commercial
22 purposes. The initial members of the pool are listed in
23 Exhibit "C".

24 (b) Overlying (Non-agricultural) Pool. The second pool
25 shall consist of overlying producers who produce water for
26 industrial or commercial purposes. The initial members of
27 this pool are listed in Exhibit "D".

28 (c) Appropriative Pool. A third and separate pool shall

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1 pool's allocated share of Safe Yield in the case of the overlying
2 pools, or Operating Safe Yield in the case of the Appropriative
3 Pool. It is anticipated that supplemental water for replenishment
4 of Chino Basin may be available at different rates to the various
5 pools to meet their replenishment obligations. If such is the
6 case, each pool will be assessed only that amount necessary for the
7 cost of replenishment water to that pool, at the rate available to
8 the pool, to meet its replenishment obligation.

9 46. Initial Pooling Plans. The initial pooling plans, which
10 are hereby adopted, are set forth in Exhibits "F", "G" and "H",
11 respectively. Unless and until modified by amendment of the
12 judgment pursuant to the Court's continuing jurisdiction, each
13 such plan shall control operation of the subject pool.

14 C. REPORTS AND ACCOUNTING

15 47. Production Reports. Each party or responsible party
16 shall file periodically with Watermaster, pursuant to Watermaster
17 rules, a report on a form to be prescribed by Watermaster showing
18 the total production of such party during the preceding reportage
19 period, and such additional information as Watermaster may require,
20 including any information specified by the affected Pool Com-
21 mittee.

22 48. Watermaster Reports and Accounting. Watermaster's
23 annual report, which shall be filed on or before November 15 of
24 each year and shall apply to the preceding year's operation, shall
25 contain details as to operation of each of the pools and a certi-
26 fied audit of all assessments and expenditures pursuant to this
27 Physical Solution and a review of Watermaster activities.
28

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1 extent that MWD and SBVMWD give their consent as required by
2 such State water service contracts.

3 (c) Local Import. There exist facilities and methods
4 for importation of surface and ground water supplies from
5 adjacent basins and watersheds.

6 (d) Colorado River Supplies. MWD has water supplies
7 available from its Colorado River Aqueduct.

8 50. Methods of Replenishment. Watermaster may accomplish
9 replenishment of overproduction from the Basin by any reasonable
10 method, including:

11 (a) Spreading and percolation or Injection of water in
12 existing or new facilities, subject to the provisions of
13 Paragraphs 19, 25 and 26 hereof.

14 (b) In Lieu Procedures. Watermaster may make, or cause
15 to be made, deliveries of water for direct surface use, in
16 lieu of ground water production.

17 E. REVENUES

18 51. Production Assessment. Production assessments, on what-
19 ever basis, may be levied by Watermaster pursuant to the pooling
20 plan adopted for the applicable pool.

21 52. Minimal Producers. Minimal Producers shall be exempted
22 from payment of production assessments, upon filing of production
23 reports as provided in Paragraph 47 of this Judgment, and payment
24 of an annual five dollar (\$5.00) administrative fee as specified by
25 Watermaster rules.

26 53. Assessment Proceeds -- Purposes. Watermaster shall have
27 the power to levy assessments against the parties (other than
28 minimal producers) based upon production during the preceding period

1 or before ninety (90) days after the end of the production
2 period to which such assessment is applicable.

3 (b) Payment. Each assessment shall be payable on or
4 before thirty (30) days after notice, and shall be the ob-
5 ligation of the party or successor owning the water production
6 facility at the time written notice of assessment is given,
7 unless prior arrangement for payment by others has been made
8 in writing and filed with Watermaster.

9 (c) Delinquency. Any delinquent assessment shall bear
10 interest at 10% per annum (or such greater rate as shall equal
11 the average current cost of borrowed funds to the Watermaster)
12 from the due date thereof. Such delinquent assessment and
13 interest may be collected in a show-cause proceeding herein
14 instituted by the Watermaster, in which case the Court may
15 allow Watermaster its reasonable costs of collection, includ-
16 ing attorney's fees.

17 56. Accumulation of Replenishment Water Assessment Proceeds.

