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FILED - West District
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OCT 16 2001

By Susan King
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6 **COPY**

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN BERNARDINO - RANCHO CUCAMONGA DIVISION**

11 CHINO BASIN MUNICIPAL WATER DISTRICT,)

12 Plaintiff,)

13 v.)

14 THE CITY OF CHINO,)

15 Defendants.)

CASE NO. RCV 51010

Judge: Honorable J. MICHAEL GUNN

**WATERMASTER REQUEST FOR
RATIFICATION AND
CONFIRMATION OF
AUTHORITY TO PROSECUTE A
WATER RIGHTS PETITION,
WATER RIGHTS APPLICATION
TO APPROPRIATE AND TO
HOLD WATER RIGHTS IN
TRUST**

DATE: Nov. 15, 2001
TIME: 2:00 pm
DEPT: 8

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21 East Carrillo Street
Santa Barbara, CA 93101

22
23 **I.**

24 **INTRODUCTION**

25 The Chino Basin Watermaster ("Watermaster") files this motion to obtain a judicial
26 declaration that it may properly take the following actions notwithstanding limitations in the
27 Judgment and the Peace Agreement on Watermaster owning an interest in real property: (1)

Watermaster Request for Ratification
and Confirmation of Authority to Prosecute

1 Prosecute a Petition with the State Water Resources Control Board ("SWRCB") for a limited
2 revision of SWRCB's Declaration of the Santa Ana River as a Fully Appropriated Stream
3 ("Petition," a copy of which is attached hereto and incorporated herein by this reference as Exhibit
4 "A"); (2) Prosecute an Application to appropriate ("Application") unappropriated water from the
5 Santa Ana River System (a copy of which is attached hereto and incorporated herein by this
6 reference as Exhibit "B"); and (3) hold any water rights secured under the Application "in trust" for
7 the benefit of the parties to the Judgment.

8 Watermaster's efforts described herein do not violate the limitation on Watermaster's
9 ownership of interests in real property because Watermaster's actions are undertaken for the sole
10 benefit of the parties to the Judgment ("beneficiaries") and Watermaster's ownership interest would
11 consist of "bare legal title" only. The beneficiaries would enjoy all beneficial interest in the water
12 rights secured in the event Watermaster is successful. The beneficiaries will direct how the water
13 is used in accordance with the 1978 Judgment, the Peace Agreement and the OBMP.

14 Conversely, if Watermaster is not allowed to proceed as requested in this motion, individual
15 parties to the Judgment would be required to prosecute independent and separate filings with the
16 SWRCB. Aside from the obvious additional expense that would be incurred in the filing of multiple
17 applications, there is the further possibility that the filings would work at cross-purposes to each
18 other or the OBMP.

19 The Special Referee's Report and Recommendation Regarding Watermaster's Motion to
20 Amend the Judgment, requested that the basis of Watermaster's authority to hold water rights in trust
21 for the beneficiaries receive further clarification. Watermaster responded to this request in the Post-
22 Order Memorandum with a description of the legal and policy basis for such authority and
23 committed to submit the issue of Watermaster's authority to the Court for confirmation coincident
24 with the processing of the Petition and the Application, and prior to taking possession of actual water
25 rights. The current motion is made in order to satisfy that commitment.

26 ///

27 ///

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II.

BACKGROUND OF WATERMASTER'S PETITION AND APPLICATION

On September 21, 2000, the SWRCB adopted Order WR2000-12 granting the petitions from the Orange County Water District ("OCWD"), the San Bernardino Valley Municipal Water District and the Western Municipal Water District of Riverside County ("OCWD et al.") for a limited revision of the SWRCB's Declaration of Fully Appropriated Stream Status for the Santa Ana River. With the grant of these petitions, the SWRCB made it possible for water rights applications filed on behalf of these entities to be processed.

Several Chino Basin parties opposed the petitions and the water rights applications. Of most concern to the Chino Basin parties is the water right application filed by OCWD, which is a downstream entity from the Chino Basin. It was feared that OCWD's appropriation of additional water could serve to undermine the rights of the beneficiaries, the integrity of the 1978 Judgment and Watermaster's ability to effectively implement the OBMP.

Before the SWRCB decision on the OCWD et al. petitions, many parties to the Judgment commonly referred to as "the Chino Basin parties," collectively entered into negotiations with OCWD. Ultimately these negotiations resulted in the Santa Ana River and Chino Basin Water Right Accord ("Accord," a copy of which is attached hereto and incorporated herein by this reference as Exhibit "C"). The Accord represents an agreement whereby the oppositions to the OCWD et al., petitions would be withdrawn, and in return OCWD would consent to the *filing*¹ of the Petition and Application by the Chino Basin parties.

The Chino Basin parties, through Watermaster, initially filed its Application on September 21, 2000, and at a hearing before the SWRCB on the same day, all parties urged the SWRCB to accept the Application for processing. The SWRCB commended the parties for coming to an agreement through the Accord and agreed to follow the intent of the Accord by allowing an application by the Chino Basin parties to be processed simultaneously with the other applications.

¹ Mr. Arthur Kidman, the attorney who negotiated the Accord with OCWD, has confirmed via letter opinion that the Accord only requires that Watermaster have filed its Petition and Application, not that such be accepted for filing by the SWRCB, in order to satisfy the terms of the Accord. A copy of this letter is attached here as Exhibit "D."

1 However, it also indicated that legally it could not so process the Application until the Chino Basin
2 parties had also filed their own Petition. The Chino Basin parties, through Watermaster, filed the
3 Petition on December 1, 2000. To date, the SWRCB has not acted on the Petition. However,
4 consistent with the representations made at the September 21, 2000, hearing, the SWRCB has also
5 not acted to process any of the applications previously filed by OCWD et al.

6 **III.**

7 **BASIS OF WATERMASTER'S AUTHORITY TO HOLD WATER RIGHTS IN TRUST**
8 **FOR THE BENEFIT OF THE PARTIES TO THE JUDGMENT**

9 The SWRCB proceedings described above have been of concern to the parties in the Chino
10 Basin because an essential component of the OBMP is the recharge of the Basin using surface flows
11 in the Chino Basin watershed. When it became clear to the Chino Basin parties that the best way
12 to participate in the SWRCB proceedings was as an applicant rather than as an objector, the Chino
13 Basin parties elected to participate through the Watermaster as the representative of the Basin as a
14 whole. This is because the need to ensure that the ability to use surface flows for recharge purposes
15 is not a particularized need of any individual producer in the Basin, but is rather a Basin-wide
16 imperative that affects the implementation of the OBMP as a whole.

17 **A. Paragraph 19 of the Judgment Must be Construed in the Context of the Entire**
18 **Judgment and the Intention of the Parties.**

19 In relevant part, Paragraph 19 of the 1978 Judgment provides that:

20 Watermaster may purchase, lease, acquire and hold all necessary
21 facilities and equipment; provided, that it is not the intent of the Court
22 that Watermaster acquire any interest in real property or substantial
23 capital assets.

24 (Paragraph 19, page 13.)

25 The same rules of interpretation apply in ascertaining the meaning of a judgment as in
26 ascertaining the meaning of any other writing. (Strohm v. Strohm, (1960) 182 Cal.2d 53.) A consent
27 judgment is regarded as a contract between the parties and is to be constructed as a contract. (Hi-
28 Desert County Water District v. Blue Skies Country Club (1994) 23 Cal.App.4th 1723; In re
Application of Ferrigno, (1937) 22 Cal.App.2d 472.) It is a fundamental principle of contract

1 interpretation in California that the whole of a contract is to be taken together, so as to give effect
2 to every part, if reasonably practical, each clause helping to interpret the other. (Civil Code § 1641.)
3 Intent is the paramount feature of a contract, and the function of all interpretation is to try to ascertain
4 the true intent of the parties. (Scott v. Sun-Maid Raisin Growers Assn., (1936) 13 Cal.App.2d 353.)
5 Paragraph 19 of the Judgment must therefore be construed in the context of the entire Judgment and
6 the Intention of the parties.

7 The intended purpose of prohibiting Watermaster from owning real property is to maintain
8 Watermaster's objective role as administrator of the 1978 Judgment. If Watermaster were to own
9 real property such as recharge facilities, then it would develop its own independent interests in the
10 Basin. Like the other parties to the Judgment it could develop a self-interest in the rights incident
11 to the property that it owns. This would pose the danger that Watermaster's independent role would
12 be compromised.

13 However, the satisfaction of these policies must occur within the context of the Judgment as
14 a whole. For example, reading the Judgment as a whole, it is evident that Watermaster is required
15 to implement the physical solution. One aspect of this implementation is that Watermaster has the
16 duty of conducting recharge and replenishment activities. Toward this end, Watermaster engages
17 in the activity of purchasing replenishment water for the benefit of its members. For a period of time
18 when Watermaster secures the rights to such water, it has an ownership interest in the supply, not
19 dissimilar from the appropriative rights it would hold in trust under the pending application. If
20 Watermaster's actions in securing replenishment water are authorized, so too should it have the right
21 to secure appropriative rights for the sole benefit of the Parties to the Judgment.

22 Within the context of the Judgment as a whole, the prohibition on the ownership of real
23 property cannot mean that Watermaster is precluded from securing replenishment water simply
24 because it chose to file an application in lieu of buying the water from an importer. It cannot mean
25 that Watermaster must require all the parties to the Judgment to file their own individual applications
26 where recharge is necessary to sustain the Safe Yield of the Basin, just as it has never been construed
27 to require each party to secure its own replenishment water.

28

1 The water rights that Watermaster will acquire from its Petition and Application will be held
2 for the sole benefit of the parties to the Judgment and thus are no different from other forms of
3 recharge and replenishment. Accordingly, the parties to the Judgment agree that Watermaster could
4 own water rights, but only as a trustee of those water rights on behalf of all of the parties to the
5 Judgment. The Peace Agreement states that:

6 Watermaster shall not own recharge projects, including but not
7 limited to spreading grounds, injection wells, or diversion works. It
8 shall never own real property. However, Watermaster may own water
rights in trust for the benefit of the parties to the Judgment.

9 (Section 5.1(h), pages 22-23.) This agreement is not intended to alter the Judgment, but is rather an
10 interpretation that satisfies the policy of Paragraph 19 of the Judgment. A Court should defer to the
11 interpretation given to a contract by the parties to that contract. (Universal Sales Corp. v. California
12 Press Mfg. Co., (1942) 20 Cal.2d 751.)

13 **B. Ownership in Trust is Merely Bare Legal Title With All Beneficial Interest**
14 **Being Held by the Parties to the Judgment**

15 Courts have long expressed a willingness to look through the veil of bare legal ownership
16 of a water right in order to preserve the rights to the water by those who hold the true beneficial
17 interest in such water. An example of such willingness can easily be seen in those cases analyzing
18 the trustee/beneficiary relationship that pertains between a mutual water company and its
19 shareholders.

20 For example, in Locke v. Yorba Irr. Co., the California Supreme Court analyzed the question
21 of whether a plaintiff landowner with water rights on the Santa Ana River had reserved those rights
22 upon a transfer of her land. (Locke v. Yorba Irr. Co., (1950) 35 Cal.2d 205.) The defendant claimed
23 that such a reservation was impossible since the plaintiff had previously transferred those rights to
24 a mutual water company. The Court held that the reservation was valid since the transfer of
25 ownership of the water rights to the mutual water company, "was nothing more than a change in the
26 formal evidence of title or ownership of the water right. At no time was there other than a change
27 in the form of the ownership of the right . . ." (Id. at 209 (citing Estate of Thomas, (1905) 147 Cal.
28

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1 236; Arroyo Ditch & Water Co. v. Baldwin, (1909) 155 Cal. 280; Copeland v. Fairview Land Co.,
2 (1913) 165 Cal. 148.)

3 Watermaster will hold these water rights in trust and thus will hold bare legal title to the
4 rights in the same way that a trustee mutual water company holds the bare legal title to the water
5 rights that it manages for its shareholders. Since such bare legal title will confer no substantive rights
6 upon Watermaster with regard to these rights, such ownership is not inconsistent with the provisions
7 of the Judgment or Peace Agreement regarding real property. By holding the water rights in trust,
8 the policies of the Judgment and Peace Agreement are satisfied because Watermaster will not have
9 discretionary ability to manage the water rights independent from the will of the parties as a whole.
10 As the trustee, Watermaster will only be able to take actions regarding the water rights that are in
11 the best interests of the parties to the Judgment as the beneficiaries of the trust.

12 In the Post-Order Memorandum filed by Watermaster on behalf of the parties on October 26,
13 2000, Watermaster articulated several additional legal and policy basis for Watermaster's authority
14 to hold water rights in trust for the parties. In general, consistent with the policies discussed above,
15 the Post-Order Memorandum noted that the fact that Watermaster may not own property for its own
16 use should not be determinative of its ability to hold water rights in trust for the benefit of the parties
17 as a whole.

18 Watermaster has the authority to accomplish replenishment by "any reasonable method," and
19 securing water rights to surface flows is one such reasonable method. In fact, Watermaster has long
20 held two water rights permits (Permit 19895 and Permit 20753) without challenge or adverse
21 consequences to any individual party. Replenishment of the Chino Basin is to be accomplished for
22 the benefit of the parties as a whole, and to the extent that such replenishment requires a right
23 confirmed by the SWRCB, it is most appropriate that Watermaster be the holder of that right.
24 Watermaster accomplishes this task not as a competitor with the individual Basin parties, but rather
25 on their behalf.

26 The Post-Order Memorandum also cited several provisions of the Judgment that lend support
27 to the parties' interpretation of Watermaster's authority. These include Paragraphs 19, 20, 25, and

28

Watermaster Request for Ratification
and Confirmation of Authority to Prosecute

1 26 which authorize Watermaster to purchase, lease, acquire, and hold all necessary facilities, enter
2 into agreements and cooperate with State and Federal Agencies to implement the Physical Solution.
3 All of these powers are consistent with the authority to hold water rights in trust for the parties.

4 The need for flexibility articulated in Paragraphs 40 and 41 of the Judgment also lends
5 support to Watermaster's authority to hold water rights in trust for the parties, since, as described
6 above, this is likely the most efficient and secure method of ensuring that surface flows in the Chino
7 Basin will be utilized to the maximum extent possible to replenish the Basin.

8 Finally, the Post-Order Memorandum cites various legal authorities which confirm the legal
9 precedent of water users working in a cooperative manner to secure and manage their water rights
10 by designating a trustee to act for their common benefit. The Post-Order Memorandum notes in this
11 regard that such arrangements can serve to reduce conflicts among those with shared rights in a
12 common supply.

13 IV.

14 CONCLUSION

15 For all of the foregoing reasons, Watermaster respectfully requests that the Court confirm and
16 ratify Watermaster's filing of the Petition and Application and its acquisition of water rights to be
17 held in trust for the benefit of the parties to the Judgment as provided herein and to further find that
18 such actions are consistent with the Peace Agreement and the 1978 Judgment.

19

20 DATED: 10/15/01

HATCH AND PARENT

21

22

By Michael Slater

23

SCOTT S. SLATER
MICHAEL T. FIFE
Attorneys for Chino Basin Watermaster

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25

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27

28

EXHIBIT "A"

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December 1, 2000

OUR FILE # 8350.1
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Harry Shueller, Chief
Division of Water Rights
State Water Resources Control Board
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P.O. Box 2000, Sacramento, CA 95812-2000

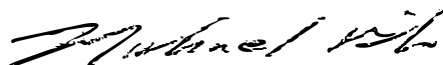
RE: PETITION FOR LIMITED REVISION OF THE DECLARATION OF FULLY
APPROPRIATED STREAM STATUS OF THE SANTA ANA RIVER

Dear Mr. Shueller:

Enclosed please find for filing a Petition for a Limited Revision of the Declaration of Fully Appropriated Stream Status of the Santa Ana River. This Petition is filed by the Chino Basin Watermaster on behalf of the Chino Basin parties.

We look forward to working with you and your staff, as well as the other parties in the Santa Ana Watershed, to complete the expeditious processing of this Petition.

Sincerely,



Michael T. Fife
For HATCH AND PARENT

MXF:mxmf
252918.1

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5 Attorneys for
CHINO BASIN WATERMASTER
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7
8

9 STATE WATER RESOURCE CONTROL BOARD
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of the Petition of

13 CHINO WATERMASTER

14 For an Order Revising the Declaration of Full
Appropriation of the Santa Ana River

PETITION FOR LIMITED REVISION
OF DECLARATION OF FULL
APPROPRIATION OF THE SANTA
ANA RIVER

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18 Petitioner, CHINO WATERMASTER ("Watermaster"), in trust for and for the benefit of the
19 Chino Basin parties, hereby petitions the State Water Resource Control Board ("SWRCB") to revise
20 the 1989 Declaration of Full Appropriation of the Santa Ana River to the limited extent necessary
21 to enable the SWRCB to process and grant Watermaster's application to appropriate water from the
22 Santa Ana River. Watermaster's application was filed with the SWRCB on September 21, 2000.

23 **I. BASIS OF PETITION**

24 **A. Previous Petitions**

25 On September 3, 1999, the Orange County Water District ("OCWD") submitted a petition
26 requesting that the Declaration of Fully Appropriated Streams be revised to allow for processing of
27

1 an application to appropriate water from the Santa Ana River which had previously been submitted
2 by OCWD. The San Bernardino Valley Municipal Water District and the Western Municipal Water
3 District of Riverside County also submitted similar petitions. These petitions demonstrated that
4 flows in the Santa Ana watershed have changed due to upstream urbanization and increased release
5 of treated wastewater into the stream system. Watermaster hereby incorporates these petitions into
6 the current petition as though fully set forth herein.

7 **B. SWRCB Order WR 2000-12**

8 On September 21, 2000, the SWRCB adopted Order WR 2000-12 which granted OCWD's
9 petition. The Order also granted the petition filed by the San Bernardino Valley Municipal Water
10 District and the Western Municipal Water District of Riverside County. Watermaster requests the
11 SWRCB to take judicial notice of this Order and the record therein.

12 **C. Santa Ana River and Chino Basin Water Rights Accord**

13 OCWD and the Chino Basin protesting parties have reached an accord which settles their
14 differences with regard to the limited revision of the Declaration of Fully Appropriated Steams for
15 the Santa Ana River. A fully executed copy of this Accord is attached here as Exhibit "A."
16 Watermaster requests the SWRCB to take judicial notice of this Accord.

17 **D. Watermaster's Petition**

18 Watermaster seeks to file an application to divert and share a portion of the water referred
19 to in OCWD's petition.

20
21 **II. WATERMASTER'S PETITION**

22 **A. The Role of Watermaster**

23 In the mid-1970's the Chino Basin was adjudicated resulting in a Stipulated Judgment titled,
24 *Chino Basin Municipal Water District v. City of Chino, et al.*, San Bernardino Superior Court Case
25 No. RCV 51010 ("1978 Judgment"). Originally, the Chino Basin Municipal Water District (now
26 known as the Inland Empire Utilities Agency) was designated as the Chino Basin Watermaster. This
27 designation was changed by Court order in 1998, and presently the Chino Basin Watermaster is

1 directed by a nine-member Board composed of representatives from various parties in the Chino
2 Basin. The Chino Basin Watermaster now functions as a collaborative entity to administer the 1978
3 Judgment on behalf of the many cities, Districts, and private entities in the Chino Basin.

4 After completion of environmental review, Watermaster unanimously approved an Optimum
5 Basin Management Program ("OBMP") on June 29, 2000. The Court approved the OBMP on July
6 13, 2000 and full ratification of the program was complete on August 1, 2000. The parties to the
7 Judgment and the parties to a related agreement, commonly known as the Peace Agreement,
8 consented to Watermaster's acquisition of water rights to be held in trust for the benefit of the parties
9 to the Judgment. In this way, potential conflicts among competing intra-Basin claimants could be
10 minimized.

11 The finalization of the OBMP is a historic event in the Chino Basin and Watermaster hopes
12 that the Chino Basin can be managed in a responsible and sustainable manner for the greatest good
13 of the region. To realize this goal, the Chino Basin parties, through the Chino Basin Watermaster,
14 must be permitted to make use of the storm flows and recycled water flows in the Chino Basin.

15 **B. Watermaster's Petition and Application**

16 In the Petition for Limited Revision of Declaration of Full Appropriation of the Santa Ana
17 River filed by the Orange County Water District ("OCWD"), the petitioners identified up to
18 approximately 500,000 AF of water that had not been considered in the 1989 decision to declare the
19 Santa Ana River as fully appropriated. (*See* Petition for Limited Revision of Declaration of Full
20 Appropriation of the Santa River, dated September 2, 1999.) Watermaster seeks no change in this
21 approximation. This water is available in the Santa Ana River due to conservation efforts, increased
22 stormflows, and wastewater discharges. As identified in the OCWD petition, "these flows and
23 conservation efforts constitute a 'change of circumstances' warranting a revision to the Declaration."
24 (*See Id.* at p. 2.)