18 In order to minimize fluctuation in assessment and to give Water-
19 master flexibility in purchase and spreading of replenishment
20 water, Watermaster may make reasonable accumulations of replen-
21 ishment water assessment proceeds. Interest earned on such re-
22 tained funds shall be added to the account of the pool from which
23 the funds were collected and shall be applied only to the purchase
24 of replenishment water.

25 57. Effective Date. The effective date for accounting and
26 operation under this Physical Solution shall be July 1, 1977, and
27 the first production assessments hereunder shall be due after July
28 1, 1978. Watermaster shall, however, require installation of

1 class, postage prepaid, addressed to the designee and at the
2 address in the latest designation filed by such party or active
3 party.

4 60. Intervention After Judgment. Any non-party assignee of
5 the adjudicated appropriative rights of any appropriator, or any
6 other person newly proposing to produce water from Chino Basin, may
7 become a party to this judgment upon filing a petition in inter-
8 vention. Said intervention must be confirmed by order of this
9 Court. Such intervenor shall thereafter be a party bound by this
10 judgment and entitled to the rights and privileges accorded under
11 the Physical Solution herein, through the pool to which the Court
12 shall assign such intervenor.

13 61. Loss of Rights. Loss, whether by abandonment, forfeiture
14 or otherwise, of any right herein adjudicated shall be accomplished
15 only (1) by a written election by the owner of the right filed with
16 Watermaster, or (2) by order of the Court upon noticed motion and
17 after hearing.

18 62. Scope of Judgment. Nothing in this Judgment shall be
19 deemed to preclude or limit any party in the assertion against a
20 neighboring party of any cause of action now existing or hereafter
21 arising based upon injury, damage or depletion of water supply
22 available to such party, proximately caused by nearby pumping which
23 constitutes an unreasonable interference with such complaining
24 party's ability to extract ground water.

25 63. Judgment Binding on Successors. This Judgment and all
26 provisions thereof are applicable to and binding upon not only the
27 parties to this action, but also upon their respective heirs,
28 executors, administrators, successors, assigns, lessees and

**AGREEMENT REGARDING AN ALTERNATIVE
WATER SUPPLY SOURCE FOR THE REPLENISHMENT
OBLIGATION OF THE CHINO BASIN DESALTER**

The California Regional Water Quality Control Board, Santa Ana Region ("RWQCB"), the Chino Basin Watermaster ("Watermaster"), the Chino Basin Appropriative Pool, the Chino Basin Overlying (Agricultural) Pool, and the Chino Basin Overlying (Non-Agricultural) Pool hereby enter into the following Agreement:

WHEREAS the Chino Basin Watermaster was appointed on January 27, 1978, under the Judgment in Case No. RCV 51010 (formerly Case No. SCV 164327) entitled Chino Basin Municipal Water District v. City of Chino, et al. (the "Judgment"), with powers to levy and collect administrative and replenishment assessments necessary to replace water produced from the Chino Basin in excess of Safe Yield allocations and to cover the cost of administration of the Judgment; and

WHEREAS, pursuant to the Judgment the water producers in the Chino Basin were organized into three Pools, consisting of the Appropriative Pool, the Overlying (Agricultural) Pool, and the Overlying (Non-Agricultural) Pool; and

WHEREAS the RWQCB intends to mandate salt offset requirements for Basin clean-up on the Overlying (Agricultural) Pool members; and

WHEREAS the parties hereto are endeavoring to facilitate the development and construction of a desalter project to be constructed under Santa Ana Watershed Project Authority's Project Agreement 14 (the "Desalter") for the purpose of removing high-salinity/nitrate groundwater to stabilize and eventually improve water quality in the Chino Basin; and

WHEREAS a Desalter is necessary to effect cleanup of the Chino Basin as required by the RWQCB; and

WHEREAS operation of the Desalter will require production of water, by pumping groundwater from the Chino Basin, removing excess salts from the water, making the reclaimed water available for use, and placing the resulting brine in the Santa Ana Regional Interceptor line for disposal outside of the Chino Basin; and

WHEREAS the Desalter has no Safe Yield allocation in Chino Basin and all water produced by the Desalter must be replenished; and

WHEREAS due to the replenishment obligation, the Desalter will not be economically feasible for an uncertain period of time unless alternatives are found to offset said replenishment water obligation; and

WHEREAS the Watermaster has adopted Resolution 93-10-1 regarding the supply of replenishment water to be used to meet the replenishment water obligation resulting from the Desalter; and

WHEREAS the Watermaster has developed a list of various replenishment water sources to meet the replenishment obligation of the Desalter as shown on Exhibit "A" attached hereto; and

WHEREAS on or about October 21, 1993, Kaiser Resources, Inc. (now known as Kaiser Ventures, Inc.) ("Kaiser"), a party to the Judgment, and the RWQCB entered into an agreement (the "Salt Offset Agreement") pursuant to which Kaiser agreed to make certain payments and to provide water (sufficient to remove 4000 tons of salt per year for 25 years) to satisfy a portion of the replenishment water obligations of the Desalter; and

WHEREAS on or about October 18, 1995, in partial satisfaction of its obligations under the Salt Offset Agreement, Kaiser executed an Election to Abandon Water to Watermaster pursuant to which Kaiser agreed to abandon to Watermaster rights to 1,000 acre feet of water per year for 25 years (and made an initial abandonment of 18,000 acre feet of water) for the purpose of satisfying a portion of the replenishment water obligations of the Desalter; and

WHEREAS the parties hereto have proposed that Watermaster supply up to 12,000 acre feet per year of replenishment water pursuant to the terms and conditions of this Agreement; and

WHEREAS the Watermaster has stated that at current rates the value of 12,000 acre feet per year is at least \$2.7 million up to \$19.2 million each year; and

WHEREAS the parties hereto wish to enter into this Agreement to memorialize the obligations which they have undertaken;

NOW, THEREFORE the parties hereto do hereby agree as follows:

1. The Watermaster will provide up to 12,000 acre feet per year of the replenishment water obligation resulting from operations of the Desalter, subject to Section 11 hereof. The replenishment water sources stated on Exhibit "A" will be used by Watermaster to meet up to 12,000 acre feet per year of the replenishment water obligation resulting from operation of the Desalter, subject to Section 11 hereof. The 1,000 acre feet of water per year abandoned by Kaiser pursuant to its Election to Abandon Water to Watermaster shall be part of such 12,000 acre feet. Nothing in this Agreement shall be deemed to release Kaiser from any of its obligations under the Salt Offset Agreement or to release Kaiser or Watermaster from any of its obligations under the Election to Abandon Water to Watermaster.

2. Watermaster will have no obligation to supply any replenishment water in excess of 12,000 AF in any one year. Neither Watermaster nor any of the Pools created pursuant to the Judgment will be required by the RWQCB to make any contribution, including any contribution of water, water rights, or cash, to contribute to: (1) removal of salts or nitrates deposited in the Chino Basin prior to the date of this Agreement, and (2) removal of salts or nitrates contributed by agricultural sources subsequent to the date of this Agreement. This shall not limit the RWQCB's authority to require cleanup by specific dischargers of nonagricultural plumes of salts or nitrates, such as those from Kaiser, Chino Basin Municipal Water District facilities, or other regulated or unregulated nonagricultural facilities.

3. Nothing contained in this Agreement shall be construed to limit in any way the authority of the RWQCB to issue, impose and/or enforce waste discharge requirements for any agricultural operation within the Chino Basin. However, with regard to routine agricultural operations the RWQCB will not require or seek mitigation, including payment of any monies or provision of replenishment water, for deposit of salts or nitrates in the Chino Basin groundwater outside of such enforcement of waste discharge requirements. The RWQCB will adopt guidance at a later date defining waste discharges from routine agricultural operations. It is understood that the Regional Board, following public hearings, may modify the waste discharge requirements and that the modified requirements may be different or more stringent than those currently in place.

4. The legal rights and remedies of the parties to the Judgment to address the pollution of the Chino Basin groundwater or to require any regulatory agency, including the RWQCB, to fulfill its duties with respect to any

pollution of the Chino Basin groundwater, except as released herein, shall not be impaired by this Agreement.