25 This current petition submitted by the Watermaster is based upon the quantity of water
26 identified by OCWD in its petition and found to exist by the SWRCB in Order WR 2000-12. Of the
27 quantity identified by OCWD, up to 270,066 AF originates from the Chino watershed. Petitioner has

1 identified this quantity of water as originating from the Chino watershed based upon information
2 compiled from reports of the Santa Ana River Watermaster.

3 Watermaster merely supplements this record through Table 1 which is attached hereto and
4 which lists the storm water at Prado and the storm water produced in the Chino Basin that is
5 measured at Prado (some of the storm water produced in the Chino Basin is recharged in spreading
6 and retention basins and is not included in these numbers). Table 1 also shows the increase in the
7 recycled water generation over time in the Chino Basin. In addition, Table 1 shows the average and
8 maximum Chino Basin storm water and recycled water discharges to the Santa Ana River for the last
9 ten years that data is available. The maximum storm water generated in the Chino Basin during the
10 last ten years was 210,893 AF and the maximum IEUA recycled water discharged to the River was
11 59,173 AF.

12 Figure 1 (attached) is a double mass curve that shows that the rate of storm water runoff
13 generation in the Chino Basin is increasing over time – consistent with the urbanization and related
14 flood control improvements that are occurring over the same period. The increasing slope of the
15 double mass curve over time is caused by increasing runoff per unit of rainfall. This also can be seen
16 by inspection of Table 1. See for example that the annual volume of runoff for annual rainfall totals
17 between 10 and 12 inches increases for the three periods 1971-72 to 1977-78, 1978-79 to 1991-92,
18 and 1992-93 to 1998-99.

19 Watermaster, as well as the parties in the Chino Basin have expended considerable amounts
20 of time and money to develop the OBMP for the Chino Basin. The development of the OBMP has
21 been predicated on the ability of the Chino Basin parties to make full beneficial use of the flows
22 originating in the Chino watershed. The sole purpose of this petition is to enable the SWRCB to
23 accept and ultimately grant Watermaster's Application which was filed on September 21, 2000 and
24 which seeks to confirm the rights of the Chino Basin parties, through the Watermaster, to these
25 flows.

26 //

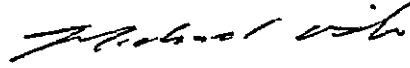
27 //

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1 WHEREFORE, Watermaster respectfully requests that the SWRCB revise the Declaration
2 of Full Appropriation to the limited extent necessary to accept and grant Watermaster's Application.

3
4 DATED: Dec. 1, 2000

HATCH & PARENT

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7 Scott S. Slater
8 Michael T. Fife
9 ATTORNEYS FOR THE CHINO BASIN
10 WATERMASTER
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Table 1
Estimates of Chino Basin Storm Water and Recycled Water
Discharge from Santa Ana River Watermaster Reports

Year	Rainfall (inches)	Storm Water		Recycled Water Generated and/or Discharged in the Chino Basin		
		Total Measured at Prado Dam (acre-ft)	From Chino Basin and Measured at Prado Dam (acre-ft)	Produced by IEUA (acre-ft)	Discharged by Others ¹ (acre-ft)	Total Recycled Water Production (acre-ft)
1970-71	11.97	13,462	6,411	--	21,810	21,810
1971-72	9.62	11,327	5,231	6,740	22,240	28,980
1972-73	18.46	28,485	13,019	10,380	22,400	32,780
1973-74	12.72	19,543	11,252	13,760	23,070	36,830
1974-75	13.49	11,655	7,456	17,240	23,360	40,600
1975-76	15.86	13,793	4,516	18,400	24,280	42,680
1976-77	11.95	14,675	9,278	18,020	23,780	41,800
1977-78	30.47	194,349	34,949	18,710	25,510	44,220
1978-79	17.51	62,646	41,938	20,110	26,460	46,570
1979-80	30.93	445,253	200,635	19,930	28,270	48,200
1980-81	10.45	26,923	11,140	22,530	29,770	52,300
1981-82	18.34	61,819	10,484	24,940	31,050	55,990
1982-83	32.36	306,519	74,696	25,080	30,880	55,960
1983-84	10.81	55,825	15,591	24,900	32,290	57,190
1984-85	12.86	37,889	22,744	29,440	34,000	63,440
1985-86	17.86	70,158	35,189	30,900	34,720	65,620
1986-87	8.08	23,343	3,215	32,160	36,510	68,670
1987-88	13.78	42,714	16,193	36,790	40,710	77,500
1988-89	12.64	33,171	20,784	41,690	43,570	85,260
1989-90	8.53	24,314	17,314	40,490	42,350	82,840
1990-91	15.48	75,275	44,460	42,940	41,290	84,230
1991-92	16.54	82,729	49,571	47,690	41,670	89,360
1992-93	30.92	438,563	210,893	51,870	43,700	95,570
1993-94	11.62	41,622	25,784	49,750	40,430	90,180
1994-95	25.14	284,651	69,969	53,730	41,290	95,020
1995-96	11.92	58,692	29,371	53,460	41,810	95,270
1996-97	18.64	61,783	17,788	54,480	39,280	93,760
1997-98	33.41	300,604	148,686	59,173	45,601	104,774
1998-99	8.02	23,673	18,291	58,233	51,067	109,300
Average for 1989-90 to 1998-99		129,552	59,356	50,319	42,914	93,233
Maximum for 1989- 90 to 1998-99		438,563	210,893	59,173	51,067	109,300

Source -- Annual Reports of the Santa Ana River Watermaster

¹ -- Includes recycled water discharged to the Santa Ana River in the Chino Basin by the Western Riverside Regional Plant, and the Cities of Corona and Riverside

Figure 2 Double Mass Curve of Rainfall at San Bernardino vs Storm Water Measured below Prado Dam

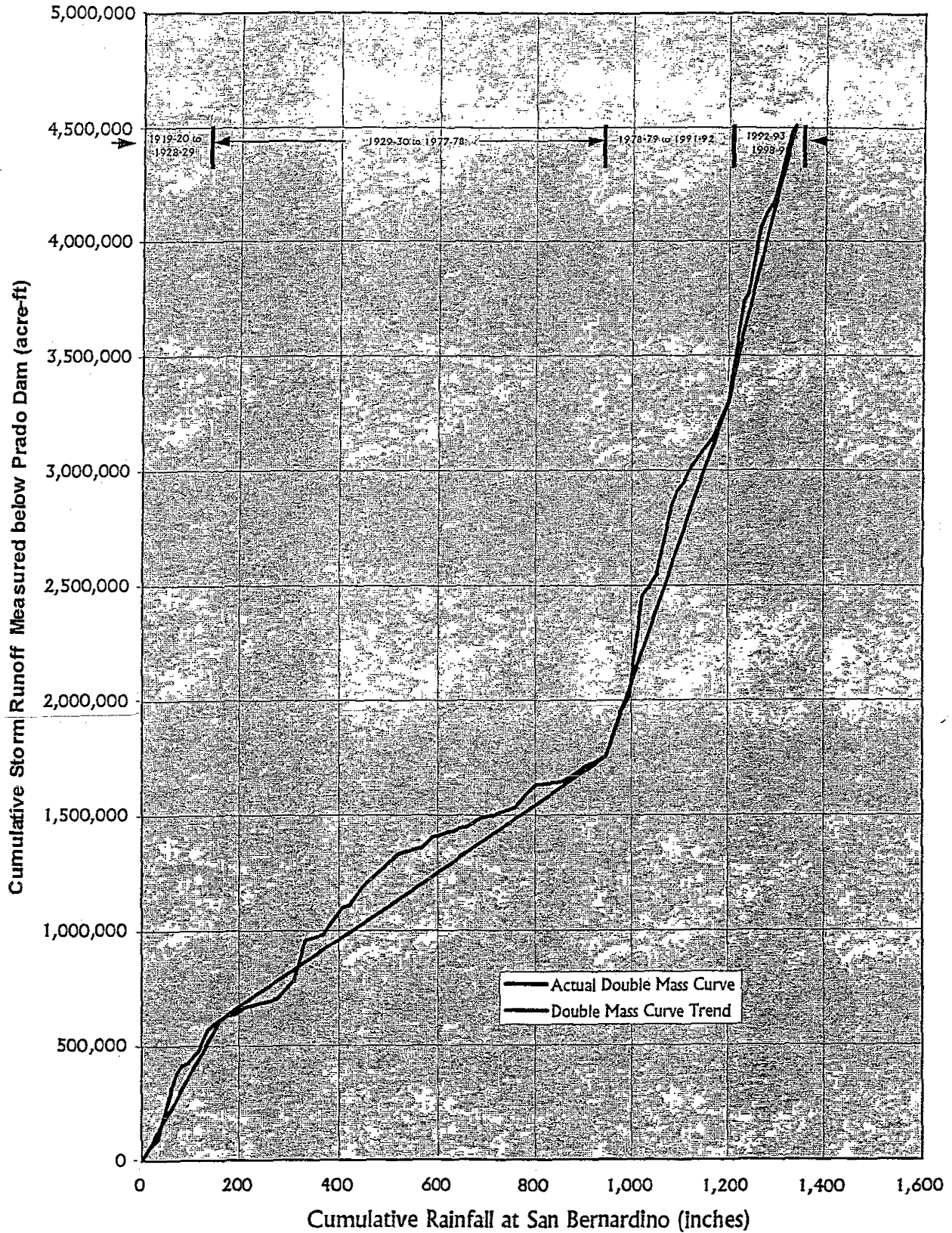


EXHIBIT "B"

STANLEY C. HATCH
GERALD B. PARENT
S. TIMOTHY BUYNACK
SUSAN F. PETROVICH
PETER N. BROWN
STANLEY M. RODEN
SCOTT S. SLATER
STEVEN A. AMERIKANER
GARY M. KVISTAD
CHRISTOPHER A. JACOBS
JEFFREY A. DINKIN
JEFFERY H. SPEICH
LORI LEWIS PERRY
ROBERT J. SAPERSTEIN
JEANNE MACCALDEN KVALE
JOSEF D. HOUSKA
SARAH J. KNECHT
STEPHANIE OSLER HASTINGS
BRADLEY E. LUNDGREN
DEBORAH L. MARTIN
JOHN D. BAKKER
MICHELLE L. PICKETT
ROBIN L. LEWIS
TIMOTHY C. HALE
GRAHAM M. LYONS
JUSTIN J. LUCKE
MICHAEL T. FIFE
MINDY A. WOLFE
THOMAS A. VANDENBERG

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HATCH AND PARENT

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KEVIN J. NEESE
1959 - 1999

OF COUNSEL
CHRIS FRAHM
KIRK R. WILSON
JOSEPH D. ALLEN

OUR FILE # 8350.1
DIRECT DIAL # (805) 882-1453
INTERNET: MFife
@HatchParent.com

September 21, 2000

Mr. Harry M. Schueller
Chief, Water Rights Division
State Water Resources Control Board
901 P Street, 3rd Floor
P.O. Box 2000
Sacramento, California 95812-2000

Dear Mr. Schueller:

Enclosed with this cover letter please find an Application to Appropriate Water filed by the Chino Basin Watermaster in trust for the benefit of the Chino Basin parties. In the broadest terms, the application seeks to ensure that the rights of the Chino Basin parties to any water in the Chino Basin arising under prior judgments or other law are fully protected and confirmed. These rights are authorized by court judgments in numerous prior proceedings and are limited only in accordance with these judgments as described below. The Application seeks to obtain independent authorization from the State Water Resources Control Board to the extent the rights of the Chino Basin parties, without prejudice to the pre-existing claims of the Chino Basin parties under applicable law. The law firm of Hatch & Parent serves as the general counsel for the Chino Basin Watermaster and is submitting this Application on Watermaster's behalf.

The Chino Basin

The Chino Groundwater Basin ("Chino Basin") consists of about 235 square miles located in the upper Santa Ana watershed. The Chino Basin is one of the largest groundwater basins in southern California with about 5,000,000 acre-feet of water currently in the Chino Basin, and an unused storage capacity of about 1,000,000 acre-feet.

The principal drainage course of the Chino Basin is the Santa Ana River. The Santa Ana River enters the Chino Basin at the Riverside Narrows and flows along the southern boundary of the Basin to the Prado Flood Control Reservoir where it is eventually discharged through the outlet at Prado Dam.

The Chino Basin 1978 Judgment

In the mid-1970s the Chino Basin was adjudicated resulting in a Stipulated Judgment titled, *Chino Basin Municipal Water District v. City of Chino, et al.*, San Bernardino Superior Court Case No. RCV 51010 ("1978 Judgment"). Since that time the stakeholders in the Chino Basin have been working to create an Optimum Basin Management Program ("OBMP"), as required by the 1978 Judgment, to resolve the many groundwater issues facing the Basin. The Chino Basin Watermaster is a collaborative entity created by the 1978 Judgment to develop and administer the OBMP. Originally, the Chino Basin Municipal Water District (now known as the Inland Empire Utilities Agency) was designated as the Chino Basin Watermaster, but this designation was changed by Court order in 1998, and presently the Chino Basin Watermaster is directed by a nine-member Board composed of representatives from the various parties in the Chino Basin.

The Chino Basin Optimum Basin Management Program

The many municipalities, water agencies, and overlying users officially agreed upon a Final OBMP on June 29, 2000. This OBMP is made up of three components. First is the Phase I Report which was completed in August of 1999. The Phase I Report provides an exhaustive description of the conditions in the Chino Basin and sets forth the goals that the OBMP is designed to achieve. The second component to the OBMP is the Implementation Plan that describes the specific steps that will be undertaken, primarily by the Chino Basin Watermaster, to implement the objectives described in the Phase I Report. The third component of the OBMP is the Peace Agreement. The Peace Agreement is a negotiated agreement among the Chino Basin parties which has resolved many of the long-standing issues between the parties that have inhibited completion and implementation of the OBMP.

The Court approved this OBMP on July 13, 2000 and full ratification of the program was complete on August 1, 2000. The Chino Basin Watermaster, as well as all of the parties in the Chino Basin are currently in the process of finalizing the policies and procedures that will allow implementation of the OBMP to move forward.

The OBMP addresses both the water quantity and the water quality issues. To address the quantity issues, the Chino Basin Watermaster oversees and regulates groundwater production within the very broad allocation parameters established by the Judgment and according to procedures and policies described in the OBMP. The OBMP sets forth a rigorous monitoring program and proposes a recharge program that will protect and enhance the beneficial uses of the Chino Basin. To address quality issues the OBMP recommends a series of desalting facilities. The operation of these facilities will be tied to the recharge program in so far as the withdrawal of the polluted water from the Basin will necessitate replenishment so that current water users are not injured.

The finalization of the OBMP is a historic event in the Chino Basin and it has the potential to fulfill the hope of the 1978 Judgment that the Chino Basin can be managed in a responsible and sustainable manner for the greatest good of the region. But in order to realize this goal the Chino Basin

Harry Schueller, Chief
September 8, 2000
Page 3

parties, through the Chino Basin Watermaster, must be permitted to continue making use of the storm flows and recycled water flows in the Chino Basin.

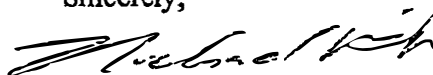
Not only is such use required under the 1978 Judgment, it is also permitted under the Stipulated Judgment entered in *Orange County Water District v. City of Chino*, et al., Orange County Superior Court Case No. 117628 ("1969 Judgment"). The 1969 Judgment adjudicated the rights to the surface water in the whole of the Santa Ana watershed. The regime of allocation that it established functions by dividing the watershed into two areas, an Upper Area and a Lower Area. The Upper Area is that portion of the watershed above Prado Dam, and the Lower Area is that portion of the watershed below Prado Dam. In very broad terms, the 1969 Judgment functions by requiring the San Bernardino Valley Municipal Water District ("SBVMWD") to insure that an average annual adjusted base flow of 15,250 acre-feet flows through the Riverside Narrows. The Western Municipal Water District ("WMWD") and IEUA are jointly responsible for an average annual adjusted base flow of 42,000 acre-feet at Prado Dam. The 1969 Judgment contains formulas for various types of adjustments to be made under specified conditions, but, for the most part, so long as SBVMWD, WMWD, and IEUA meet these average annual adjusted base flow requirements, the entities in the Upper Area are free to make whatever beneficial use of the water in the Santa Ana watershed as they deem appropriate. Recharge activities in order to enable the implementation of the OBMP are certainly one such beneficial use.

Confirm and Establish Rights

Many of the Chino Basin parties make use of the groundwater in the Chino Basin by right as overlying landowners. The municipalities and various water districts appropriate groundwater under prescriptive rights which were affirmed by the Court in the 1978 Judgment. These rights include the right to recharge the Basin using storm flows and recycled water flows. The parties in the Chino Basin have been using the waters of the Basin in this way for many years. Many of these uses were initiated prior to 1914. However, in light of the petitions to lift the fully appropriated stream status of the Santa Ana River, and in light of the applications by the Orange County Water District, ("OCWD"), SBVMWD, and WMWD, to be granted the legal entitlement to the water of the Santa Ana River, it is important that, to the extent the rights of the Chino Basin parties to appropriate surface water from the Santa Ana River are within the jurisdiction of the SWRCB, these rights also be confirmed as part of the same proceeding.

Even though the Chino Basin Watermaster is not itself a water user, it has been authorized to apply for this water right and to hold any right obtained in trust for the benefit of the Basin as a whole. In this way, no existing party to the 1969 or 1978 Judgment will obtain unfair advantage over another.

Sincerely,



Michael T. Fife
HATCH & PARENT
General Counsel
For CHINO BASIN WATERMASTER

MINIMUM FILING FEE: \$100.00
 FILE ORIGINAL & ONE COPY
 TYPE OR PRINT IN BLACK INK
 (For explanation of entries required, see
 booklet "How to File an Application to
 Appropriate Water in California")

STATE OF CALIFORNIA
 State Water Resources Control Board
 DIVISION OF WATER RIGHTS
 901 P Street, Sacramento
 P. O. Box 2000, Sacramento, CA 95812-2000

APPLICATION TO APPROPRIATE WATER BY PERMIT

Application No. _____
 (Leave blank)

1. APPLICANT

CHINO BASIN WATERMASTER

(909) 484 - 3888

(Name of applicant)

8632 Archibald Ave. Ste 109

(Telephone number where you may be reached
 between 8 a. m. and 5 p. m. - include area code)

Rancho Cucamonga CA, 91730-4665

(Mailing address)

(City or town)

(State)

(Zip code)

2. SOURCE

a. The name of the source at the point of diversion is Deer Creek, Day Creek, Etiwanda Creek, San Sevair
 Chino Creek, San Antonio Creek, Cucamonga Creek
 (If unnamed, state that it is an unnamed stream, spring, etc.)

tributary to Santa Ana River

b. In a normal year does the stream dry up at any point downstream from your project? YES NO If yes, during
 what months is it usually dry? From Varies to _____

What alternate sources are available to your project should a portion of your requested direct diversion season be
 excluded because of a dry stream or nonavailability of water? N/A

3. POINTS OF DIVERSION and REDIVERSION

a. The point(s) of diversion will be in the County of San Bernardino and Riverside

b. List all points giving coordinate distances from section corner or other tie as allowed by Board regulations i. e. California Coordinate System	Point is within (40-acre subdivision)	Section	Township	Range	Base and Meridian
	1/4 of	1/4			
SEE ATTACHMENT 3B	1/4 of	1/4			
	1/4 of	1/4			

c. Does applicant own the land at the point of diversion? YES NO

d. If applicant does not own the land at point of diversion, state name and address of owner and what steps have been taken to obtain right of access: Owners include various municipalities and special districts within the jurisdictional area of applicant. By agreement of these entities, applicant is making this application and will hold the rights in trust for these entities.

4. PURPOSE of USE, AMOUNT and SEASON

a. In the table below, state the purpose(s) for which water is to be appropriated, the quantities of water for each purpose, and the dates between which diversions will be made. Use gallons per day if rate is less than 0.025 cubic foot per second (approximately 16,000 gallons per day). Purpose must only be "Domestic" for registration of small domestic use.*

PURPOSE OF USE (Irrigation, Domestic, etc.)	DIRECT DIVERSION				STORAGE		
	QUANTITY		SEASON OF DIVERSION		AMOUNT	COLLECTION SEASON	
	RATE (Cubic feet per second or gallons per day)	AMOUNT (Acre-feet per year)	Beginning Date (Mo. & Day)	Ending Date (Mo. & Day)	Acre-feet per annum	Beginning Date (Mo. & Day)	Ending Date (Mo. & Day)
Groundwater	varies	68,500	07/01	06/30	same	same	same
Recharge of Stormwater							
Groundwater	varies	28,500	07/01	06/30	same	same	same
Recharge of							
Recycled Water							

b. Total combined amount taken by direct diversion and storage during any one year will be 97,000 acre-feet.
*Not to exceed 4,500 gallons per day by direct diversion or 10 acre-feet per annum by storage.

5. JUSTIFICATION OF AMOUNT

a. IRRIGATION: Maximum area to be irrigated in any one year is 26,887 acres.

CROP	ACRES	METHOD OF IRRIGATION (Sprinklers, flooding, etc.)	ACRE-FEET PER YEAR	NORMAL SEASON	
				Beginning Date	Ending Date
Alfalfa & Misc. Feed	6,100	Sprinkler	24,700	07/01	06/30
Grapes	200	Flooding	587	07/01	06/30
Truck Crops	500	Furrow & Sprinkler	1,600	07/01	06/30

b. DOMESTIC: Number of residences to be served is N/A. Separately owned? YES NO
 Total number of people to be served is _____ . Estimated daily use per person is _____
 Total area of domestic lawns and gardens is _____ square feet. (Gallons per day)
 Incidental domestic uses are _____
 (Dust control area, number and kind of domestic animals, etc.)

c. STOCKWATERING: Kind of stock Dairy Cattle Maximum number 280,000
 Describe type of operation: Heifers 80,000
 Type of Operation: Dairy (Feed lot, dairy, range, etc.)

d. RECREATIONAL: Type of recreation: N/A fishing Swimming Boating Other

e. MUNICIPAL: (Estimated projected use)

POPULATION 5-Year periods until use is completed		MAXIMUM MONTH		ANNUAL USE		
PERIOD	POP.	Average daily use (gal. per capita)	Rate of diversion (cfs)	Average daily use (gal. per capita)	Acre-foot (per capita)	Total acre-feet
Present	1,123,000	464	806	232	0.260	291,900
2005	1,251,000	459	889	230	0.258	322,134
2010	1,380,000	448	958	224	0.251	346,838
2015	1,523,000	442	1,041	221	0.248	377,007
2020	1,666,000	440	1,134	220	0.247	410,759

Month of maximum use during year is July. Month of minimum use during year is January.

- f. HEAT CONTROL: The total area to be heat protected is N/A net acres.
 Type of crop protected is _____
 Rate at which water is applied to use is _____ gpm per acre.
 The heat protection season will begin about _____ and end about _____
 (Date) (Date)
- g. FROST PROTECTION: The total area to be frost protected is N/A net acres.
 Type of crop protected is _____
 Rate at which water is applied to use is _____ gpm per acre.
 The frost protection season will begin about _____ and end about _____
 (Date) (Date)
- h. INDUSTRIAL: Type of industry is N/A
 Basis for determination of amount of water needed is _____
- i. MINING: The name of the claim is N/A. Patented Unpatented
 The nature of the mine is _____. Mineral to be mined is _____
 Type of milling or processing is _____
 After use, the water will be discharged into _____
 (Name of stream)
 in _____ 1/4 of _____ 1/4 of Section _____, T _____, R _____, _____ B. & M.
 (40-acre subdivision)
- j. POWER: The total fall to be utilized is N/A feet. The maximum amount of water to be used through the penstock
 is _____ cubic feet per second. The maximum theoretical horsepower capable of being generated by the
 works is _____. Electrical capacity is _____ kilowatts at _____ % efficiency.
 (Cubic feet per second x fall ÷ 8.8) (Hp x 0.746 x efficiency)
 After use, the water will be discharged into _____
 (Name of stream)
 in _____ 1/4 of _____ 1/4 of Section _____, T _____, R _____, _____ B. & M. FERC No. _____
 (40-acre subdivision)
- k. FISH AND WILDLIFE PRESERVATION AND/OR ENHANCEMENT: YES NO If yes, list specific species
 and habitat type that will be preserved or enhanced in item 17 of Environmental Information form WR 1-2.
- l. OTHER: Describe use: N/A. Basis for determination of amount of water needed is _____

6. PLACE OF USE

- a. Does applicant own the land where the water will be used? YES NO Is land in joint ownership? YES NO
 (All joint owners should include their names as applicants and sign the application.)
 If applicant does not own land where the water will be used, give name and address of owner and state what arrangements
 have been made with the owner. All water use is within the jurisdictional
area of Watermaster.

b.

USE IS WITHIN (40-acre subdivision)	SECTION	TOWNSHIP	RANGE	BASE & MERIDIAN	IF IRRIGATED	
					Number of acres	Presently cultivated (Y/N)
1/4 of 1/4	SEE ATTACHMENT 13					
1/4 of 1/4						
1/4 of 1/4						
1/4 of 1/4						
1/4 of 1/4						
1/4 of 1/4						

(If area is unsurveyed, state the location as if lines of the public land survey were projected, or contact the Division of Water Rights. If space does not permit listing all 40-acre tracts, include on another sheet or state sections, townships and ranges, and show detail on map.)

7. DIVERSION WORKS

- a. Diversion will be by gravity by means of existing miscellaneous diversion works for storm water
(Dam, pipe in unobstructed channel, pipe through dam, siphon, weir, gate, etc.)
- b. Diversion will be by pumping from recycled water plants Pump discharge rate 80 cfs Horsepower varies
(Sump, offset well, channel, reservoir, etc.) (cfs or gpd)
- c. Conduit from diversion point to first lateral or to offstream storage reservoir:

CONDUIT (Pipe or channel)	MATERIAL (Type of pipe or channel lining) (Indicate if pipe is buried or not)	CROSS SECTIONAL DIMENSION (Pipe diameter or ditch depth and top and bottom width)	LENGTH (Feet)	TOTAL LIFT OR FALL		CAPACITY (Estimate)
				Feet	+ or -	
	SEE ATTACHMENT	7C				

- d. Storage reservoirs: (For underground storage, complete Supplement 1 to WR1, available upon request.)

Name or number of reservoir, if any	DAM				RESERVOIR		
	Vertical height from downstream toe of slope to spillway level (ft.)	Construction material	Dam length (ft.)	Freeboard Dam height above spillway crest (ft.)	Approximate surface area when full (acres)	Approximate capacity (acre-feet)	Maximum water depth (ft.)
SEE SUPPLEMENT 1 TO WR1 (UNDERGROUND STORAGE SUPPLEMENT)							

- e. Outlet pipe: (For storage reservoirs having a capacity of 10 acre-feet or more.)

Diameter of outlet pipe (inches)	Length of outlet pipe (feet)	FALL (Vertical distance between entrance and exit of outlet pipe in feet)	HEAD (Vertical distance from spillway to outlet pipe in reservoir in feet)	Estimated storage below outlet pipe entrance (dead storage)
N/A				

- f. If water will be stored and the reservoir is not at the point of diversion, the maximum rate of diversion to offstream storage will be n/a cfs. Diversion to offstream storage will be made by: Pumping Gravity

8. COMPLETION SCHEDULE

- a. Year work will start 2001 b. Year work will be completed 2010
 c. Year water will be used to the full extent intended 2010 d. If completed, year of first use _____

9. GENERAL

- a. Name of the post office most used by those living near the proposed point of diversion is various
- b. Does any part of the place of use comprise a subdivision on file with the State Department of Real Estate? YES NO
 If yes, state name of the subdivision Various within the Chino Basin area
 If no, is subdivision of these lands contemplated? YES NO
 Is it planned to individually meter each service connection? YES NO If yes, When? 2001
- c. List the names and addresses of diverters of water from the source of supply downstream from the proposed point of diversion: Orange County Water District P.O. Box 8300
Mountain Valley, CA 92728-8300
- d. Is the source used for navigation, including use by pleasure boats, for a significant part of each year at the point of diversion, or does the source substantially contribute to a waterway which is used for navigation, including use by pleasure boats? YES NO If yes, explain: _____

10. EXISTING WATER RIGHT

Do you claim an existing right for the use of all or part of the water sought by this application? YES NO

If yes, complete table below:

Nature of Right (riparian, appropriative, groundwater.)	Year of First Use	Purpose of use made in recent years including amount, if known	Season of Use	Source	Location of Point of Diversion
SEE ATTACHMENT 10					

11. AUTHORIZED AGENT (Optional)

With respect to all matters concerning this water right application those matters designated as follows:

Traci Stewart (Name of agent) (. 909) 484 - 3888 (Telephone number of agent between 8 a. m. and 5 p. m.)
8632 Archibald Avenue, Suite 109 Rancho Cucamonga, CA 91730-4665
 (Mailing address) (City or town) (State) (Zip code)

is authorized to act on my behalf as my agent.

12. SIGNATURE OF APPLICANT

I (we) declare under penalty of perjury that the above is true and correct to the best of my (our) knowledge and belief.

Dated 9-20 2000, at Santa Barbara, California

(If there is more than one owner of the project, please indicate their relationship.)

Ms. Mr. Michael Rob
 Miss. Mrs. _____
 (Signature of applicant)

Ms. Mr. _____
 Miss. Mrs. _____
 (Signature of applicant)

Additional information needed for preparation of this application may be found in the Instruction Booklet entitled "HOW TO FILE AN APPLICATION TO APPROPRIATE WATER IN CALIFORNIA". If there is insufficient space for answers in this form, attach extra sheets. Please cross-reference all remarks to the numbered item of the application to which they may refer. Send original application and one copy to the STATE WATER RESOURCES CONTROL BOARD, DIVISION OF WATER RIGHTS, P. O. Box 2000, Sacramento, CA 95812-2000, with \$100 minimum filing fee.

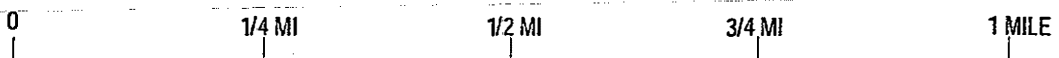
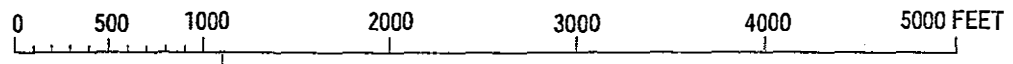
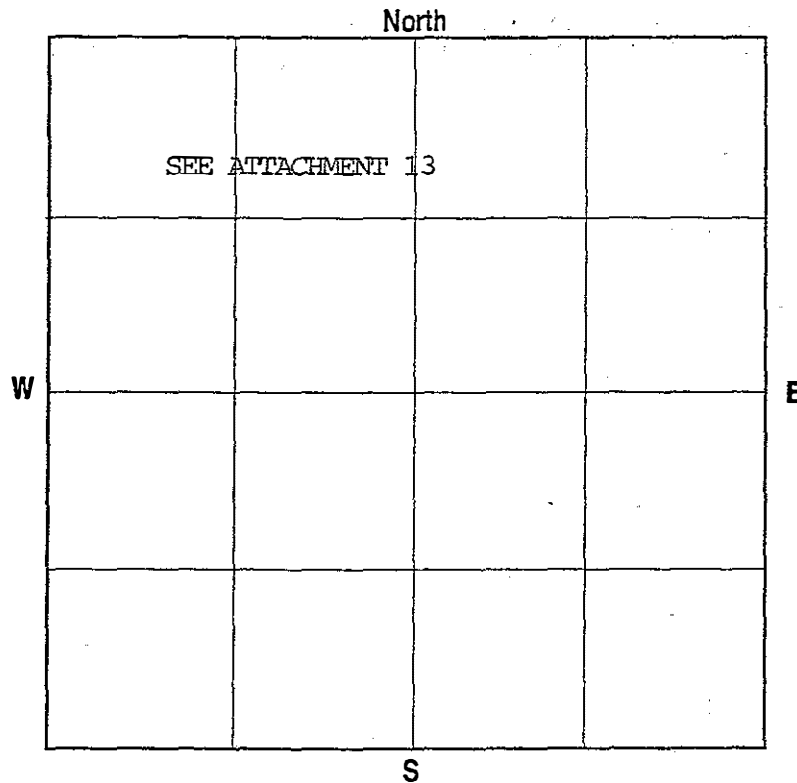
NOTE:

If this application is approved for a permit, a minimum permit fee of \$100 will be required before the permit is issued. There is no additional fee for registration of small domestic.

13. MAP

(Please complete legibly, with as much detail as possible, or attach a suitable alternative. See example in instruction booklet.)

SECTION(S) _____ TOWNSHIP _____ RANGE _____, _____ B. & M.



- (1) Show location of the stream or spring, and give name.
- (2) Locate and describe the point of diversion (i. e. the point at which water is to be taken from the stream or spring) in the following way: Begin at the most convenient known corner of the public land survey, such as a section or quarter section corner (if on unsurveyed land more than two miles from a section corner, begin at a mark or some natural object or permanent monument that can be readily found and recognized) and measure directly north or south until opposite the point which it is desired to locate; then measure directly east or west to the desired point. Show these distances in figures on the map as shown in the instructions.
- (3) Show location of the main ditch or pipeline from the point of diversion.
- (4) Indicate clearly the proposed place of use of the water.

14. SUPPLEMENTAL INFORMATION

- a. If you are applying for a permit, Environmental Information form WR1-2 should be completed and attached to this form.
- b. If you are registering a small domestic use, Fish and Game Information form WR1-3 should be completed and attached to this form.
- c. If you are applying for underground storage, Supplement 1 to WR 1 (available upon request) should be completed and attached to this form.



Part 3b of Application -- Points of Diversion and Rediversion										
Spreading Facility	Basin Type	Diversion Name	Eastings	Northings	Point is Within	Section	Township	Range	Base and Meridian	
San Antonio Creek System										
College Heights	FB	San Antonio Creek Inlet	6653870	1861320.71	NW 1/4 of	NW 1/4 of	11	01S	O8W	S.B.B.M.
Upland Basin	FT	Misc Existing Urban Storm Drains	Varies	Varies						
Montclair 1	Both	San Antonio Creek Inlet Misc Existing Urban Storm Drains	6652040.1 Varies	1855855.9 Varies	NE 1/4 of	NE 1/4 of	15	01S	O8W	S.B.B.M.
Montclair 2	FT	Outlet from Montclair 1 Misc Existing Urban Storm Drains	6651927.8 Varies	1854846.5 Varies	NE 1/4 of	NE 1/4 of	15	01S	O8W	S.B.B.M.
Montclair 3	Both	San Antonio Creek Inlet Outlet from Montclair 2 Misc Existing Urban Storm Drains	6651423.5 6651675.5 Varies	1853334.9 1853570.8 Varies	NW 1/4 of SW 1/4 of	SE 1/4 of NE 1/4 of	15	01S	O8W	S.B.B.M.
Montclair 4	FT	Outlet from Montclair 3 Misc Existing Urban Storm Drains	6651331 Varies	1852355.3 Varies	NW 1/4 of	SE 1/4 of	15	01S	O8W	S.B.B.M.
Brooks	FT	San Antonio Creek Inlet Misc Existing Urban Storm Drains	6647789.6 Varies	1845097.3 Varies	NW 1/4 of	NW 1/4 of	27	01S	O8W	S.B.B.M.
West Cucamonga Creek System										
8th Street	FT	Misc Existing Urban Storm Drains	6673019.3	1856071.8	NE 1/4 of	NE 1/4 of	17	01S	O7W	S.B.B.M.
7th Street	FT	Outlet from 8th Street Basin	6673030.1	1854979	NE 1/4 of	NE 1/4 of	17	01S	O7W	S.B.B.M.
Ely Basin	FT	West Cucamonga Creek Inlet Misc Existing Urban Storm Drains	6676982.7 Varies	1835570.1 Varies	SW 1/4 of	SE 1/4 of	33	01S	O7W	S.B.B.M.
Grove Street	FT	Misc Existing Urban Storm Drains	Varies	Varies	SW 1/4 of	SE 1/4 of	33	01S	O7W	S.B.B.M.
Cucamonga Creek System										
Turner No. 1	FB	Cucamonga Creek Inlet	6682542.5	1850672.8	NW 1/4 of	NE 1/4 of	22	01S	O7W	S.B.B.M.
Deer Creek System										
Turner No. 2,3,4	Both	Deer Creek Inlet Outlet from Turner 589	6684634.1	1850133.6	NE 1/4 of	NE 1/4 of	22	01S	O7W	S.B.B.M.
Turner No. 5,8,9	Both	Deer Creek Inlet Misc Existing Urban Storm Drains	6686169 Varies	1850180.3 Varies	NE 1/4 of	NW 1/4 of	23	01S	O7W	S.B.B.M.
Day Creek System										
Lower Day	Both	Day Creek Inlet Misc Existing Urban Storm Drains	6700373.3 Varies	1871850 Varies	NE 1/4 of	NE 1/4 of	31	01N	O6W	S.B.B.M.
Edwanda Percolation Ponds (aka Edwanda Basins)	FT	Misc Existing Urban Storm Drains	Varies	Varies						
Wineville	FT	Day Creek Inlet Misc Existing Urban Storm Drains	6700368.6 Varies	1838840.8 Varies	SE 1/4 of	NE 1/4 of	31	01S	O6W	S.B.B.M.
Riverside	FT	Wineville Outlet Misc Existing Urban Storm Drains	6699249.7 Varies	1837568 Varies	SE 1/4 of	NE 1/4 of	31	01S	O6W	S.B.B.M.
Edwanda Creek System										
Edwanda Debris Basin	FT	Outlet from Edwanda Spreading Area	6709726	1877535.3	SW 1/4 of	SE 1/4 of	21	01N	O6W	S.B.B.M.
San Sevaline Creek System										
San Sevaline No. 1	FT	San Sevaline Creek Inlet	6715443.4	1877470.9	NE 1/4 of	NE 1/4 of	27	01N	O6W	S.B.B.M.
San Sevaline No. 2	FT	Outlet from San Sevaline 1	6715806.1	1876823.8	NE 1/4 of	NE 1/4 of	27	01N	O6W	S.B.B.M.
Rich Basin	FT	Misc Existing Urban Storm Drains	Varies	Varies						
San Sevaline No. 3	FT	Outlet from Rich Basin Outlet from San Sevaline 2 Misc Existing Urban Storm Drains	6719551.8 6715774.2 Varies	1880432 1876134.1 Varies	SW 1/4 of SE 1/4 of	NE 1/4 of NE 1/4 of	23 27	01N 01N	O6W O6W	S.B.B.M. S.B.B.M.
San Sevaline No. 4	FT	Outlet from San Sevaline 3	6715757.2	1875498.7	SE 1/4 of	NE 1/4 of	27	01N	O6W	S.B.B.M.
San Sevaline No. 5	FT	Outlet from San Sevaline 4	6715623.9	1874877.6	SE 1/4 of	NE 1/4 of	27	01N	O6W	S.B.B.M.
Victoria Basin	Both	Inlet from Edwanda Creek Misc Existing Urban Storm Drains	6711701.1 Varies	1870738.9 Varies	SW 1/4 of	NW 1/4 of	34	01N	O6W	S.B.B.M.
Banana Basin	FT	Misc Existing Urban Storm Drains	Varies	Varies						
Hickory Basin	FT	Outlet from Banana Basin	6713257.7	1857072.2	SE 1/4 of	SW 1/4 of	10	01S	O6W	S.B.B.M.
Jurupa Basin	Both	Inlet from San Sevaline Channel Misc Existing Urban Storm Drains	6708521.7 Varies	1841430.5 Varies	SW 1/4 of	SE 1/4 of	28	01S	O6W	S.B.B.M.
Decler Channel System										
Former RP3 Site	FT	Inlet from Decler Channel	6721780.9	1838204.8	SE 1/4 of	NE 1/4 of	35	01S	O6W	S.B.B.M.
Decler Basin	FT	Inlet from Decler Channel	6713196.2	1834901.3	NE 1/4 of	NW 1/4 of	3	02S	O6W	S.B.B.M.
Totals										

Note (1) - FT is a flow-through basin where all inflows are intercepted and completely diverted into the basin; FB is a flow-by basin where inflows are intercepted by either manzable inlet works or by flow regulators; Both is a combination flow-through and flow-by basin.