5. Costs associated with securing the sources of replenishment water set forth in Exhibit "A" and satisfying the replenishment obligation of the Desalter will be of two types: (1) costs that are annual in nature and (2) costs that may be incurred to offset a specific replenishment water obligation once it is determined there is a deficiency. Costs that are annual in nature (such as maintenance, improvement or conveyance costs associated with spreading additional runoff or some quantity of reclaimed water) will be assessed by Watermaster as established in Section 6 of this Agreement and recovered annually. Prior to the initial year of Desalter operation, an estimate will be made of these costs and they will be presented during the budget process for assessment during the initial year of operation and annually thereafter. The Appropriative Pool shall decide which sources of replenishment water will be developed and therefore assessed. With regard to offsetting the specific replenishment water obligation of the Desalter, Watermaster will first determine if the replenishment water obligation exceeds the water developed from the replenishment water sources as stated in Exhibit "A" based on the information available each year during the budget process. If there is a replenishment water obligation, Watermaster will carryover the deficiency for the first five years of Desalter operation. In the sixth year of Desalter operation, a determination will be made whether the replenishment water obligation from the first five years of Desalter operation is greater than the replenishment water developed from the replenishment water sources stated in Exhibit "A." If the replenishment water obligation is greater, Watermaster may purchase additional replenishment water to satisfy such replenishment water obligation, or may make a determination as to whether there are any other sources of replenishment water that have not yet been utilized to offset the replenishment water obligation of the Desalter. If additional replenishment water cannot be developed, a special assessment may be levied as established in Section 6 of this Agreement.

6. The annual and special assessments will be levied 50% based on the prior years' Appropriative Pool total agricultural transfers, and 50% based on the prior years' Appropriative Pool total production. The annual and special assessment costs will be reduced by any amount covered by MWD's Groundwater Recovery Program. The Overlying (Agricultural) Pool and the Overlying (Non-Agricultural) Pool shall not be assessed for the costs identified in Section 5 hereinabove.

7. The quantity of water derived from each source specified in Exhibit "A" is anticipated to be in the range of that shown for each source in Exhibit "B."

8. After Kaiser is given salt removal rights of 4000 tons per year for 20 years, the Desalter replenishment water obligation offset provided by this Agreement shall be considered the total contribution by the Overlying (Agricultural) Pool to the Desalter. This contribution shall satisfy salt offset requirements mandated for Basin clean-up on the Overlying (Agricultural) Pool members by the RWQCB, if the Overlying (Agricultural) Pool reasonably utilizes the Chino Basin co-composting facility. Subject to Paragraph 3 of this Agreement, the RWQCB further agrees that those parties to the Judgment which are members of the Overlying (Agricultural) Pool, as such parties are identified in the Judgment, shall have no further liability or responsibility for mitigating any adverse impacts of salts or nitrates in the Chino Basin groundwater. The RWQCB and the Overlying (Agricultural) Pool and its members expressly agree not to assert or demand that any portion of the water supplies of the Chino Basin over and above the 12,000 acre feet per year specified in this Agreement should be dedicated for the purpose of mitigating any adverse impacts of salts or nitrates in the Chino Basin groundwater.

9. If more replenishment water is developed from the sources identified in Exhibit "A" than is necessary to meet the replenishment water obligation of the Desalter, then the excess water will be carried over to offset future obligations or may be sold for general replenishment purposes at the discretion of the Appropriate Pool. However, the cost of any such water purchased by a party within the Appropriate Pool for replenishment purposes shall be borne entirely by that party and shall not be subject to subsidy pursuant to the 85/15 rule.

10. Nothing herein stated shall be deemed an admission of wrongdoing by the producers of water from the Basin regarding water quality degradation currently or historically occurring in Chino Basin.

11. Watermaster agrees to continue to supply replenishment water as required by Section 1 hereof to offset Desalter production for as long as the Desalter is operational, to the extent it is necessary to make the cost of the product water from the Desalter competitive with the then current market cost of a treated replacement water supply from another source. However, Watermaster shall not have an obligation to purchase water to meet its replenishment obligations pursuant to Section 1 hereof after the period of time the Desalter is financed or 20 years, whichever is shorter.

12. This Agreement shall become effective upon its execution by the parties hereto and its approval by the Court having continuing jurisdiction with regard to the Judgment.

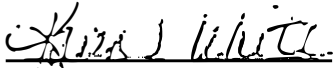
13. This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof. No modification of this Agreement shall be valid unless in writing, signed by all parties hereto, and approved by the Court having continuing jurisdiction with regard to the Judgment. All parties shall be deemed to be the drafters of this Agreement and no provision of this Agreement shall be construed against any party as the drafter thereof.