Note (2) - Eastings/Northings are California Stateplane coordinates (Units: Feet, Zone 6, Datum: NAD83)

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Attachment 7c to Application and Attachment 2 to Underground Storage Supplement

Part 7c of Application and Part 2 of Underground Storage Supplement - Diversion Works						
Spreading Facility	Diversion Name	Conduit	Material	Cross Sectional Dimensions	Length	Total Capacity
					(ft)	(cfs)
San Antonio Creek System						
College Heights	San Antonio Creek Inlet	3 - 5' x 5' reinforced concrete culvert, 150' long, 2% slope				290
Upland Basin	Misc Existing Urban Storm Drains			varies		690
Montclair 1	San Antonio Creek Inlet	48" reinforced concrete pipe, 80' long, 2% slope				290
	Misc Existing Urban Storm Drains			varies		1,110
Montclair 2	Outlet from Montclair 1	Concrete spillway				1,920
	Misc Existing Urban Storm Drains			varies		300
Montclair 3	San Antonio Creek Inlet	3 - 5' x 5' reinforced concrete culvert, 150' long, 2% slope				290
	Outlet from Montclair 2	Concrete spillway				1,800
	Misc Existing Urban Storm Drains			varies		300
Montclair 4	Outlet from Montclair 3	Concrete spillway				2,070
	Misc Existing Urban Storm Drains			varies		330
Brooks	San Antonio Creek Inlet	Trapezoidal channel, b=4', z=1, d=6', 5% slope, diverted completely				0
	Misc Existing Urban Storm Drains			varies		1,860
West Cucamonga Creek System						
8th Street	Misc Existing Urban Storm Drains			varies		2,910
7th Street	Outlet from 8th Street Basin	50' wide spillway @ 3 - 10' X 5' reinforced concrete culvert, 110' long				0
Ely Basin	West Cucamonga Creek Inlet	Trapezoidal channel, b=36', z=1, d=16', 5% slope, diverted completely				2,880
	Misc Existing Urban Storm Drains			varies		3,150
Grove Street	Misc Existing Urban Storm Drains			varies		1,140
Cucamonga Creek System						
Turner No. 1	Cucamonga Creek Inlet	8' x 4' reinforced concrete culvert, 40' long, .5% slope				310
Deer Creek System						
Turner No. 2, 3, 4	Deer Creek Inlet	3 - 5' x 5' reinforced concrete culvert, 150' long, 2% slope				330
	Outlet from Turner 3&9					320
Turner No. 5, 8, 9	Deer Creek Inlet	3 - 5' x 5' reinforced concrete culvert, 150' long, 2% slope				300
	Misc Existing Urban Storm Drains			varies		
Day Creek System						
Lower Day	Day Creek Inlet	96" reinforced concrete pipe, 360' long, 4% slope				
	Misc Existing Urban Storm Drains			varies		90
Edwanda Percolation Ponds (aka Edwanda Basins)	Misc Existing Urban Storm Drains			varies		1,560
Wineville	Day Creek Inlet	60" wide concrete channel diverted completely into basin				10,980
	Misc Existing Urban Storm Drains			varies		1,020
Riverside	Wineville Outlet	104' wide spillway @ 72" RCP diverted completely into basin				3,690
	Misc Existing Urban Storm Drains			varies		750
Edwanda Creek System						
Edwanda Debris Basin	Outlet from Edwanda Spreading Area	Natural channel diverted completely through basin				4,620
San Sevaline Creek System						
San Sevaline No. 1	San Sevaline Creek Inlet	Natural channel diverted completely through basin				6,750
San Sevaline No. 2	Outlet from San Sevaline 1	150' wide spillway				6,630
Rich Basin	Misc Existing Urban Storm Drains			varies		3,420
San Sevaline No. 3	Outlet from Rich Basin	Concrete channel diverted completely into basin				3,390
	Outlet from San Sevaline 2	150' wide spillway				6,600
	Misc Existing Urban Storm Drains			varies		1,020
San Sevaline No. 4	Outlet from San Sevaline 3	150' wide spillway				10,830
San Sevaline No. 5	Outlet from San Sevaline 4	150' wide spillway				10,800
Victoria Basin	Inlet from Edwanda Creek	2 - 5' x 5' reinforced concrete culvert, 120' long, 2% slope				80
	Misc Existing Urban Storm Drains			varies		660
Banana Basin	Misc Existing Urban Storm Drains			varies		1,230
Hickory Basin	Outlet from Banana Basin			varies		1,200
Turupa Basin	Inlet from San Sevaline Channel	3 - 5' x 5' reinforced concrete culvert, 150' long, 2% slope				340
	Misc Existing Urban Storm Drains			varies		2,640
Decler Channel System						
Former RP3 Site	Inlet from Decler Channel	25' wide concrete channel diverted completely into basin				3,300
Decler Basin	Inlet from Decler Channel	25' wide concrete channel diverted completely into basin				3,240
Totals						
Note (1) - Miscellaneous storm drains consist of reinforced concrete boxes, reinforced concrete pipes and corrugated metal pipes of various dimensions and capacities and directed street drainage into these basins.						



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ATTACHMENT 10

Applicant claims the right to divert and store in trust for the Chino Basin parties, all base and storm flows, as well as all recycled, reclaimed and imported water releases within the jurisdictional area of the Chino Basin Watermaster. This right is based on the numerous judgments covering water usage in the Santa Ana River watershed as well as the rights of the Chino Basin parties which include prescriptive, overlying rights, and pre-1914 rights.

A. *Chino Basin Municipal Water District v. City of Chino, et al., San Bernardino Superior Case No. 164327 (now redesignated as No. RCV 51010)*

1. In 1975 Chino Basin Municipal Water District filed suit seeking an adjudication of water rights, injunctive relief, and the imposition of a physical solution to the Chino Groundwater Basin ("Chino Basin"). A Stipulated Judgment was entered in this case in 1978.
2. The 1978 Judgment created a Watermaster to develop and administer a physical solution within the broad guidelines established by the Judgment. The Chino Basin Municipal Water District (now known as the Inland Empire Utilities Agency ("IEUA")) was originally designated to function as the Watermaster. In 1998, the Court, in its continuing jurisdiction under the 1978 Judgment, replaced IEUA with a nine-member Board to serve as Watermaster. The nine-member Watermaster Board is composed of representatives from the various interests in the Chino Basin.
3. Under the 1978 Judgment the Chino Basin parties are grouped into three separate "pools" depending on the nature of their rights to the groundwater in the Chino Basin. There are two pools of overlying groundwater users representing agricultural water users and non-agricultural users. The third pool represents appropriators and is composed primarily of municipalities and various forms of water districts and companies.
4. The 1978 Judgment established numerical limits on the amount of water available to both of the overlying pools. The amount of water available to the appropriative pool was then determined to be any portion of the safe yield of the Chino Basin remaining after the satisfaction of the entitlement of the overlying pools.

B. *Orange County Water District v. City of Chino, et al., Orange County Superior Case No. 117628*

1. In 1963 a complaint was filed seeking an adjudication of water rights in the area tributary to Prado Dam in the Santa Ana Watershed. In 1969 a Stipulated Judgment was entered in this case which bound all of the principal water districts in the watershed.
2. The 1969 Judgment divided the watershed into two areas: the Upper Area which includes the portion of the watershed above Prado Dam, and the Lower Area which includes the portion of the

ATTACHMENT 10 (continued)

watershed below Prado Dam. Accordingly, the Western Municipal Water District ("WMWD"), the San Bernardino Valley Municipal Water District ("SBVMWD") and IEUA are designated as the "Upper Districts."

3. The 1969 Judgment determined that Lower Area water users had a right to an average annual water supply of 42,000 acre-feet of base flow at Prado Dam, together with the right to all storm flow which reached Prado Reservoir. The Upper Area water users were determined to have the right to divert, pump, extract, conserve, store, and use all surface and groundwater supplies originating within the Upper Area without interference or restraint from water users in the Lower Area, so long as the Lower Area receives its 42,000 acre-feet entitlement.

C. Prescriptive, overlying rights, and pre-1914 rights

1. The Chino Basin is one of the largest groundwater basins in Southern California with about 5,000,000 acre-feet of water in the Basin and an unused storage capacity of about 1,000,000 acre-feet. The cities and other water supply entities in the Chino Basin produce groundwater for all or part of their municipal and industrial supplies. In addition, between 300 and 400 agricultural users produce groundwater from the Basin.

2. The members of the two overlying pools in the Chino Basin withdraw groundwater by right of their status as overlying landowners. These rights were limited by prescription in the 1978 Judgment except to the extent that such rights had been preserved by self-help.

3. The members of the appropriative pool produce groundwater from the Chino Basin under prescriptive rights. Prior to 1978, the Chino Basin was in a state of overdraft. This gave rise to prescriptive rights on the part of the appropriators from the Basin.

4. Every water producer in the Chino Basin uses groundwater as their source for native water. The source of this groundwater is percolation from storm flows, from imported water, and from domestic and agricultural irrigation return flows. Other inflows into the Chino Basin include artificial recharge, recharge of sewage and subsurface inflow.

5. The points of diversion for this water are as described in question 3(b) of this application.

6. The use is year-round.

7. The beneficial uses to which the water has been put include domestic use, municipal and industrial use, irrigation, stock watering, as well as other uses including storage for these uses.

(Continued on next page)

ATTACHMENT 10 (continued)

D. Other Existing Rights

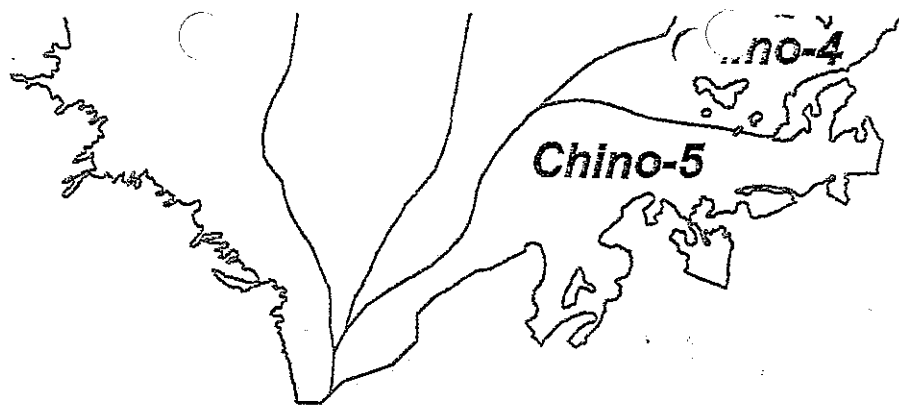
The Chino Basin Watermaster currently holds two water rights permits. The first is Permit 19895 for diversion from Day Creek and East Etiwanda Creek. The second is Permit 20753 for diversion from San Sevaine Creek and East Etiwanda Creek.

E. Confirmation and Consistency of Rights

The Chino Basin parties have engaged in long standing use of the groundwater of the Chino Basin and have for many years engaged in the practice of capturing storm flows and recycled water flows for the purpose of recharge of the Basin. These uses have been confirmed by both the 1969 and 1978 Judgments. In light of the applications of OCWD, WMWD, and SBVMWD, the Chino Basin parties believe it is prudent to ensure that the rights decreed under prior judgments are consistently reflected in the records of the SWRCB to the extent that surface water subject to the jurisdiction of the SWRCB is used for replenishment or use by the Chino Basin parties. In so doing the rights of the parties to the 1969 and 1978 Judgments will be protected without any individual party obtaining unfair advantage through the SWRCB approval process.

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Attachment 13

Map Showing Locations
of Water Spreading Facilities
for the Chino Basin Watermaster's
Application to Appropriate Water by Permit

WE WILDERMUTH
ENVIRONMENTAL, INC.

Prepared by: AEM

Date: September 2000

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State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 657-2170, FAX: (916) 657-1485, Web: <http://www.waterrights.ca.gov>

**APPLICATION TO APPROPRIATE WATER BY PERMIT
ENVIRONMENTAL INFORMATION**

(THIS IS NOT A CEQA DOCUMENT)

APPLICATION NO.

The following information will aid in the environmental review of your application as required by the California Environmental Quality Act (CEQA). IN ORDER FOR YOUR APPLICATION TO BE ACCEPTED AS COMPLETED, ANSWERS TO THE QUESTIONS LISTED BELOW MUST BE COMPLETED TO THE BEST OF YOUR ABILITY. Failure to answer all questions may result in your application being returned to you, causing delays in processing. If you need more space, attach additional sheets. Additional information may be required from you to amplify further or clarify the information requested in this form.

PROJECT DISCRPTION

1. Provide a description of your project, including but not limited to, type of construction activity, structures existing or to be built, area to be graded or excavated and project operation, including how the water will be used.

This project is primarily an existing system of channels, diversion
structures, and percolation basins designed to capture storm flows and
recycled water flows in the Chino Basin. Additional recharge facilities
are also proposed to be constructed in the upper half of the Chino Basin. A
Programmatic Environmental Impact Report ("PEIR") has been prepared for the
Chino Basin Optimum Basin Management Program ("OBMP"), which contains a
thorough analysis of the effects of this project on plant and animal communities.
A copy of the PEIR is attached to this application.

GOVERNMENTAL REQUIREMENTS

Before a final decision can be made on your water right application, we must consider the information contained in an environmental document prepared in compliance with the requirements of CEQA. If an environmental document has been prepared, a determination must be made as to who is responsible for the preparation of the environmental document for your project. The following questions are designed to aid us in that determination.

2. Contact your county planning or public works department for the following information:

- a. Person contacted N/A Date of contact _____
Department _____ Telephone () _____
- b. Assessor's Parcel No. Numerous throughout the Chino Basin
- c. County Zoning Designation existing diversion works
- d. Are any county permits required for your project? No
If yes, check appropriate space below:
_____ Grading Permit, _____ Use Permit, _____ Watercourse
Obstruction Permit, _____ Change of Zoning, _____ General Plan
Change, Other (explain):

- e. Have you obtained any of the required permits described above? N/A
If yes, provide a complete copy of each permit obtained.

3. Are any additional state or federal permits required for your project? NO (i.e., from Federal Energy Regulatory Commission, U.S. Forest Service, Bureau of Land Management, Soil Conservation Service, Department of Water Resources (Division of Safety of Dams), Reclamation Board, Coastal Commission, State Lands Commission, etc.) For each agency from which a permit is required provide the following information:

Permit type _____
Person (s) contacted _____ Agency _____
Date of contact _____ Telephone () _____

4. Has any public agency prepared an environmental document for any aspect of your project?
Yes - Final PEIR for the Chino Basin Optimum Basin Management Program

If so, please submit a copy of the latest environmental document (s) prepared, including a copy of the notice of determination adopted by the public agency. If not, explain below whether you expect that a public agency other than the State Water Resources Control Board will be preparing

an environmental document for your application or whether the applicant, if it is a California public agency, will be preparing the environmental document for your project:

Note: When completed, please submit a copy of the final environmental document (including notice of determination) or notice of exemption to the State Water Resources Control Board. Processing of your application cannot proceed until such documents are submitted.

5. Will your project, during construction or operation, generate waste or wastewater containing such things as sewage, industrial chemicals, metals, or agricultural chemicals, or cause erosion, turbidity or sedimentation? NO If so, explain: _____
-
-
-

If yes or you are unsure of your answer, contact your local Regional Water Quality Control Board for the following information (See attachment for address and telephone number):

Will a waste discharge permit be required for your project? NO

Person contacted _____ Date of contact _____

What method of treatment and disposal will be used? _____

6. Have any archeological reports been prepared on this project, or will you be preparing an archeological report to satisfy another public agency? Prepared as part of PEIR submitted in response to question 4 above.

Do you know of any archeological or historic sites located within the general project area?

_____ If so, explain: _____

ENVIRONMENTAL SETTING

7. Attach **THREE COMPLETE SETS** of color photographs, clearly dated and labeled, showing the vegetation currently existing at the following locations:
- a. Along the stream channel immediately downstream from the proposed point(s) of diversion
 - b. Along the stream channel immediately upstream from the proposed point(s) of diversion
 - c. At the place(s) where the water is to be used

Note: It is very important that you submit no less than three complete sets of photographs as required above. If less than three sets are submitted, processing of your application will be delayed until you furnish the remaining sets!

TO BE PROVIDED

8. From the list given below, mark or circle the general plant community types which best describe those which occur within you project area (Note: See footnote denoted by * under Question 11 below): SEE ATTACHED FIGURE 4.8.1

Tree Dominated Communities

Subalpine Conifer
Red Fir
Lodgepole Pine
Mixed Conifer
 Sierran Mixed Conifer
 White Fir
 Klamath Mixed Conifer
Douglas-Fir
Jeffrey Pine
Ponderosa Pine
Eastside Pine
Redwood

Pinyon-Juniper

Juniper
Aspen
Closed-Cone Pine-Cypress
Montane Hardwood-Conifer
Montane Hardwood
Valley Foothill Hardwood
 Blue Oak Woodland
 Valley Oak Woodland
 Coastal Oak Woodland
Valley Foothill Hardwood-Conifer
 Blue Oak-Digger Pine
Eucalyptus
Montane Riparian
Valley Foothill Riparian
Desert Riparian
Palm Oasis
Joshua Tree

Shrub Dominated Communities

Alpine Dwarf-Shrub
Low Sage
Bitterbrush
Sagebrush
Montane Chaparral
Mixed Chaparral
Chamise-Redshank Chaparral
Coastal Scrub
Desert Succulent Shrub
Desert Wash
Desert Scrub
Alkali Desert Scrub

Herbaceous Dominated Communities

Annual Grassland
Perennial Grassland
Wet Meadow
Fresh Emergent Wetland
Saline Emergent Wetland
Pasture

Aquatic Communities

Riverine
Lacustrine
Estuarine
Marine

Developed Communities

Cropland
Orchard-Vineyard
Urban

Literature source: Mayer, K.E., and W.F. Laudenslayer, Jr., (eds). 1988. A Guide to Wildlife Habitats of California. California Department of Forestry and Fire Protection, Sacramento. 166 pp. (Note: You may view a copy of this document at our public counter at the address given at the top of this form or you may purchase a copy by calling the California Department of Fish and Game, Wildlife Habitat Relationships (WHR) Program at (916) 653-7203).

9. Provide below an estimate of the type, number, and size (trunk/stem diameter at chest height) of trees and large shrubs that are planned to be removed or destroyed due to implementation of the proposed changes. Consider all aspects of your application, including changes in diversion structures, water distribution and use facilities, and changes in the place of use due to additional water development.

The majority of the project area has already been developed, leaving very few undeveloped areas in the Chino Basin. The general plant community for the project area is consequently dominated by a developed urban landscape. Riparian communities may be found along the Santa Ana River Corridor, the Prado Basin Reservoir, the southern portion of the project area, and along some of the existing draining courses throughout the Basin. (See Section 4.8.2 pp. 4-309 to 4-316 in attached PEIR figure 4.8.1 San Bernardino County Valley Region Vegetation by Holland Classification attached PEIR.) The Project consists mainly of existing spreading grounds. Proposed spreading grounds would be placed in the northern section of the Basin in a developed urban area. (See attached paper for continued answer to No 9.)

FISH AND WILDLIFE CONCERNS

10. Identify the typical species of fish which occur in the source(s) from which you propose to divert water and discuss whether or not any of these fish species or their habitat has been or would be affected by your proposed changes. (Note: See footnote denoted by * under Question 11 below):

No biological survey has been done of this area for this specific project on the typical types of species of fish. While the aquatic habitat of the Prado Basin is host to numerous introduced species, it is not believed that any aquatic species live in the specific project areas of this application.

CONTINUED ANSWER TO NUMBER 9.

(See Section 4.8.2 pp. 4-309 to 4-316 in attached PEIR; Figure 4.8.1 San Bernardino County Valley Region Vegetation by Holland Classification in attached PEIR.)

The Project consists mainly of existing spreading grounds. Proposed spreading grounds would be placed in the northern section of the Basin in a developed urban area. Development of these spreading grounds would not result in the removal of a significant number of tree or large shrubs. (See Figure 4.8.1 San Bernardino County Valley Region Vegetation by Holland Classification in attached PEIR.)

11. Identify the typical species of riparian and terrestrial wildlife in the project area and discuss whether or not any of these species and/or their habitat has been or would be affected by your project through construction of water diversion and distribution works and/or changes in the place of water use. (Note: See footnote denoted by * below):

Typical plant and animal communities vary throughout the project area.
See attached PEIR for a more thorough discussion.

*Note: The purposes of Question 10 and 11 are to provide a preliminary assessment of the presence of typical plant and animal species in the area and whether these species might be affected by your project. Detailed site surveys to quantify populations of specific species or determine the presence of rare or endangered species may be required at a later date. It is very important that you answer these questions accurately. If you are unable to obtain appropriate answers from your local California Department of Fish and Game biologists (See attachment for address and telephone number) or you do not have adequate information or expertise to complete your answers, you should hire a fishery consultant and/or a wildlife consultant to review your project and prepare suitable answers for you. For information on available qualified fishery or wildlife consultants near you, consult your local telephone directory yellow pages under Environmental and Ecological Services, or call the California Environmental Protection Agency, Registered Environmental Assessor (REA) Program, at (916) 324-6881 or the University of California, Cooperative Extension Service (See your local telephone directory white pages).

12. Does your proposed project involve any construction or grading-related activity which has significantly altered or would significantly alter the bed or bank of any stream or lake? NO
- If so, explain: _____

CERTIFICATION

I hereby certify that the statements I have furnished above and in the attached exhibits are complete to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge.