14. This Agreement shall bind and enure to the benefit of the officers, employees, agents, heirs, executors, administrators, successors and assigns of the parties hereto.

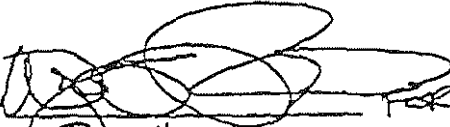
CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD,
SANTA ANA REGION

By 
William T. Hardy, Jr.
Its Chairman


ATTEST:


Secretary

CHINO BASIN WATERMASTER

By 
Bill Hill
Its Chairman

ATTEST:


Secretary

CHINO BASIN
APPROPRIATIVE POOL

By Edwin D. James
Edwin D. James
Its Chairman

ATTEST:

Jean Stewart
Secretary

CHINO BASIN OVERLYING
(AGRICULTURAL) POOL

By Robert H. Deberard
Robert H. Deberard
Its Chairman

ATTEST:

Jean Stewart
Secretary

CHINO BASIN OVERLYING
(NON-AGRICULTURAL) POOL

By Stephen R. Arbelbide
Stephen R. Arbelbide
Its Vice Chairman

ATTEST:

Jean Stewart
Secretary

EXHIBIT A

1. Interception of rising water leaving the Basin.
2. Use of reclaimed water to recharge the Basin.
3. Water available from either transfers or abandonment by members of the Non-Ag Pool.
4. Water stored in Watermaster accounts.
5. Other new water introduced into the Basin. (This could include, but not be limited to: Introduction of Santa Ana River water, increased inflow from other basins, and additional recharge of storm runoff.)

Exhibit B
Allocation of Replenishment Sources

Desaliner Production Capacity (mgd)	5	8	16
Replenishment Obligation (acre-ft)	5,598	8,957	17,914
Replenishment Sources			
Interception of Rising Water (1)	1,679 - 2,239	2,687 - 3,583	5,374 - 7,166
Use of Reclaimed Water to Recharge Basin (2)	3,000 - 5,000	3,000 - 5,000	5,000 - 7,000
Water Available from either Transfers or Abandonment by Members of the Non-Agricultural Pool; includes Kaiser (3)	2,100 - 3,500	2,100 - 3,500	2,100 - 3,500
Water Stored in Watermaster Accounts (4)	548 - 548	548 - 548	548 - 548
Other New Water Introduced to the Basin (5)	2,000 - 4,000	2,000 - 4,000	4,000 - 8,000
Total Available Replenishment	9,327 - 15,287	10,335 - 16,630	17,022 - 26,213

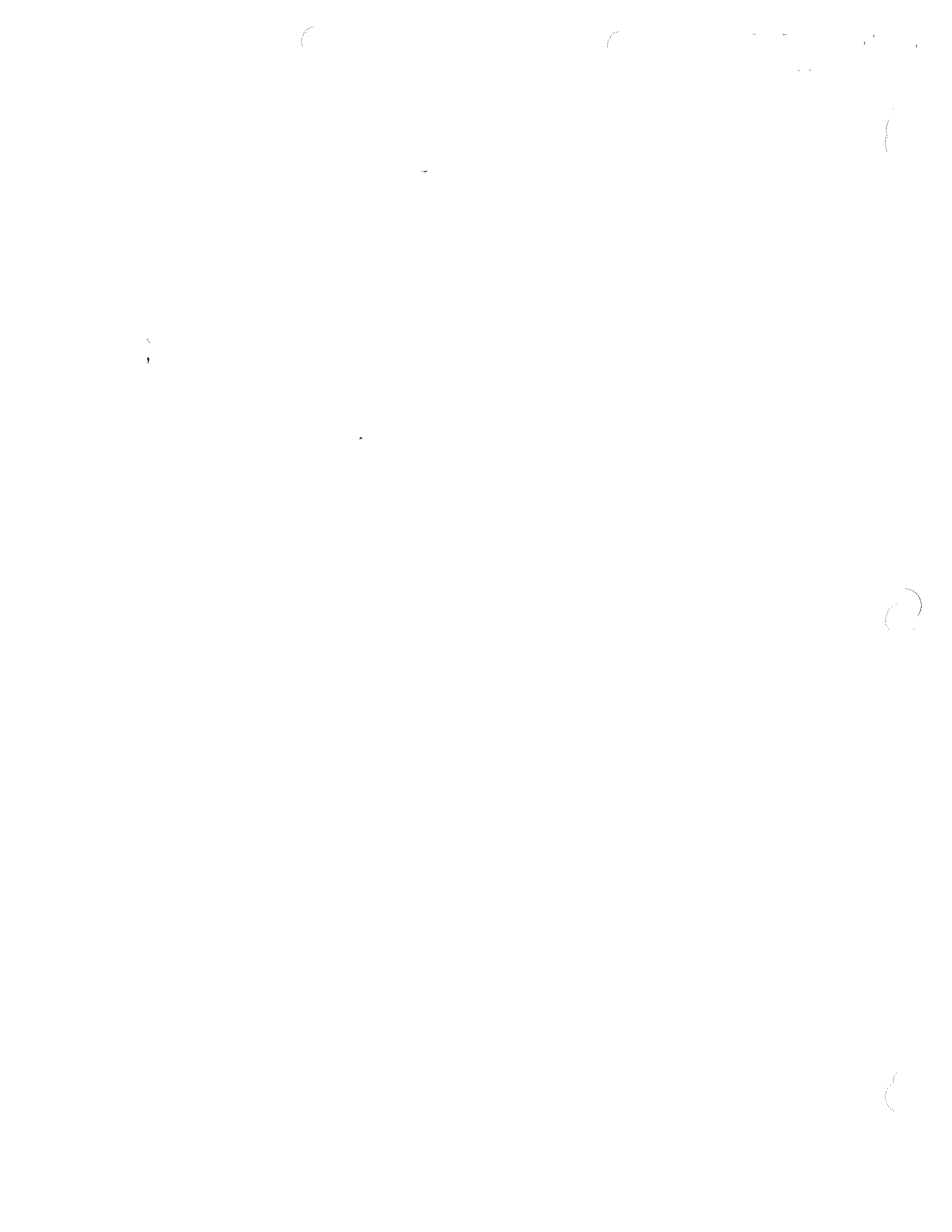
Notes: (1) - assumes a range of 30 to 40 percent of desaliner production; also assumes that total basin production exceeds safe yield.

(2) - assumes that agencies can implement recharge program at Ely and Lower Cucamonga Basin in next three years and expand to other spreading basins as needed.

(3) - assumes that no new water will go into storage accounts, unproduced rights will be transferred at a rate equal to .75 to 1.25 of 1989 to 1994 average (~2,800 acre-ft/yr) of unproduced water by non-ag pool.

(4) - assumes water currently on account by Watermaster of 10,950 acre-ft spread over 20 years.

(5) - assumes new water developed from stormwater recharge; 1,000 acre-ft/yr of new water is under development by CBWCD at new Brook Street Basin.



RESOLUTION NO. 93-10-1

**RESOLUTION OF THE CHINO BASIN WATERMASTER
ESTABLISHING AN ALTERNATIVE WATER SUPPLY
SOURCE FOR THE REPLENISHMENT OBLIGATION
OF THE CHINO BASIN DESALTERS**

WHEREAS, the Chino Basin Watermaster was appointed on January 27, 1978, under Case No. WCV 51010 (formerly Case No. SCV 164327) entitled Chino Basin Municipal Water District v. City of Chino, et al, with powers to levy and collect administrative and replenishment assessments necessary to maintain water levels and to cover the cost of administration of the Chino Basin Groundwater Basin Management Plan; and

WHEREAS, the Santa Ana Watershed Project Authority (SAWPA), is endeavoring to build two desalters for the purpose of removing high-salinity/nitrate groundwater to stabilize and eventually improve water quality in the Chino Basin; and

WHEREAS, the two desalter plants have no safe yield allocations in Chino Basin and all water produced by the desalters must be replenished; and

WHEREAS, due to the replenishment obligation the project will not be economically feasible unless alternatives are found to offset said obligation; and

WHEREAS, Watermaster staff has developed a list of various water replenishment sources to meet the replenishment obligations for the desalters as shown on Exhibit "A" attached hereto; and

WHEREAS, it is the intention of the Watermaster that any costs associated with the development of replenishment sources as stated in Exhibit "A" will be offset by selling a portion of the replenishment water identified in Exhibit "A".