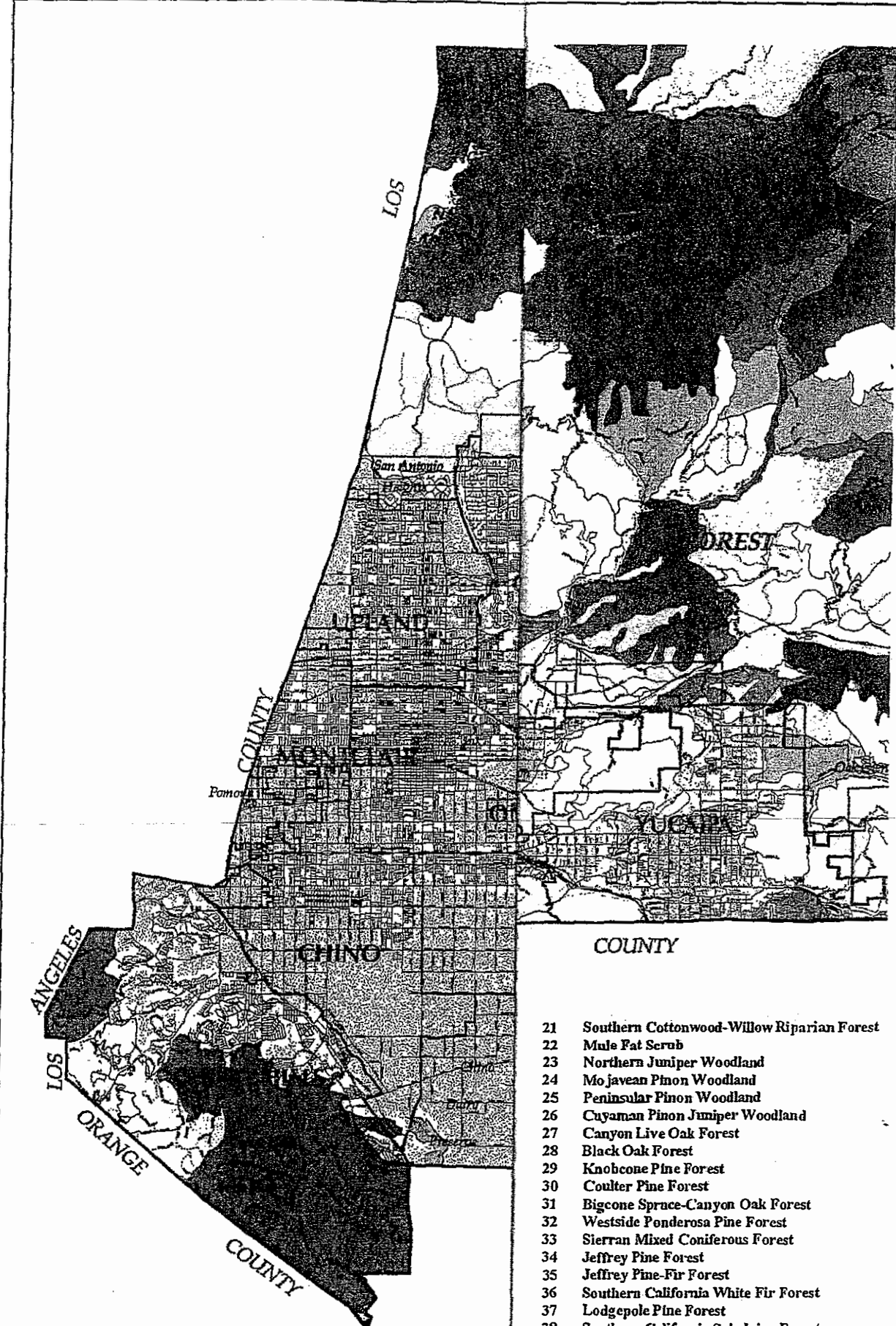
Date 9/20/00 Signature Michael [Signature]

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FIGURE 4.8-1

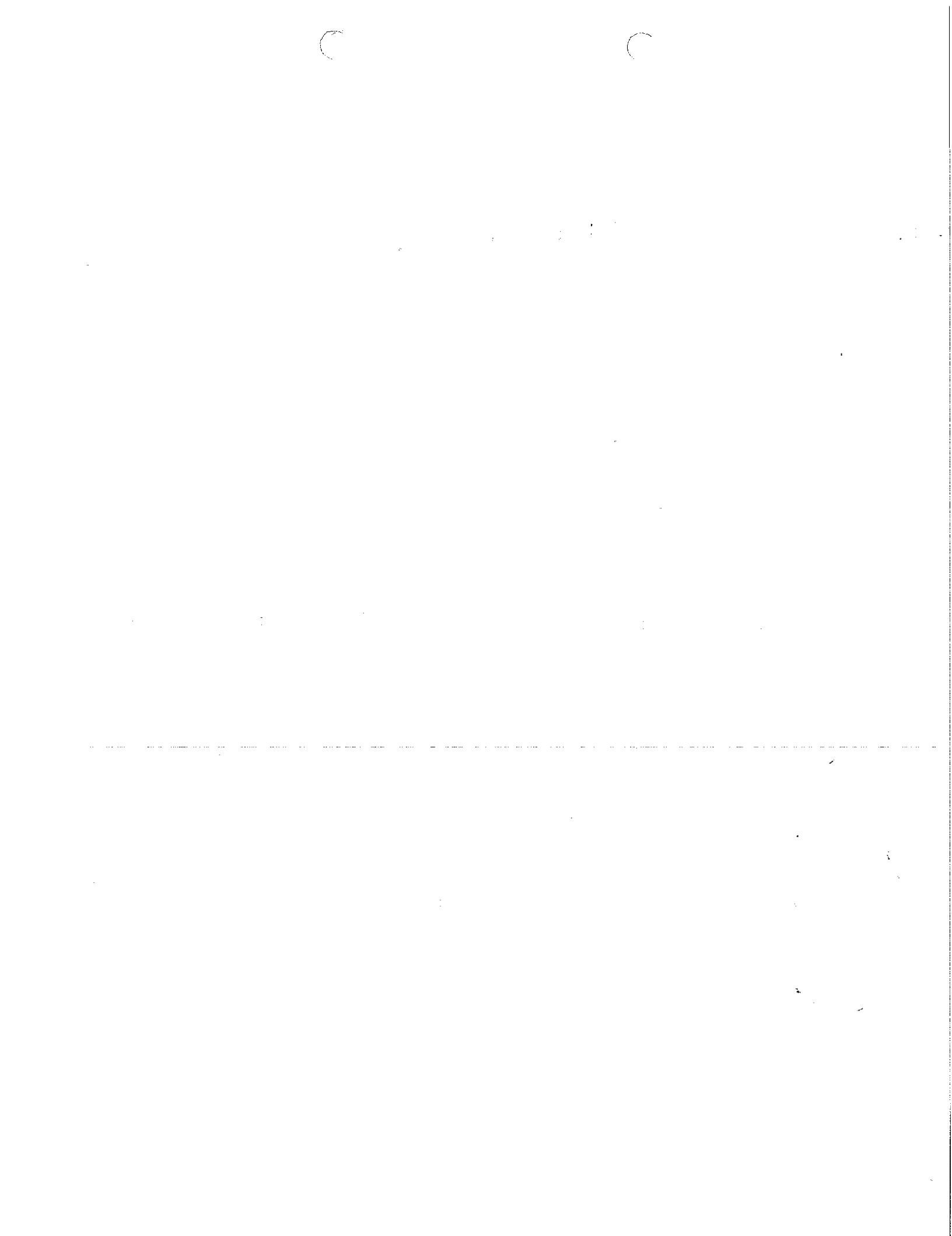
TOM DODSON & ASSOCIATES
Environmental Consultants



**SAN BERNARDINO COUNTY VALLEY REGION
VEGETATION BY HOLLAND CLASSIFICATION**

- 21 Southern Cottonwood-Willow Riparian Forest
- 22 Mule Fat Scrub
- 23 Northern Juniper Woodland
- 24 Mojavean Pinon Woodland
- 25 Peninsular Pinon Woodland
- 26 Cuyaman Pinon Juniper Woodland
- 27 Canyon Live Oak Forest
- 28 Black Oak Forest
- 29 Knobcone Pine Forest
- 30 Coulter Pine Forest
- 31 Bigcone Spruce-Canyon Oak Forest
- 32 Westside Ponderosa Pine Forest
- 33 Sierran Mixed Coniferous Forest
- 34 Jeffrey Pine Forest
- 35 Jeffrey Pine-Fir Forest
- 36 Southern California White Fir Forest
- 37 Lodgepole Pine Forest
- 38 Southern California Subalpine Forest
- 39 City Limits
- 40 National Forest Boundary

Source: GIS San Bernardino County, March 2000



STATE OF CALIFORNIA
State Water Resources Control Board
DIVISION OF WATER RIGHTS
801 P Street, Sacramento, CA 95814
P.O. Box 2000, Sacramento, CA 95812-2000
(916) 657-2170 FAX: (916) 657-1485

APPLICATION NO. _____
(Leave blank)

UNDERGROUND STORAGE SUPPLEMENT
to APPLICATION TO APPROPRIATE WATER BY PERMIT

1. State amount of water to be diverted to underground storage from each point of diversion in item 3b of form WR1.

SEE ATTACHMENT 1

- a. Maximum Rate of diversions (1) _____ (2) _____ (3) _____ cfs
b. Maximum Annual Amount (1) _____ (2) _____ (3) _____ acre-feet

2. Describe any works used to divert to offstream spreading grounds or injection wells not identified in item 7 of form WR1.

SEE ATTACHMENT 2

3. Describe spreading grounds and identify its location and number of acres or location of upstream and downstream limits if onstream.

SEE ATTACHMENT 3

SEE ATTACHMENT 13 TO THE APPLICATION TO APPROPRIATE WATER BY PERMIT

4. State depth of groundwater table in spreading grounds or immediate vicinity: Varies see Attachment 3. At _____ feet below ground surface on _____ 19 _____ measured at a point located see Attachment within the _____ % of _____ % of Section _____, T _____, R _____, _____ B&M. 4A & 4B

5. Give any historic maximum and or minimum depths to the groundwater table in the area. Varies. See Attachment
Location _____ Maximum _____ feet below ground surface on _____ (date) 3 and 5A
Location _____ Maximum _____ feet below ground surface on _____ (date) 5E

6. Describe proposed spreading operation. Surface Spreading of diverted storm water, nuisance water and tertiary-treated recycled water in spreading basins.

7. Describe location, capacity and features of proposed pretreatment facilities and/or injection wells. _____
No treatment for storm water or nuisance water. Recycled water will receive tertiary treatment prior to diversion to spreading grounds.

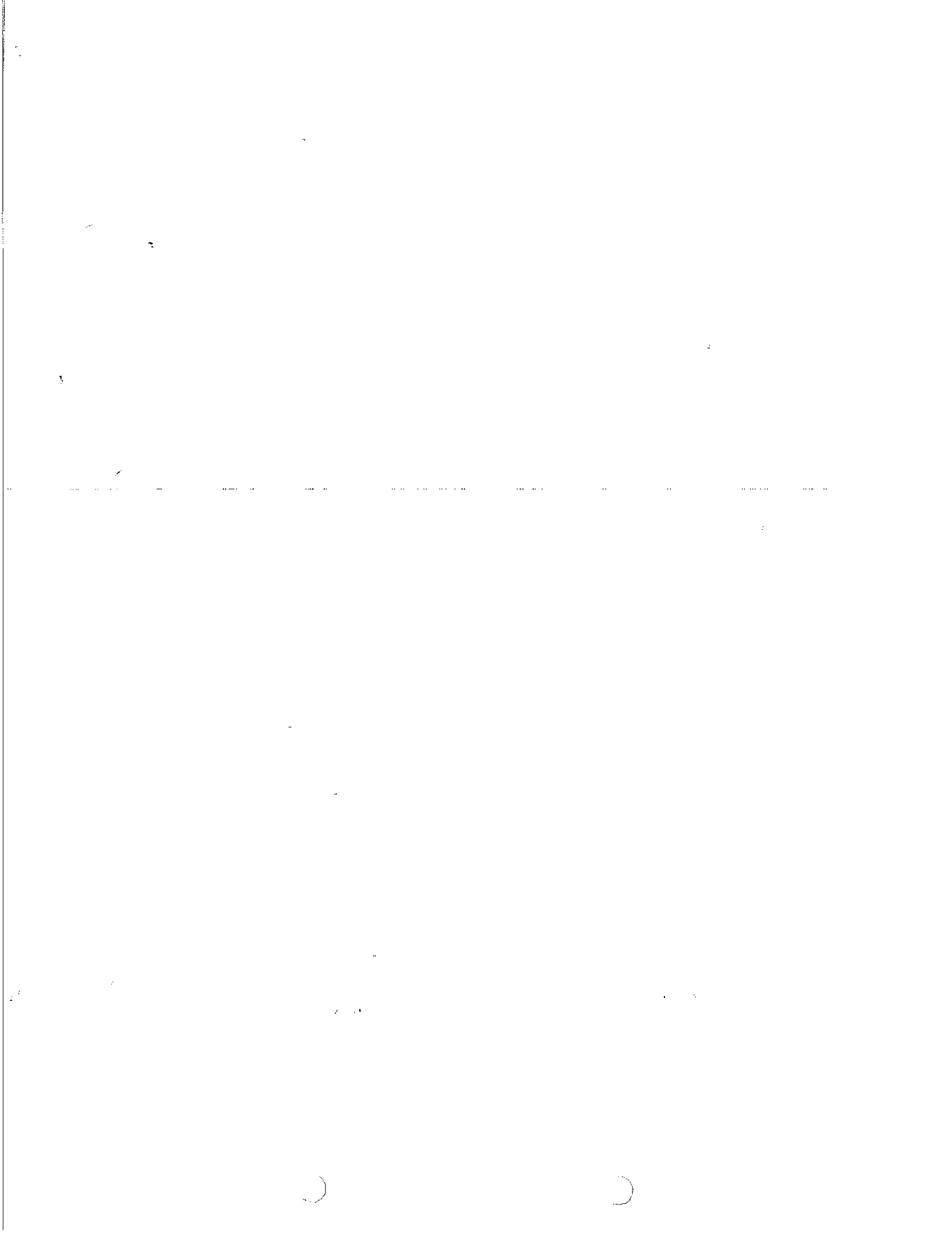
8. Reference any available engineering reports, studies or data on the aquifer involved. _____
Chino Basin "Optimum Basin Management Program" Phase 1 report (8/1999);
Program Environmental Impact Report for the Chino Basin Optimum Basin
Management Program (7/2000); Optimum Basin Management Program Implementation
Plan, Exhibit B of the Peace Agreement (7/2000); and Phase 2 of the Chino Basin
Recharge Master Plan (in Preparation).

9. Describe underground reservoir and attach a map or sketch of its location. SEE ATTACHMENT 9A, 9B, and 9C. See section 2 of the Chino Basin "Optimum Basin Management Program" Phase 1 report (8/1999)

10. State estimated storage capacity of underground reservoir. 6.5 to 7.0 million acre-feet. Current storage is about 5 million acre-feet.

11. Describe existing use of the underground storage reservoir and any proposed change in its use. The Chino Groundwater Basin is the primary water source for all of the cities, water districts and private parties in the Chino Basin.

12. Describe the proposed method and location of measurement of water placed into and withdrawn from underground storage. Basin water level sensors and surface discharge measuring stations will be used to measure the quantities of storm water and nuisance water diverted to spreading basins. Flow meters in the recycled water distribution system will be used to measure the quantity of recycled water diverted to spreading basins. Flow meters on all wells (with production greater than 10 acre-ft/yr) in the Chino Basin will be used to measure the quantities of groundwater produced in the Chino Basin.



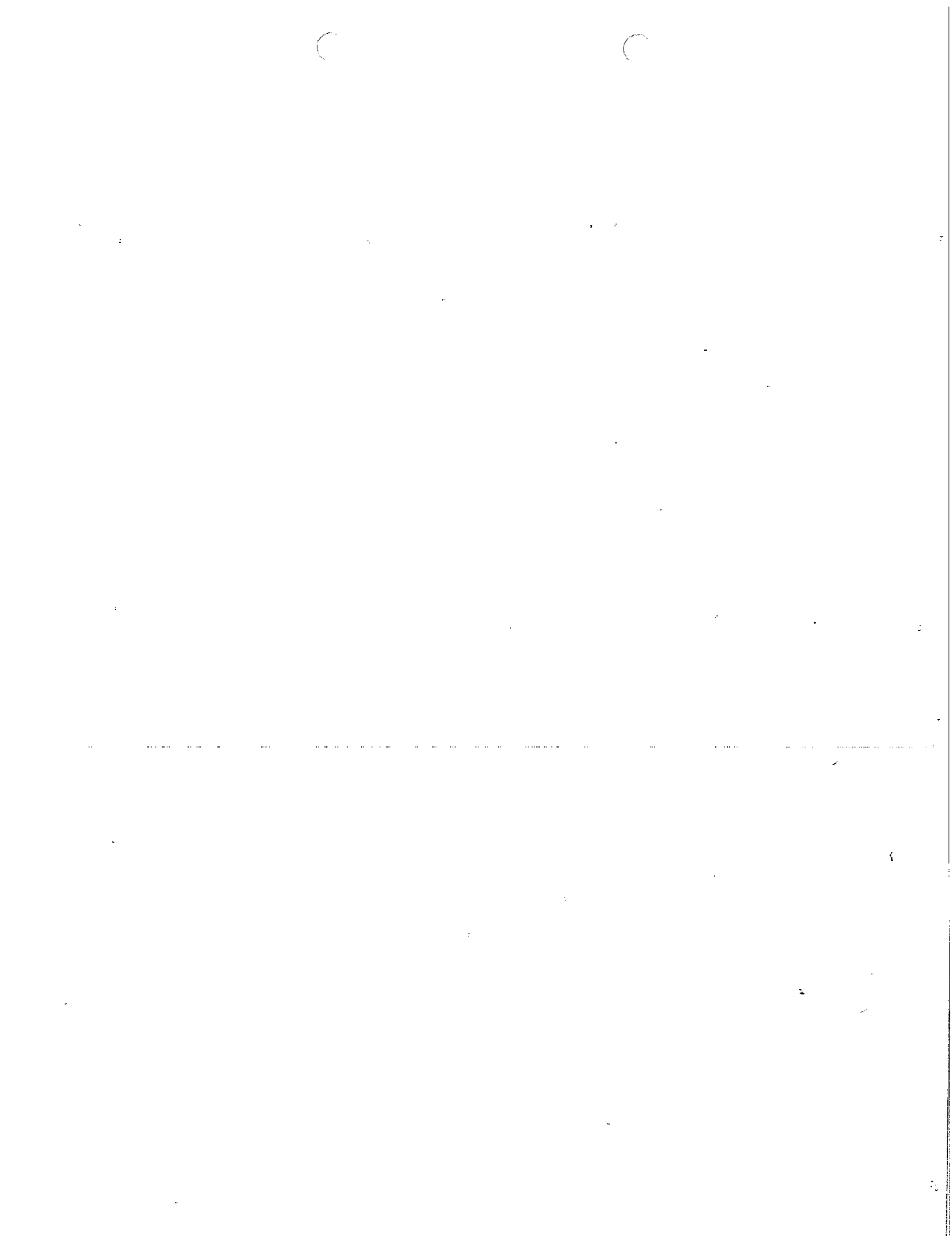
Spreading Facility	Part 1 of Underground Storage Supplement			
	Stormwater Recharge		Recycled Water Recharge	
	Maximum Rate of Diversion (cfs)	Maximum Annual Amount (acre-ft/yr)	Maximum Rate of Diversion (cfs)	Maximum Annual Amount (acre-ft/yr)
San Antonio Creek System				
College Heights	290	420		
Upland Basin	690	2,500	2	900
Montclair 1	1,400	1,870	5	1,700
Montclair 2	2,220	1,300	7	2,550
Montclair 3	2,390	680	2	850
Montclair 4	2,400	1,070		
Brooks	1,860	3,660	4	1,300
West Cucamonga Creek System				
8th Street	2,910	2,680	14	5,000
7th Street	2,880	370		
Ely Basin	6,030	5,770	7	2,500
Grove Street	1,140	1,530	3	1,000
Cucamonga Creek System				
Turner No. 1	310	1,210		
Deer Creek System				
Turner No. 2,3,4	650	2,490	4	1,500
Turner No. 5,8,9	650	3,780	4	1,500
Day Creek System				
Lower Day	140	920		
Ethwanda Percolation Ponds (aka Ethwanda Basins)				
Ethwanda	1,560	2,540	11	4,000
Wineville	12,000	4,100	12	4,500
Riverside	4,440	4,800		
Ethwanda Creek System				
Ethwanda Debris Basin	4,620	2,300		
San Sevaline Creek System				
San Sevaline No. 1	6,750	1,860		
San Sevaline No. 2	6,630	250		
Rich Basin	3,420	1,540		
San Sevaline No. 3	11,010	1,760		
San Sevaline No. 4	10,830	300		
San Sevaline No. 5	10,800	500		
Victoria Basin	740	2,000		
Banana Basin	1,230	1,580		
Hickory Basin	1,200	1,980	3	1,200
Jurupa Basin	3,000	7,600		
Declez Channel System				
Former RPS Site	3,300	5,573		
Declez Basin	3,240	1,787		
Totals	115,570	68,500	79	28,500