NOW, THEREFORE, the Chino Basin Watermaster does hereby DETERMINE, RESOLVE AND ORDER as follows:

Section One: That the replenishment sources stated on Exhibit "A" be used to meet the replenishment obligations resulting from the desalters.

Section Two: During the first ten years after construction, if the replenishment obligations are greater than the replenishment sources stated on Exhibit "A", and/or other replenishment sources which may be identified during the ten year period, the replenishment obligation will be carried over. If a replenishment obligation still exists in the eleventh year, a special assessment will be levied to purchase additional water to meet the shortfall. The assessment shall be based on the entire two prior years of Appropriative Pool production and may be allocated as then determined by the

members of the Appropriative Pool, over the next two years. In the twelfth year and thereafter, if the replenishment obligation is greater than the replenishment sources as identified in Exhibit "A", a special assessment will be levied to purchase additional water, and will be based on the entire Appropriative Pool production in the prior year.

Section Three: In consideration of the accelerated transfer of unproduced Safe Yield from the Overlying (Agricultural) Pool to the Appropriative Pool as provided in Resolution No. 88-3, (providing for the accelerated transfer), the desalters' replenishment obligation offset provided by this Resolution shall be considered a contribution by the Overlying (Agricultural) Pool to the desalters which should satisfy the salt offset requirements mandated upon Overlying (Agricultural) Pool members by the Regional Water Quality Control Board.

Section Four: If the replenishment water identified in Exhibit "A" exceeds the replenishment obligation of the desalters, then the excess water would be used for general replenishment purposes.

Section Five: Nothing herein shall be deemed an admission of wrong doing by the producers of water from the basin regarding water quality degradation currently or historically occurring in Chino Basin. Further, this Resolution shall be deemed only a statement of support of the herein described program by the Chino Basin Watermaster and its Advisory Committee and shall be limited to the project herein described.

Section Six: That the Secretary is hereby authorized and directed to transmit certified copies of Resolution No. 93-10-1, to the appropriate agencies.

THE FOREGOING RESOLUTION was approved and signed on this seventh day of October, 1993.

ATTEST:


Bill Hill, Chairman



John L. Anderson, Secretary
(SEAL)

Exhibit A

1. Interception of rising water leaving the basin.
2. Use of reclaimed water to recharge the basin.
3. Water available from either transfers or abandonment by members of the Non-Ag Pool.
4. Water stored in Watermaster accounts.
5. Other new water introduced to the basin. (This could include, but not be limited to, introduction of Santa Ana River water, and additional storm runoff recharge.)

RESOLUTION NO. 98-3

RESOLUTION OF THE CHINO BASIN WATERMASTER
TO FINANCIALLY SUPPORT THE DEVELOPMENT OF
ADDITIONAL DESALTING IN CHINO BASIN TO
PROTECT THE SAFE YIELD OF THE BASIN

WHEREAS, the Chino Basin Watermaster (Watermaster) was appointed on January 27, 1978, under the Judgment in Case No. RCV 81010 (formerly Case No. SCV 154327) entitled Chino Basin Municipal Water District v. City of Chino Et al. (The "Judgment"), with powers to levy and collect replenishment assessments necessary to replace water produced from the Chino Basin in excess of Safe Yield allocations and to cover the cost of administration of the Judgment and

WHEREAS, Watermaster has approved an agreement with the California Regional Water Quality Control Board, Santa Ana Region (RWQCB) to provide 12,000 acre feet of replenishment water for the Santa Ana Watershed Project Authority's Project Agreement 14 (Desalter) for the purpose of removing high-salinity/nitrate groundwater to stabilize and eventually improve water quality in the Chino Basin; and

WHEREAS, although the Desalter will begin to clean-up the southern portion of Chino Basin, additional desalting or other technologies may be required in order for agencies to be able to develop water in the lower portion of Chino Basin for domestic use and to protect the existing Safe Yield of the basin; and

WHEREAS, Desalting is expensive and may not be economically viable if an agency must purchase replenishment water to offset production produced through a desalter;

NOW, THEREFORE the Watermaster does hereby determine as follows:

1. That when the demand for desalted water in the southern portion of the Chino Basin exceeds the 12,000 acre feet produced by the Desalter, Watermaster will provide additional replenishment water to offset the replenishment obligation for future desalting

projects that make economic sense and protect the Safe Yield of the basin. The replenishment sources used to offset the replenishment obligation will come from the interception of rising groundwater to the Santa Ana River, other water sources, including reclaimed, developed by Watermaster, and may include the purchase of replenishment water.