Attachment 7c to Application and Attachment 2 to Underground Storage Supplement

Spreading Facility	Part 7c of Application and Part 2 of Underground Storage Supplement - Diversion Works						
	Diversion Name	Conduit	Material	Cross Sectional Dimensions	Length (ft)	Total Lift or Fall (ft)	Capacity (cfs)
San Antonio Creek System							
College Heights	San Antonio Creek Inlet	3 - 5' x 5' reinforced concrete culvert, 150' long, 2% slope					290
Upland Basin	Misc Existing Urban Storm Drains			varies			690
Montclair 1	San Antonio Creek Inlet	48" reinforced concrete pipe, 80' long, 2% slope					290
	Misc Existing Urban Storm Drains			varies			1,110
Montclair 2	Outlet from Montclair 1	Concrete spillway					1,920
	Misc Existing Urban Storm Drains			varies			300
Montclair 3	San Antonio Creek Inlet	3 - 5' x 5' reinforced concrete culvert, 150' long, 2% slope					290
	Outlet from Montclair 2	Concrete spillway					1,800
	Misc Existing Urban Storm Drains			varies			300
Montclair 4	Outlet from Montclair 3	Concrete spillway					2,070
	Misc Existing Urban Storm Drains			varies			330
Brooks	San Antonio Creek Inlet	Trapezoidal channel, b=4', z=1, d=6', 5% slope, diverted completely to					0
	Misc Existing Urban Storm Drains			varies			1,860
West Cucamonga Creek System							
8th Street	Misc Existing Urban Storm Drains			varies			2,910
7th Street	Outlet from 8th Street Basin	50' wide spillway & 3 - 10' X 5' reinforced concrete culvert, 110' long,					2,880
Ely Basin	West Cucamonga Creek Inlet	Trapezoidal channel, b=36', z=1, d=16', 5% slope, diverted completely to					2,880
	Misc Existing Urban Storm Drains			varies			3,150
Grove Street	Misc Existing Urban Storm Drains			varies			1,140
Cucamonga Creek System							
Turner No. 1	Cucamonga Creek Inlet	8' x 4' reinforced concrete culvert, 40' long, 5% slope					310
Deer Creek System							
Turner No. 2,3,4	Deer Creek Inlet	3 - 5' x 5' reinforced concrete culvert, 150' long, 2% slope					330
	Outlet from Turner 589						320
Turner No. 5,8,9	Deer Creek Inlet	3 - 5' x 5' reinforced concrete culvert, 150' long, 2% slope					330
	Misc Existing Urban Storm Drains			varies			300
Day Creek System							
Lower Day	Day Creek Inlet	96" reinforced concrete pipe, 360' long, 4% slope					50
	Misc Existing Urban Storm Drains			varies			90
Etiwanda Percolation Ponds (aka Etiwanda Basins)	Misc Existing Urban Storm Drains			varies			1,560
Wineville	Day Creek Inlet	50' wide concrete channel diverted completely into basin					10,980
	Misc Existing Urban Storm Drains			varies			1,020
Riverside	Wineville Outlet	104' wide spillway & 72" RCP diverted completely into basin					3,890
	Misc Existing Urban Storm Drains			varies			750
Etiwanda Creek System							
Etiwanda Debris Basin	Outlet from Etiwanda Spreading Area	Natural channel diverted completely through basin					4,620
San Sevaine Creek System							
San Sevaine No. 1	San Sevaine Creek Inlet	Natural channel diverted completely through basin					8,750
San Sevaine No. 2	Outlet from San Sevaine 1	150' wide spillway					6,630
Rich Basin	Misc Existing Urban Storm Drains			varies			3,420
San Sevaine No. 3	Outlet from Rich Basin	Concrete channel diverted completely into basin					3,360
	Outlet from San Sevaine 2	150' wide spillway					6,500
	Misc Existing Urban Storm Drains			varies			1,020
San Sevaine No. 4	Outlet from San Sevaine 3	150' wide spillway					10,830
San Sevaine No. 5	Outlet from San Sevaine 4	150' wide spillway					10,800
Victoria Basin	Inlet from Etiwanda Creek	2 - 3' x 5' reinforced concrete culvert, 120' long, 2% slope					80
	Misc Existing Urban Storm Drains			varies			680
Banana Basin	Misc Existing Urban Storm Drains			varies			1,230
Hickory Basin	Outlet from Banana Basin			varies			1,200
Jurupa Basin	Inlet from San Sevaine Channel	3 - 5' x 5' reinforced concrete culvert, 150' long, 2% slope					360
	Misc Existing Urban Storm Drains			varies			2,640
Dedeez Channel System							
Former RP3 Site	Inlet from Dedeez Channel	25' wide concrete channel diverted completely into basin					3,300
Dedeez Basin	Inlet from Dedeez Channel	25' wide concrete channel diverted completely into basin					3,240
Totals							115,570

Note (1) - Misc existing storm drains consists of reinforced concrete basins, reinforced concrete pipes and corrugated metal pipes of various dimensions and capacities and directed street drainage to these basins.










Attachment 3 to Underground Storage Supplement

Spreading Facility	Parts 3, 4 and 5 of Underground Storage Supplement			
	Spreading Area (acres)	Depth to Groundwater ¹		
		Current Estimate 1997 (ft)	Historic Maximum 1977 (ft)	Historic Minimum 1933 (ft)
San Antonio Creek System				
College Heights	10	650	675	500
Upland Basin	32	620	635	470
Monclair 1	9	600	620	440
Monclair 2	13	550	550	370
Monclair 3	5	525	525	350
Monclair 4	8	480	480	305
Brooks	14	340	380	182
West Cucamonga Creek System				
8th Street	19	490	515	400
7th Street	8	475	490	380
Ely Basin	43	250	260	140
Grove Street	17	155	175	65
Cucamonga Creek System				
Turner No. 1	10	370	370	255
Deer Creek System				
Turner No. 2,3,4	30	360	360	245
Turner No. 5,8,9	26	350	355	235
Day Creek System				
Lower Day	18	500	>500	375
Edwanda Percolation Ponds (aka Edwanda Basins)				
Wineville	70	220	235	150
Riverside	59	185	200	130
Edwanda Creek System				
Edwanda Debris Basin	40	390	400	290
San Sevalne Creek System				
San Sevalne No. 1	20	400	>400	290
San Sevalne No. 2	12	420	>420	310
Rich Basin	8	260	>260	150
San Sevalne No. 3	12	440	>440	330
San Sevalne No. 4	6	440	>460	350
San Sevalne No. 5	127	475	>475	350
Victoria Basin	15	525	>525	430
Janana Basin	8	420	425	350
Hicko Basin	11	405	410	335
Urupa Basin	50	220	230	145
Pedex Channel System				
Former RP3 Site	30	200	220	155
Pedex Basin	9	155	155	75
Totals				
Note (1) - Estimated at centroid of each spreading basin				

Optimum Basin Management Program
Chino Basin Watermaster

Legend

-  Fall 1997 Groundwater Elevation (ft-msl)
-  Boundary Defined By Fault
 - Dashed Where Approximate
 - Dotted Where Concealed
 - Queried Where Uncertain
 - Large Dots Where Groundwater Barrier (Suspected Fault)
-  Rivers & Streams
-  Management Boundary
-  Hydrologic Chino Basin
-  Recharge Basins
-  Bedrock

Management Zone Index Map

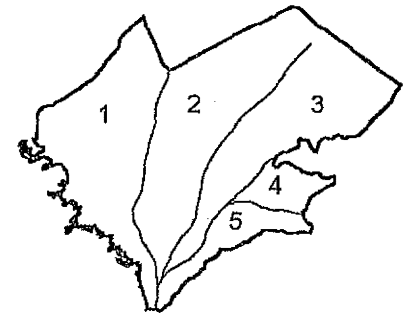
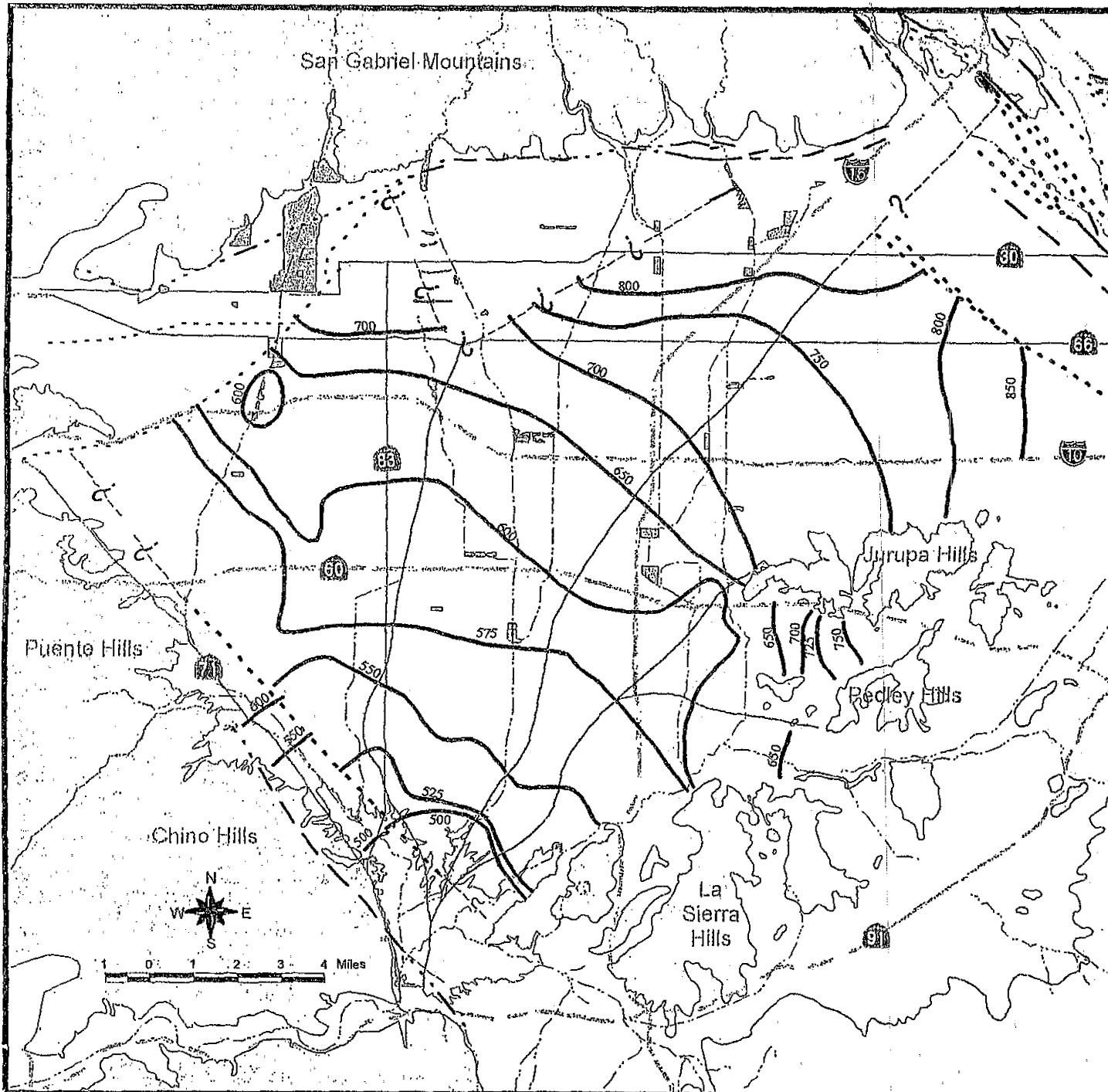
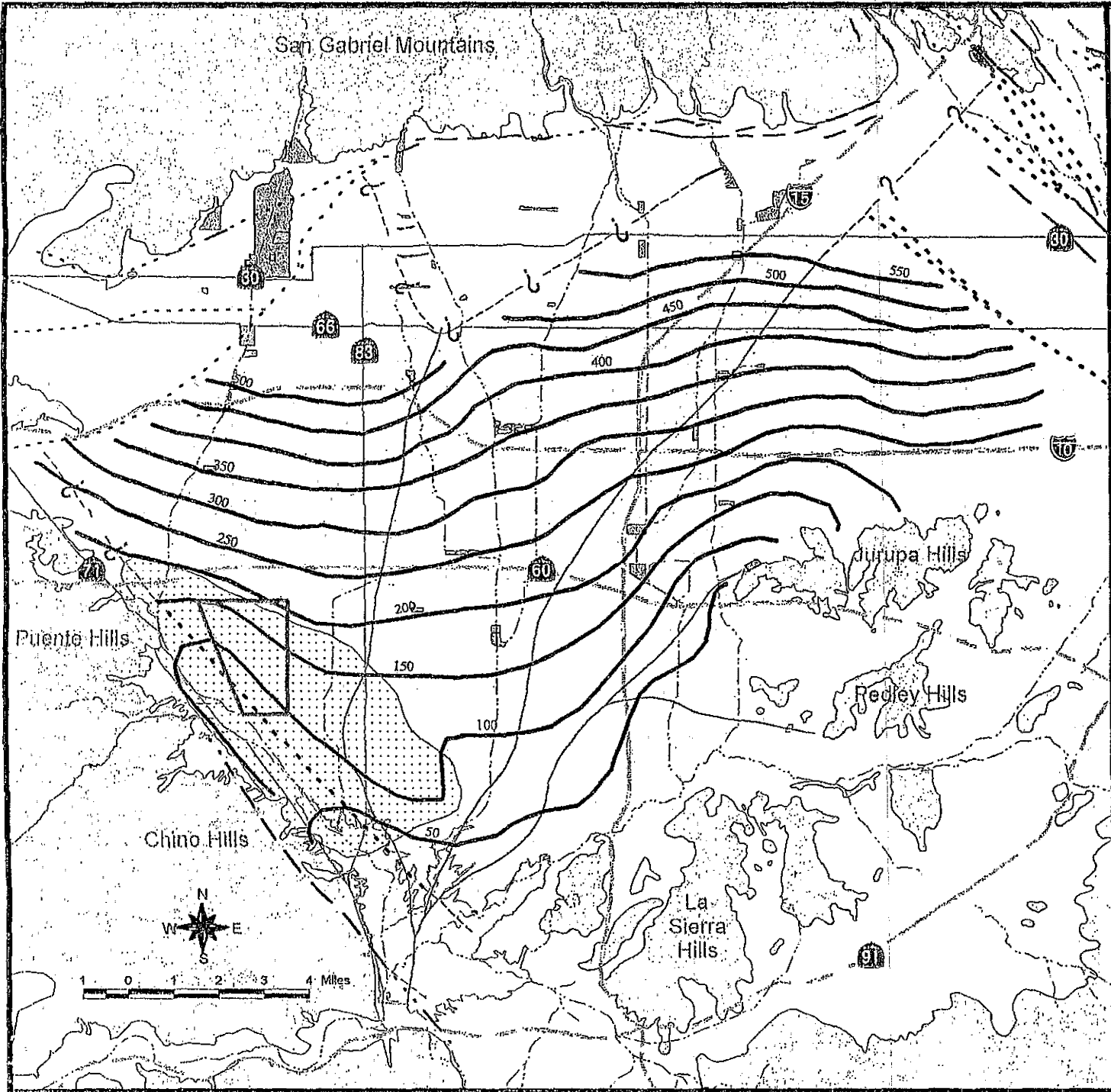


Figure 2-19
Fall 1997
Groundwater Elevation Map

WE WILDERMUTH
ENVIRONMENTAL, INC.

Date: August 19, 1999





Optimum Basin Management Program
Chino Basin Watermaster

Legend

- Depth to Groundwater -- Fall 1997 (feet)
- Estimated Area of Regional Subsidence (Kleinfelder 1993)
- Artesian Well Area (Mendenhall, 1908)
- Rivers & Streams
- Fault
 - Dashed Where Approximate
 - Dotted Where Concealed
 - Queried Where Uncertain
 - Large Dots Where Groundwater Barrier (Suspected Fault)
- Bedrock
- Hydrologic Chino Basin
- Recharge Basins

Management Zone Index Map

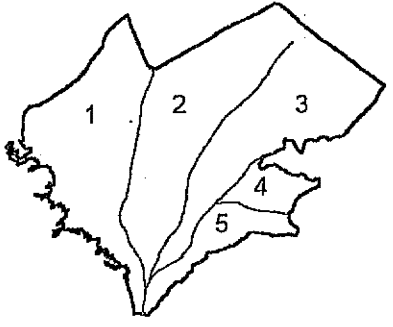


Figure 2-23
Depth to Water for 1997
and Artesian Area in 1902

WE WILDERMUTH ENVIRONMENTAL, INC.

Date: August 19, 1999

Optimum Basin Management Program
Chino Basin Watermaster

Legend

- Fall 1933 Groundwater Elevation (ft-msl)
- Fault
 - Dashed Where Approximate
 - Dotted Where Concealed
 - Queried Where Uncertain
 - Large Dots Where Groundwater Barrier (Suspected Fault)
- Management Boundaries
- Stream System
- Hydrologic Chino Basin
- Recharge Basins
- Bedrock

Management Zone Index Map

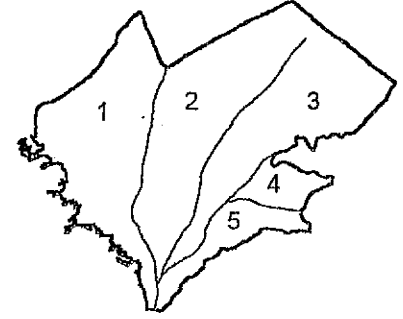
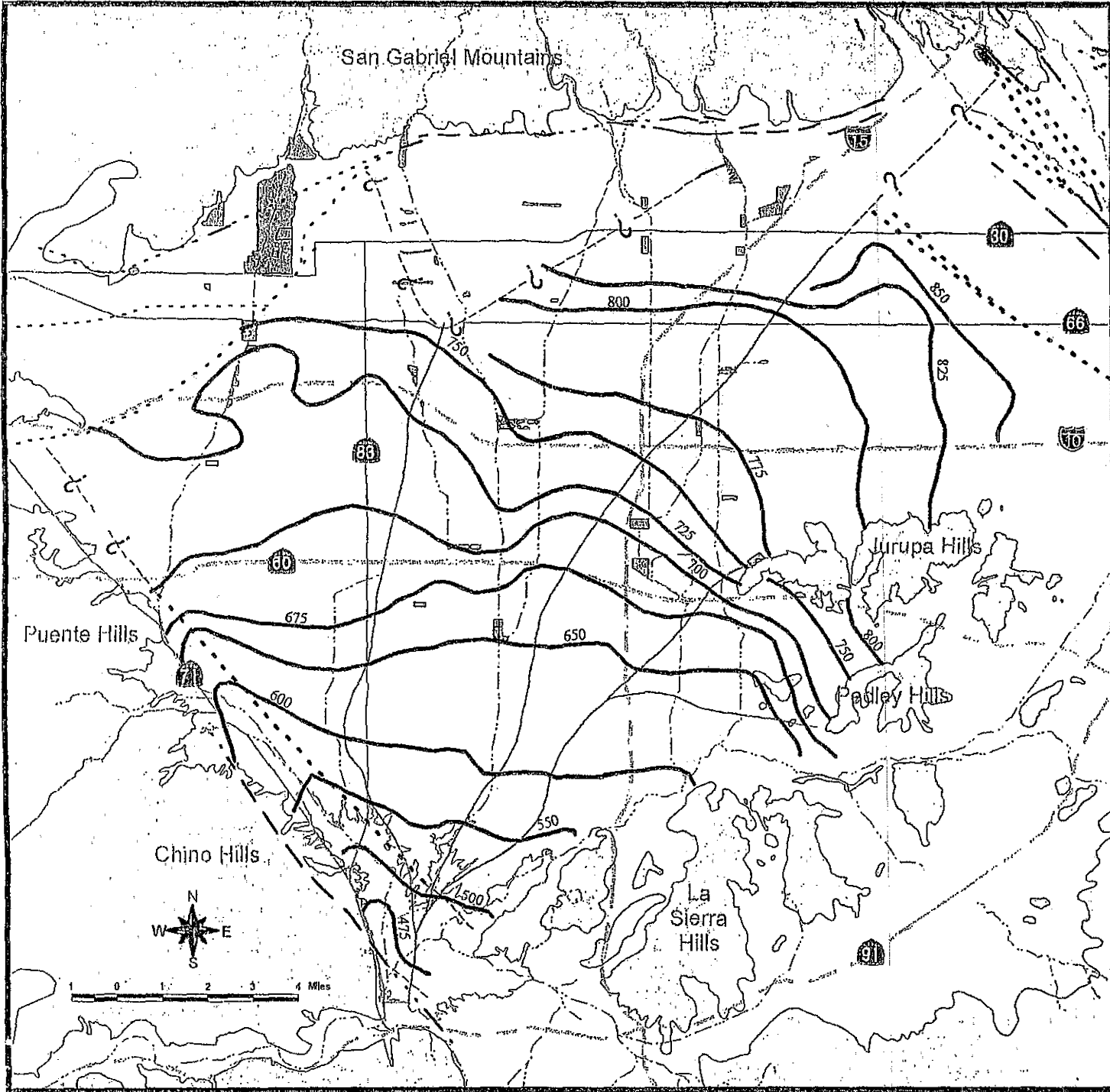


Figure 2-20
Fall 1933
Groundwater Elevation Map

WE WILDERMUTH
ENVIRONMENTAL, INC.

Date: August 19, 1999



Optimum Basin Management Program
Chino Basin Watermaster

Legend

- Groundwater Elevation Difference (feet)
- Water Service Area Boundary
- Estimated Area of Regional Subsidence (Klienfelder 1993)
- Rivers & Streams
- Fault
 - Dashed Where Approximate
 - Dotted Where Concealed
 - Queried Where Uncertain
 - Large Dots Where Groundwater Barrier (Suspected Fault)
- Bedrock
- Hydrologic Chino Basin
- Recharge Basins

Management Zone Index Map

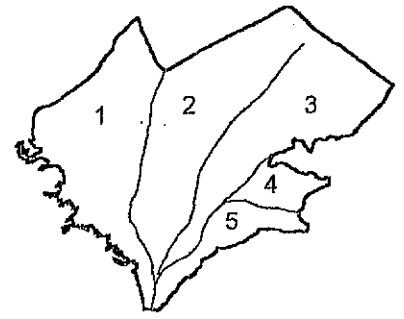
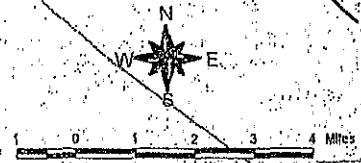
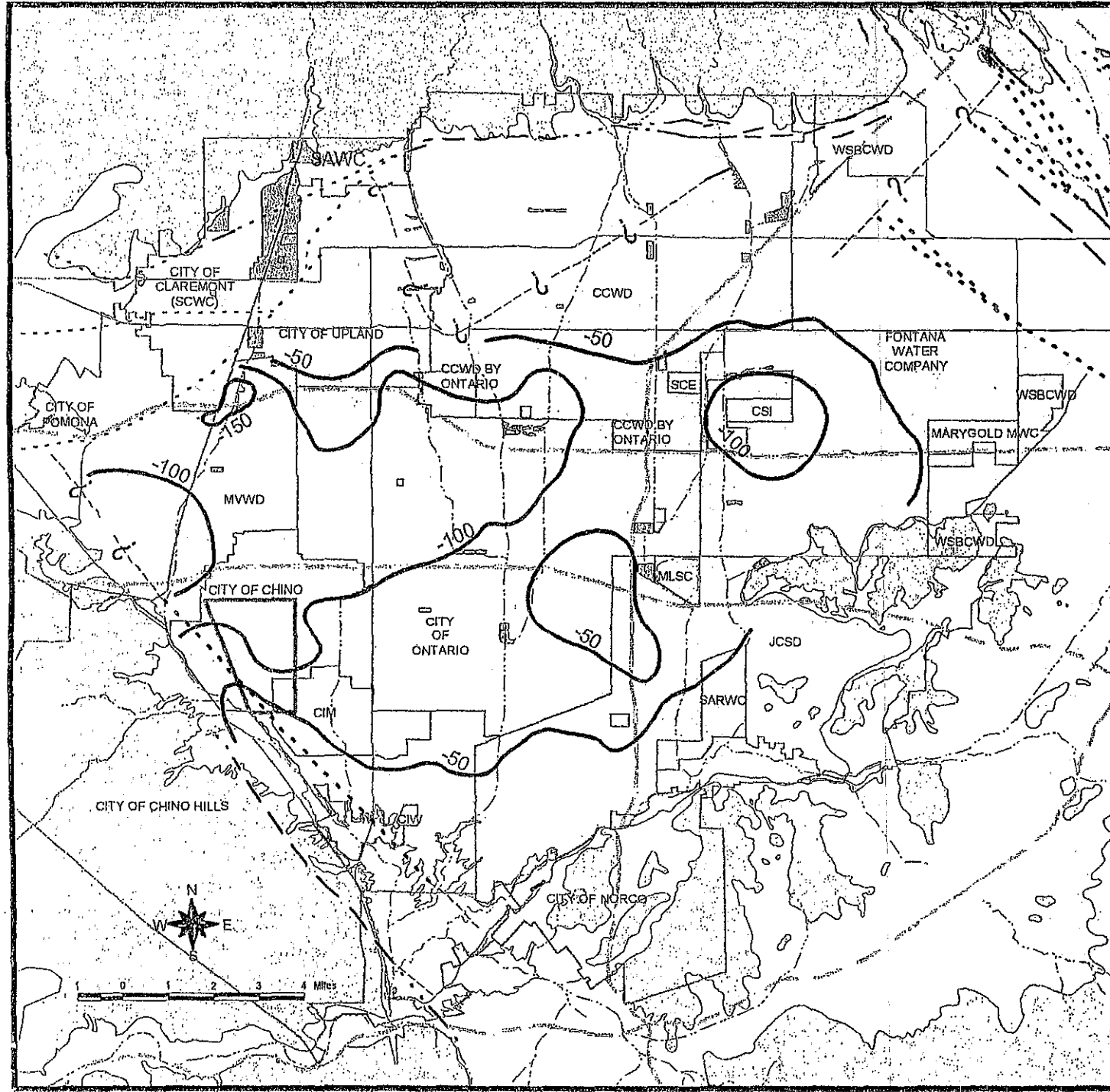


Figure 2-22
Groundwater Level Change
between Fall 1933 and Fall 1997
with Water Service Areas







WE WILDERMUTH
ENVIRONMENTAL, INC.

Date: August 19, 1999



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Optimum Basin Management Program
Chino Basin Watermaster

-  Bedrock Surface Exposure
-  Fault
Dashed where approximate
Dotted where concealed
Queried where uncertain
-  Groundwater Barrier (suspected fault)
-  Groundwater Divide
-  Waterways, Reservoirs, Spreading Basins and Flood Control Basins
-  Cross-section with Endpoint Labels

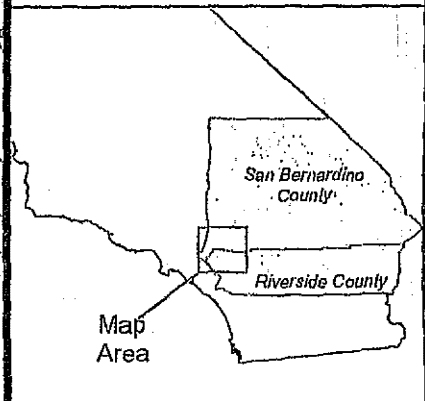
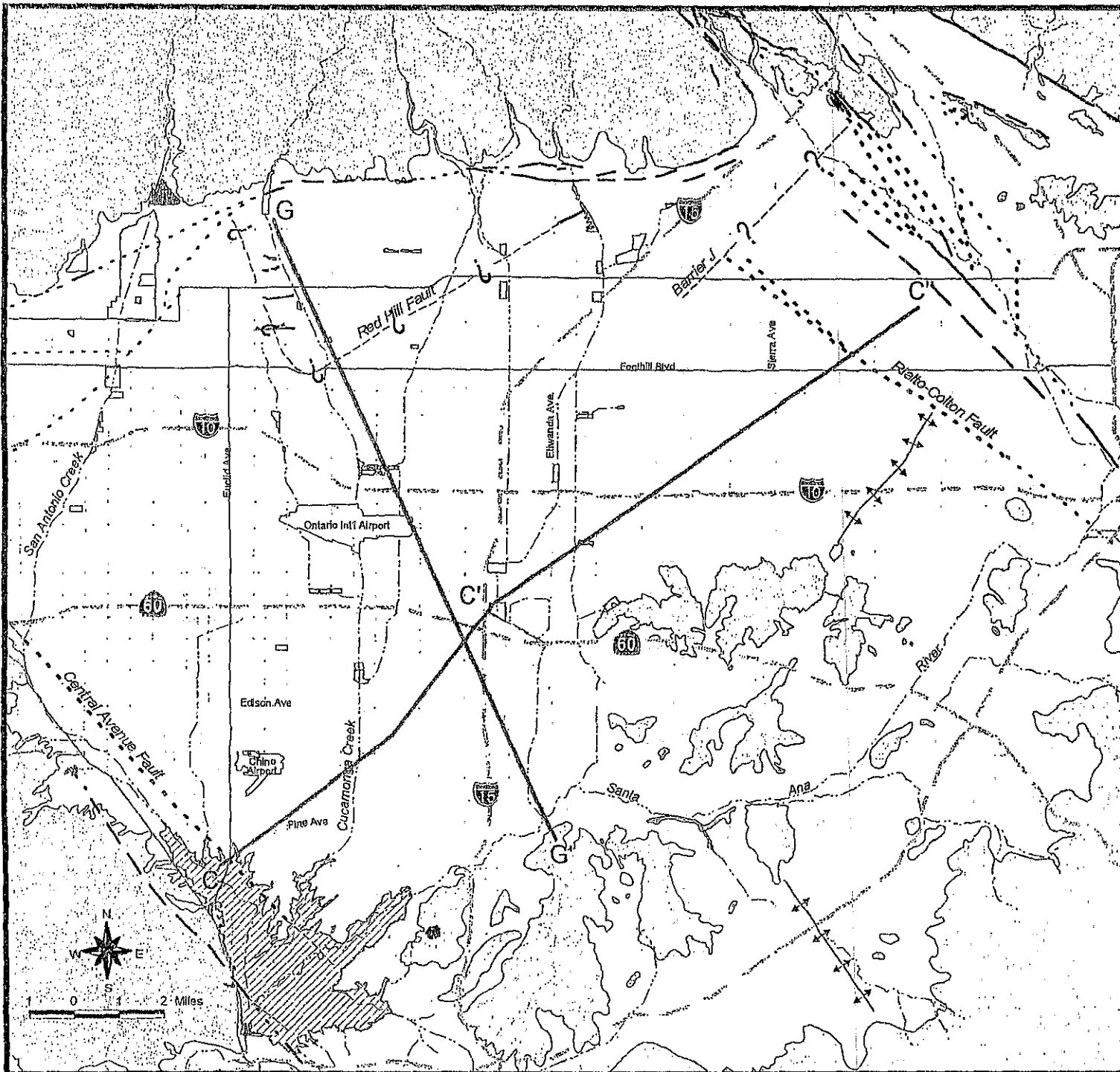


Figure 2-2

Locations of Generalized Cross-sections

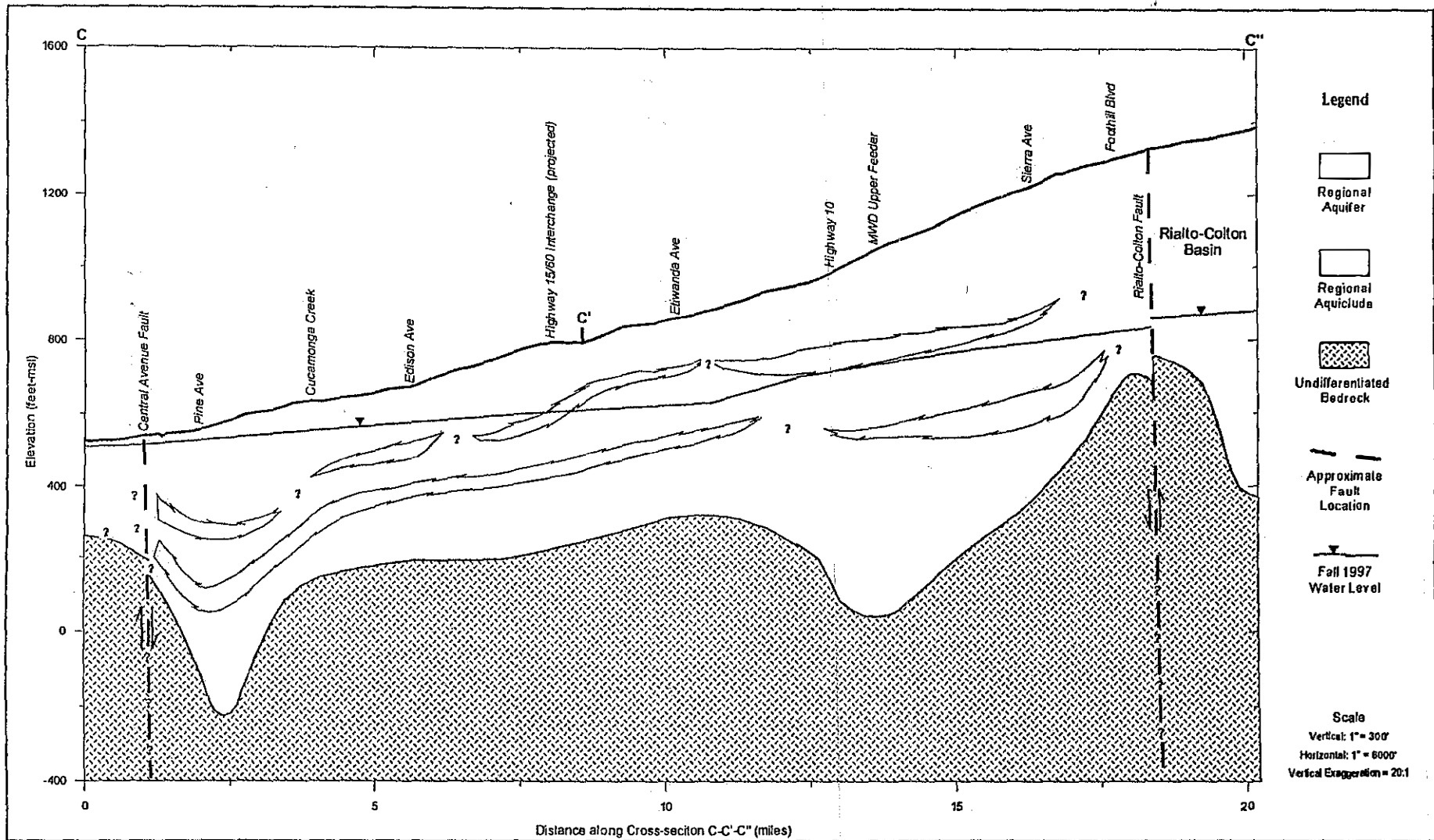
WE WILDERMUTH ENVIRONMENTAL, INC.

Date: August 19, 1999



1 0 1 2 Miles

Figure 2-3
Generalized Cross-section C-C'-C''



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Figure 2-4
Generalized Cross-Section G-G'

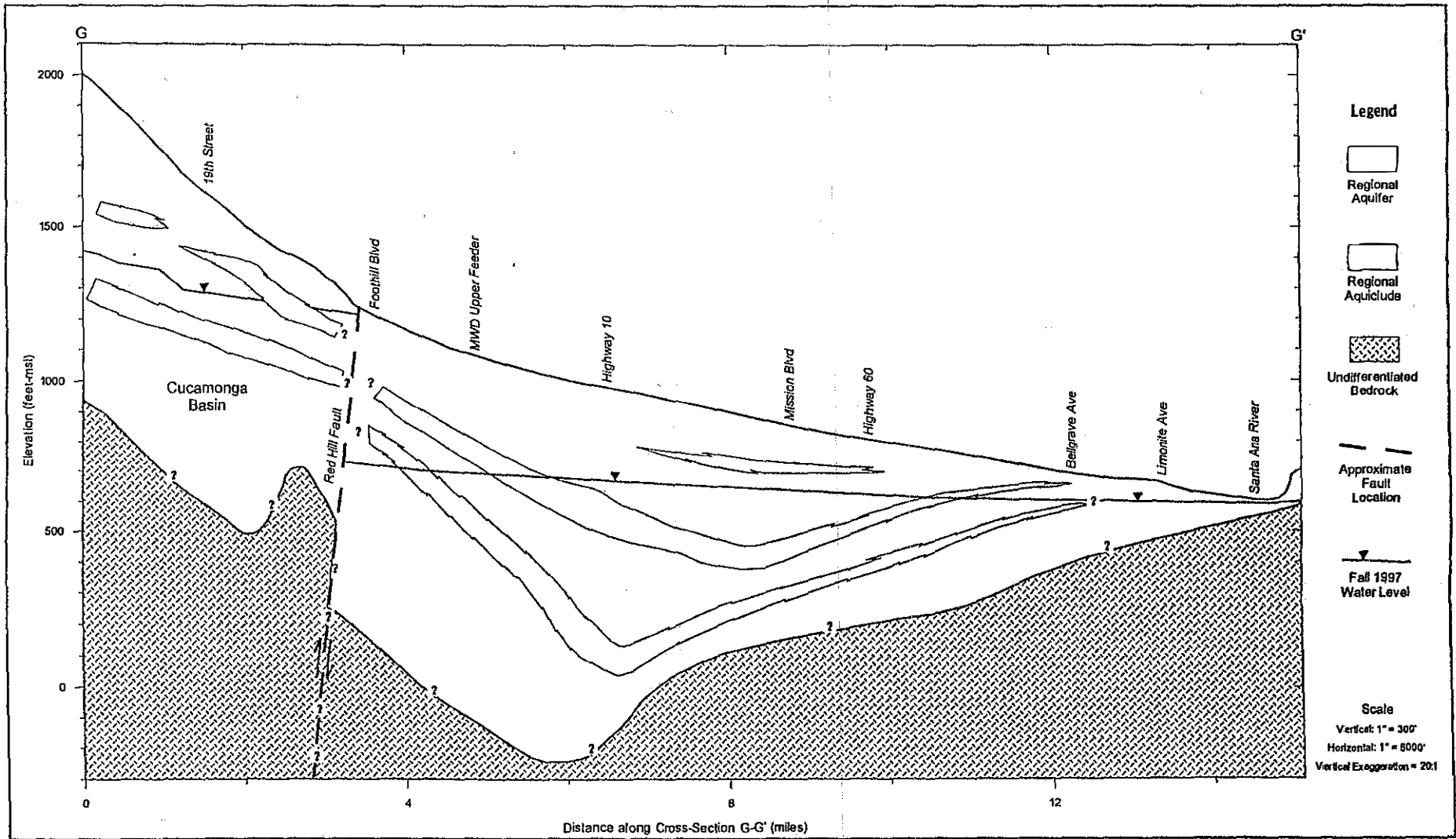


EXHIBIT "C"

MCCORMICK, KIDMAN & BEHRENS, LLP

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*A PROFESSIONAL CORPORATION

September 10, 2001

Scott S. Slater, Esq.
Hatch & Parent
21 E. Carillo St.
P. O. Box Drawer 720
Santa Barbara, CA 93101

RE: Santa Ana Accord Filing Date

Dear Scott:

This responds to the inquiry from the Chino Basin Watermaster about interpretation of Paragraph 6(c) of the "Santa Ana River and Chino Basin Water Right Accord" (the "Accord"), dated September 15, 2000. I understand that a concern has been raised as to whether an Application to Appropriate on behalf of the Chino Basin Parties has been timely "filed" pursuant to the Accord.

On behalf of Chino Basin parties, the Chino Basin Watermaster submitted to the State Water Resources Control Board ("SWRCB") an Application to Appropriate in September 2000 and a Petition for Limited Revision of SWRCB Order WR89-25 in December 2000. Paragraph 6(c) of the Accord provides, in pertinent part:

OCWD hereby acknowledges that the Chino Basin Watermaster . . . on behalf of the Chino Basin Parties, may file one or more applications to appropriate native or imported water, . . . and a petition for limited revision of SWRCB Order WR89-25 on behalf of Chino Basin Parties in order to implement the OBMP ("Chino Basin Filings"). OCWD hereby agrees that any such petition should be dealt with in an expedited fashion, and agrees to support a request by the Chino Basin Parties for an expedited hearing on the petition. OCWD further agrees that if any such filing(s) is made by or on behalf of the Chino Basin Parties on or before September 30, 2001, and if such filing(s) seeks rights to the same or a lesser quantity of water as OCWD's Application as supplemented or amended, then OCWD agrees that the Chino Basin Filings(s) may be treated by the SWRCB as filed on the same date of priority as the respective OCWD Application and Petition, under authority of Water Code § 1253.