2. Watermaster will continue to provide replenishment water to future desalters to the extent that the incremental cost of desalting groundwater is greater than the cost of producing overdraft water that requires no wellhead treatment.

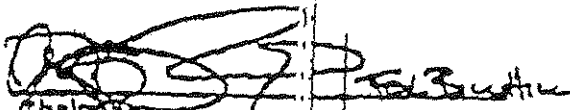
3. If Watermaster is required to purchase water to meet the replenishment obligation of the future desalters, a special assessment may be levied.

4. Watermaster hereby expresses support to the RWQCB in its attempt to regulate pollution that makes its way into the Chino Basin, and encourages them to continue that effort.


5. That the Secretary is hereby authorized and directed to transmit certified copies of Resolution No. 85-3, to the appropriate agencies.

APPROVED BY ADVISORY COMMITTEE BY A UNANIMOUS VOTE ON JUNE 25, 1996.

ADOPTED this 10th day of July, 1996.


Chairman
Chino Basin Watermaster

ATTEST:


Secretary
Chino Basin Watermaster

MILK PRODUCERS COUNCIL

13545 Euclid Ave., Ontario, CA 91761 - (909)628-6018 - Fax (909) 591-7328

PROJECTED COSTS OF MANURE REMOVAL TO THE DAIRY INDUSTRY IN THE SANTA ANA REGION AT CURRENT (7/26) REMOVAL RATES.

- ▶ To adequately remove the estimated 950,000 tons of manure this year, the dairy industry in the Santa Ana Region will face a huge economic impact. Manure must be removed from a dairy site to ensure herd health and milk quality. At one time in the Chino Basin, dairy producers had a free, unlimited market for their manure, but as urbanization and environmental regulation have increased over the past 20 years, manure removal has become more expensive.

The general waste discharge permit, as proposed by the Santa Ana Regional Water Quality Control Board, will ban the spreading of manure within the Chino Basin. As of today, the Chino Basin dairy producer is faced by a range of manure removal costs (cost includes a fixed \$4 fee for scraping, loading, and hauling out of the corrals; in addition to a variable tipping fee) that are charged to the dairy producer. At a total cost of \$6, there is a limited market for spreading within agricultural areas in the Chino Basin. At \$8, the market for spreading manure increases as manure can be transported to farm areas in Riverside County (i.e. Moreno Valley). Between \$10 and \$12, compost facilities within the Chino Basin can receive 300,000 to 400,000 tons. The agricultural community and composters in and around the Chino Basin can process up to 400,000 tons. At \$12, some dairy producers are able to transport and spread manure, with a back-haul, onto agricultural lands in the South Central Valley. The rest of the manure would then be transported into the Central Valley at a cost between \$14 and \$16 per ton.

By the year 2001, the cost of removing manure will significantly increase. The increase is due to the Regional Board's desire to eliminate manure spreading in other surrounding groundwater basins as well as general increases in operating costs.

cost (scrape, haul, & tipping fee)	manure removed	cost to dairy
\$ 6	25,000tons	\$ 150,000
8	50,000	400,000
10	100,000	1,000,000
12	325,000	3,900,000
14	300,000	4,200,000
16	150,000	2,400,000
Total (1999)	950,000tons	\$12,050,000
Projected Total (2001)		18,120,000

Cost Structure of Manure Removal

Cost per dairy (@302 animal feeding operations*)

1999 - \$39,900

2001 - \$60,000

Cost per milking & dry cow (@250,000 cows*)

1999 - \$48.20

2001 - \$72.48

Cost per hundred weight (@56,802,000 cwt of milk produced in the Chino Basin per year)

1999 - \$0.21

2001 - \$0.32

**California Regional Water Quality Control Board, Santa Ana Region
Fact Sheet for Order No.99-11, NPDES NO. CAG018001*