Scott S. Slater, Esq.
September 10, 2001
Page 2

Questions have been raised as to whether the Chino Basin submittals satisfy the September 30, 2001 time requirement for filing pursuant to Paragraph 6(c) in light of the probable SWRCB failure to act on the Petition and to accept the Application for filing prior to that date. Apparently, those questions concern whether the Chino Basin Application will receive the same priority as the Orange County Water District ("OCWD") Application to Appropriate.

The Accord is clear on its face that all that is required for the "filing" which it contemplates is the submittal of the Petition and Application by the Chino Basin Parties to the SWRCB. Where the language of a contract is clear and not absurd, it will be followed. (Civ. Code § 1635.) The mutual intention of the parties is determined by looking to the express intent of the words used, under an objective standard. (Civ. Code § 1636; See *Winograd v. American Broadcasting Co.* (1998) 68 Cal.App.4th 624, 632.) Evidence of intention cannot be admitted to show meaning contrary to the express terms of a contract. (See *Suniland Fruit v. Verni* (1991) 233 Cal.App.3d 892, 898.)

The use of the term "filing made by or on behalf of the Chino Basin Parties" in the Accord does not require that the SWRCB "accept for filing" the Chino Basin Application in order to trigger the commitment for the OCWD to treat the Chino Basin filing as of equal priority to the OCWD Application. The words of a contract are to be understood in their ordinary and popular sense, rather than according to their strict legal meaning, unless used by the parties in a technical sense, or unless a special meaning is given to them by usage. (Civ. Code §§ 1644.) In the absence of express reference in the Accord to the Water Code provisions about SWRCB acceptance for filing, it is unlikely that a court would interpret the word "filing" by the Chino Basin Parties to mean SWRCB acceptance for filing. Moreover, the parties to the Accord were represented by legal counsel experienced in the procedures of the SWRCB and familiar with technical requirements for "acceptance for filing" and, therefore, had the technical meaning been intended, it would have been expressed.

Any argument that the word "filing" as applied to the Chino Basin Application refers to SWRCB acceptance for filing is belied by the context and subjects of the word. A contract may be explained by reference to the circumstances under which it was made, and the matter to which it relates. (Civ. Code § 1647.) For the proper construction of an instrument, the circumstances under which it was made, including the situation of the subject of the instrument, and of the parties to it, may also be shown, so that the judge be placed in the position of those whose language he is to interpret. (Civ. Code § 1860.) It is clear on the face of the Accord and from its context arising from OCWD's own efforts to revise the SWRCB declaration of fully appropriated stream, that the parties knew about the requirements and predicates to acceptance for filing. Had the parties intended "acceptance for filing" instead of "filing," they would have said so.

Scott S. Slater, Esq.
September 10, 2001
Page 3

The language of Section 6(c) expresses the intent of the parties that Chino Basin would need to file the Petition to revise the SWRCB declaration of full appropriation of the Santa Ana River. The Chino Basin parties could not have contemplated any control over when the SWRCB would decide upon the Petition and, so, "accept for filing" the Application.

In conclusion, there is little risk that a court would interpret Section 6(c) to give an lesser priority to the Chino Basin Application compared to the OCWD Application, if the Petition was not completely processed by the SWRCB before September 30, 2001. We recommend against seeking OCWD concurrence in this interpretation, which we believe is nearly *a priori*, because even to ask the question implies that an ambiguity exists which we think does not exist.

Thank you for the opportunity to advise the Chino Basin parties on this matter.

Very truly yours,

McCORMICK, KIDMAN & BEHRENS, LLP


Arthur G. Kidman

EXHIBIT "D"

SANTA ANA RIVER AND CHINO BASIN WATER RIGHT ACCORD

THIS ACCORD, dated September 15, 2000, is by and between ORANGE COUNTY WATER DISTRICT ("OCWD"), INLAND EMPIRE UTILITIES AGENCY ("IEUA," formerly known as Chino Basin Municipal Water District), CITY OF CHINO ("CHINO"), CITY OF ONTARIO ("ONTARIO"), CITY OF POMONA ("POMONA"), CUCAMONGA COUNTY WATER DISTRICT ("CUCAMONGA"), and MONTE VISTA WATER DISTRICT ("MONTE VISTA").

EXPLANATORY RECITALS

A. In 1969, the Orange County Superior Court entered a stipulated judgment in *Orange County Water District v. City of Chino, et al.*, Orange County Superior Court Case No. 117628 (the "1969 Judgment"), declaring water rights in the Santa Ana River Watershed (the "Watershed") as between the water users in basins above (the "Upper Area") and below (the "Lower Area") Prado Dam. OCWD and IEUA were among the signatory parties to the stipulation for the 1969 Judgment. CHINO, ONTARIO, POMONA, CUCAMONGA and MONTE VISTA were parties (or successors-in-interest to the parties) to the actions and cross-actions that were dismissed and resolved as a result of the stipulations leading to the 1969 Judgment. OCWD is located in the Lower Area; all other parties to this Accord are located in the Upper Area.

B. In 1978, the San Bernardino County Superior Court entered a stipulated judgment in the case of *Chino Basin Municipal Water District v. City of Chino, et al.*, San Bernardino County Superior Court Case No. 164327 (the "1978 Judgment"), declaring water rights within the Chino Basin in the Upper Area. All parties to this Accord were parties to the 1978 Judgment.

C. On or about November 5, 1992, Orange County Water District ("OCWD") filed an Application with the State Water Resources Control Board ("SWRCB") to appropriate water from the Santa Ana River (the "Application"). The Application was supplemented by OCWD on or about August 21, 1998. OCWD contends that the Application is consistent with the rights declared under the 1969 Judgment and, as noted below, OCWD will ask SWRCB to incorporate the entire 1969 Judgment into any permit/license to divert water resulting from the Application

D. On or about September 2, 1999, OCWD filed a Petition with the SWRCB for a limited revision of SWRCB Order WR89-25 (as amended) declaring the Watershed to be fully appropriated (the "Petition"). The Petition is under submission before the SWRCB as a predicate to further proceedings on the Application.

E. Some Upper Area parties were concerned that the Application and Petition could affect Upper Area water rights declared by the 1969 Judgment and 1978 Judgment. Therefore, on or about November 16, 1999, OCWD, IEUA and other entities entered into a Memorandum of Understanding ("MOU") concerning the effect of the Petition and Application under the 1969 Judgment.

F. IEUA, CHINO, ONTARIO, POMONA, CUCAMONGA and MONTE VISTA (the "Protesting Parties") protested the Petition before the SWRCB. The Protesting Parties contend that Upper Area rights declared in the 1969 Judgment and 1978 Judgment could become subordinate to the OCWD permit/license rights if the Application and Petition are granted.

G. The Protesting Parties and some of the other parties to the 1978 Judgment (all collectively, "Chino Basin Parties") continue to have concern about the effect of the Petition and Application upon water rights declared in the 1969 Judgment and 1978 Judgment. The Court in the Chino Basin Adjudication recently endorsed and ordered the Chino Basin Watermaster to adopt an Optimum Basin Management Program ("OBMP"). Implementation of the OBMP will require use of additional quantities of Upper Area water to which the Chino Basin Parties currently assert unexercised rights under the 1969 Judgment and 1978 Judgment.

H. OCWD contends that the 1969 Judgment and applicable law prohibits the export of water native to the Watershed ("native water") for use outside of the Watershed. The Chino Basin Parties dispute OCWD's contention.

I. The parties hereto have met and discussed their respective rights to divert, extract, conserve, store and otherwise use waters, including reclaimed waters, originating both within and outside of the Watershed, and have reached the following Accord, the provisions of which are subject to re-opener as set forth below. The Protesting Parties wish to reach an understanding with OCWD which will clarify the effect of the Petition and Application.

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AGREEMENTS

NOW THEREFORE, the Parties agree as follows:

1. AFFIRMATION OF 1969 JUDGMENT:

a. Acknowledgment of Rights. The parties hereto acknowledge and affirm the rights set forth in the 1969 Judgment, including the "Declaration of Rights" contained in Paragraph 4 thereof, and they agree, subject to those rights, not to object to the uses of water allowed under the 1969 Judgment and under law.

b. No Diminishment of Rights. OCWD represents that nothing in the Application and Petition is intended to diminish rights of the Upper Area parties as they are declared in the 1969 Judgment and 1978 Judgment, and OCWD covenants that OCWD shall not assert that anything in the Petition or Application diminishes those rights. The Protesting Parties represent that nothing in any future SWRCB filing by the Chino Basin Parties as provided in Paragraph 6 hereof, is or will be intended to diminish rights of the Lower Area parties as they are declared in the 1969 Judgment and the 1978 Judgment.

2. RECAPTURE/EXPORT OF UNUSED IMPORTED WATER:

a. Acknowledgment of Rights. OCWD agrees that the Protesting Parties, and those Chino Basin Parties who become third party beneficiaries under paragraph 7 hereof, have rights to use, re-use, recycle, store, recapture and/or export an amount of water equal to any amount of non-native water which the Chino Basin Parties have imported or may import for use within the Watershed which is not consumptively used or otherwise lost as set forth in subparagraph 2(c) hereof.

b. Representation. The Protesting Parties represent that, as of the date of this Accord, the total amount of such previously imported water in Chino Basin, which has not been consumptively used or otherwise lost and, therefore, is available for re-use or export, is no more than 100,000 acre feet of non-native water.

c. Subject to Accounting. This Accord as to non-native water is subject to the condition that the Protesting Parties will provide to OCWD in writing every twelve (12) months, in conjunction with the development of the Chino Basin Watermaster annual report, an accurate and detailed accounting of the Chino Basin Parties' imports, use, loss and release of native and non-native water for the prior twelve month period, including loss of water through consumptive use, evaporation, transpiration, percolation losses, transmission losses, and any other losses. The accounting of the Chino Basin Parties shall be performed by the Chino Basin Watermaster. The first such accounting is due to the OCWD by January 31, 2001 and the following reports are due every twelve (12) months thereafter.

d. **Review of Accounting.** OCWD may seek review and verification of the accounting by the Santa Ana River Watermaster. The parties hereto shall use their best efforts to resolve any issues in regard to the accounting through the Santa Ana River Watermaster.

3. **STORAGE/RECOVERY/EXPORT PROGRAMS.**

a. **Acknowledgment of Right** Pursuant to the conditions set forth in Paragraph 2 of this Accord, the parties acknowledge and agree that OCWD and the Chino Basin Parties have the right to import and store non-native water within the Watershed, and to recover non-native water which is not consumptively used or otherwise lost through consumptive use, evaporation, transpiration, percolation losses, transmission losses, and any other losses, and export the recovered water from the Watershed, and to contract with third parties to exercise such rights.

b. **Notice.** The Protesting Parties agree to provide advance notice to OCWD, by and through the Chino Basin Watermaster, of any project or proposed project by a Chino Basin Party to export water produced from the Chino Basin for use outside the Watershed, and to provide, upon request by OCWD pursuant to Paragraph 5(c), a special accounting with regard to such project. OCWD agrees to provide advance notice to the Protesting Parties, by and through the Chino Basin Watermaster, of any OCWD project or proposed project to export water produced from the Orange County Basin for use outside the Watershed, and to provide, upon request by a Protesting Party pursuant to Paragraph 5(c), a special accounting with regard to such project .

4. **ALL RIGHTS RESERVED AS TO EXPORT OF NATIVE WATER:**

a. **Reservation of Rights.** Without prejudice to the position of any of the parties to this Accord, the parties hereto will leave for future resolution the issue of whether the Chino Basin Parties or OCWD can export native water from the Watershed. The issue reserved for future determination applies to the export from the Watershed of all native water, regardless of whether it is captured surface water, extracted groundwater, or recycled water.

b. **Representation.** The Protesting Parties represent that the Chino Basin Parties have no current proposal to export native water under active consideration. OCWD represents that it has no current proposal to export native water under active consideration. For purposes of this Accord, OCWD's distribution of water to entities which are or may become member agencies of OCWD does not constitute an export.

c. **Service Area and Disposal Exception.** Notwithstanding the foregoing, the parties to this Accord have no objection (i) to the continued uses of native water by Chino Basin Parties or water producers within OCWD within their respective service areas or (ii) to the continued export outside the Watershed by Chino Basin Parties or by water producers within OCWD of used native water through their respective wastewater disposal systems, so long as such export includes

only water used within that party's service area and is consistent with the current pattern of that party's wastewater disposal system.

5. **OCWD RIGHT TO TERMINATE ACCORD.**

a. **Right to Terminate.** Once OCWD receives notice under Paragraph 3(c) or otherwise learns that one or more of the Chino Basin Parties proposes or undertakes a project to export native water for use outside the Watershed, OCWD may question or challenge such project proposal, and OCWD shall have the right to terminate this Accord. Once the Protesting Parties receive notice under Paragraph 3(c) or otherwise learn that OCWD proposes or undertakes a project to export native water for use outside the Watershed, the Protesting Parties may question or challenge such project proposal, and one or more of the Protesting Parties shall have the right to terminate this Accord as to itself.

b. **Notice of Termination.** Prior to exercise of its right to terminate the Accord, a party seeking to terminate shall give advance written notice of intent to terminate to the other parties to this Accord, specifying the export project proposal and its objections thereto and requesting reasonable written assurance within thirty (30) days from the party proposing the project that the project does not involve export of native water. If the party seeking to terminate, in its sole discretion, determines that it has received satisfactory assurance, then that party shall withdraw its notice of termination. Upon receipt of notice of intent to terminate, the affected party shall cease efforts to implement the project until the earlier of (I) ninety days or (ii) withdrawal of the notice of termination.

c. **Exhaustion of Accounting Procedure.** If there is a dispute whether the proposed project results in the export of native water or imported water, OCWD and the Protesting Parties agree to first utilize a special accounting of the imports, use, loss and release of native and non-native water prepared by the Chino Basin Watermaster (if the export is by Chino Basin Parties) or OCWD (if the export is by OCWD), and, if a dispute still exists, to use their best efforts to resolve the dispute through review and verification of the special accounting by the Santa Ana River Watermaster before proceeding to terminate the Accord.

6. **SWRCB PROCEEDINGS.**

a. **Incorporation of Accord.** Within ten (10) business days of execution of this Accord, OCWD shall submit a true and correct copy hereof to the SWRCB. OCWD and the Protesting Parties hereby request and consent to an SWRCB condition incorporating this Accord into any order, permit or license issued by the SWRCB in response to the Petition or the Application.

b. **Withdrawal of Protests.** Subject to the express condition that the SWRCB issue an order on the Petition which incorporates this Accord as a part of the order and as part of any

SANTA ANA RIVER AND
CHINO BASIN WATER
RIGHT ACCORD
9-15-00 for execution

Protesting Parties hereby request and consent to an SWRCB condition incorporating this Accord into any order, permit or license issued by the SWRCB in response to the Application.

b. Withdrawal of Protests. Subject to the express condition that the SWRCB issue an order on the Application which incorporates this Accord as a part of the order and as part of any subsequent permit or license issued as a result of that order, the Protesting Parties hereby withdraw their protests and opposition to the Petition and the Application. So long as OCWD complies with the provisions of the Accord, the Protesting Parties shall take no further action in any forum to protest, oppose or interfere with the processing, review and grant of such Petition and Application or to cooperate with or fund any other entity in doing so.

c. Chino Basin Filings. OCWD hereby acknowledges that the Chino Basin Watermaster and/or one or more other agencies, on behalf of the Chino Basin Parties, may file one or more applications to appropriate native or imported water, including applications to re-divert reclaimed water, for use within the Watershed, and a petition for limited revision of SWRCB Order WR89-25 on behalf of Chino Basin Parties in order to implement the OBMP ("Chino Basin Filings"). OCWD hereby agrees that any such petition should be dealt with in an expedited fashion, and agrees to support a request by the Chino Basin Parties for an expedited hearing on the petition. OCWD further agrees that if any such filing(s) is made by or on behalf of the Chino Basin Parties on or before September 30, 2001, and if such filing(s) seeks rights to the same or a lesser quantity of water as OCWD's Application as supplemented or amended, then OCWD agrees that the Chino Basin Filing(s) may be treated by the SWRCB as filed on the same date of priority as the respective OCWD Application and Petition, under authority of Water Code §1253. So long as such filing(s) are consistent with OCWD's water rights under the 1969 Judgment, the 1978 Judgment and this Accord, OCWD has no current plan to challenge such filing(s) and if, upon review of such filing(s), OCWD finds any unexpected issue that causes objection, OCWD will work in good faith with the filing party(s) to resolve such objections.

7. INTENDED THIRD PARTY BENEFICIARIES: The Chino Basin Parties who agree to be bound by and comply with all of the terms of this Accord are intended third party beneficiaries of this Accord.

The foregoing is agreed, effective September 15, 2000.

Approved as to form:

By: Charles E. Jell
Legal Counsel

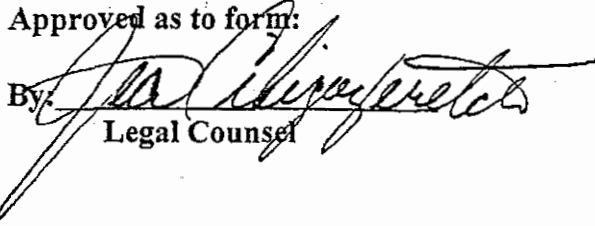
ORANGE COUNTY WATER
DISTRICT

By: William P. Miller


Its President
By: William P. Miller
General Manager

SANTA ANA RIVER AND
CHINO BASIN WATER
RIGHT ACCORD
9-15-00

Approved as to form:

By: 
Legal Counsel

INLAND EMPIRE UTILITIES
AGENCY

By: 
Its _____

Approved as to form:

By: _____
City Attorney

THE CITY OF CHINO

By: _____
Its _____

Approved as to form:

By: _____
City Attorney

THE CITY OF ONTARIO

By: _____
Its _____

Approved as to form:

By: _____
City Attorney

THE CITY OF POMONA

By: _____
Its _____

Approved as to form:

By: _____
Legal Counsel

CUCAMONGA COUNTY WATER
DISTRICT

By: _____
Its _____

SANTA ANA RIVER AND
CHINO BASIN WATER
RIGHT ACCORD
9-15-00 for execution

Approved as to form:

By: _____
Legal Counsel

Approved as to form:

By: _____
City Attorney

Approved as to form:

By: _____
City Attorney

Approved as to form:

By: _____
City Attorney

Approved as to form:

By: _____
Legal Counsel

INLAND EMPIRE UTILITIES
AGENCY

By: _____
Its _____

THE CITY OF CHINO

By: _____
Its Mayor

THE CITY OF ONTARIO

By: _____
Its _____

THE CITY OF POMONA

By: _____
Its _____

CUCAMONGA COUNTY WATER
DISTRICT

By: _____
Its _____

Approved as to form:

By: _____
Legal Counsel

INLAND EMPIRE UTILITIES
AGENCY

By: _____
Its _____

Approved as to form:

By: _____
City Attorney

THE CITY OF CHINO

By: _____
Its _____

Approved as to form:

By: *E. J. [Signature]*
City Attorney

THE CITY OF ONTARIO

By: *[Signature]*
Its CITY MANAGER

Approved as to form:

By: _____
City Attorney

THE CITY OF POMONA

By: _____
Its _____

Approved as to form:

By: _____
Legal Counsel

CUCAMONGA COUNTY WATER
DISTRICT

By: _____
Its _____

SANTA ANA RIVER AND
CHINO BASIN WATER
RIGHT ACCORD
9-15-00 for execution

Approved as to form:

By: _____
Legal Counsel

Approved as to form:

By: _____
City Attorney

Approved as to form:

By: _____
City Attorney

Approved as to form:

By: *Andrés Alvarado - Palma*
City Attorney

Approved as to form:

By: _____
Legal Counsel

INLAND EMPIRE UTILITIES
AGENCY

By: _____

Its _____

THE CITY OF CHINO

By: _____

Its _____

THE CITY OF ONTARIO

By: _____

Its _____

THE CITY OF POMONA

By: *Douglas Dunlap*
Douglas Dunlap
Its City Manager

CUCAMONGA COUNTY WATER
DISTRICT

By: _____

Its _____

SANTA ANA RIVER AND
CHINO BASIN WATER
RIGHT ACCORD
9-15-00 for execution

Approved as to form:

By: _____
City Attorney

THE CITY OF POMONA

By: _____
Its _____

Approved as to form:
DISTRICT

By: Gene Tanka
Legal Counsel

CUCAMONGA COUNTY WATER

By: [Signature]
Its GENERAL MANAGER

Approved as to form:

By: _____
Legal Counsel

MONTE VISTA WATER DISTRICT

By: _____
Its _____

SANTA ANA RIVER AND
CHINO BASIN WATER
RIGHT ACCORD
9-15-00 for execution

Approved as to form:

By: Arthur Skidman
Legal Counsel

MONTE VISTA WATER DISTRICT

By: W. J. King
Its General Manager