

FEE RECEIPT

FILED-Rancho Cucamonga District
SAN BERNARDINO COUNTY
SUPERIOR COURT

JUN 17 2002

By *Wanda S. DeWing* Deputy

1 Scott S. Slater (SBN 117317)
Michael T. Fife (SBN 203025)
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

9

COUNTY OF SAN BERNARDINO - RANCHO CUCAMONGA DIVISION

10

11 CHINO BASIN MUNICIPAL WATER DISTRICT,)

CASE NO. RCV 51010

12 Plaintiff,)

Judge: Honorable J. MICHAEL GUNN

13 v.)

**EX PARTE APPLICATION FOR
AN ORDER SHORTENING TIME
FOR THE TRANSMITTAL OF
SUBSIDENCE INTERIM PLAN
AND MOTION TO SCHEDULE
WORKSHOP**

14 THE CITY OF CHINO,)

15 Defendants.)

Date: June 17, 2002

Time: 4:00 pm

Dept: R8

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APPLICATION FOR AN ORDER SHORTENING TIME

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Watermaster hereby applies for an Order Shortening Time for its Transmittal of the Interim Plan for the Management of Subsidence ("Interim Plan") and for a Motion to schedule a Workshop with the Referee regarding the Interim Plan.

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This Court may order that the time prescribed by statute for notice and hearing a motion may be shortened for good cause. Code.Civ.Proc. § 1005; Rules 317, 325, California Rules of Court; San Bernardino Local Court Rule 510.

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HATCH AND PARENT
21 East Carrillo Street
Santa Barbara, CA 93101

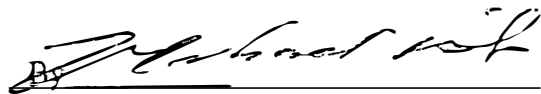
1 As described in the Declaration of Michael T. Fife which is attached to this pleading as
2 Exhibit "A," good cause exists for this Court to enter an Order Shortening Time for the
3 Transmittal of the Interim Plan and for the Motion to schedule a Workshop regarding the Interim
4 Plan. The Watermaster parties have been working to complete the Interim Plan prior to the
5 Court's scheduled June 19, 2002 hearing. The parties held their most recent meeting on this
6 subject on June 11, 2002. On that same day, the Proposed Interim Plan was distributed to the
7 parties in anticipation of the Agricultural Pool meeting scheduled for June 13, 2002. The other
8 Pool Committees, the Advisory Committee and the Board did not meet to discuss the Interim
9 Plan until this morning, June 17, 2002.

10 All of the parties who attended these meetings were made aware that the Interim Plan
11 would be transmitted to the Court prior to the June 19, 2002 hearing, and these parties are also
12 aware that Watermaster will be requesting that the Court schedule a workshop with the Special
13 Referee regarding the Interim Plan.

14 Good cause therefore exists for the Court to Order that the time prescribed by statute for
15 notice and hearing a motion may be shortened, and no party will be prejudiced by such an Order.

16
17 DATED: June 17, 2002

HATCH AND PARENT

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

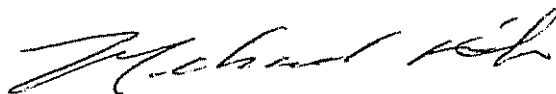
DECLARATION OF MICHAEL T. FIFE IN SUPPORT OF EX PARTE APPLICATION FOR AN ORDER SHORTENING TIME FOR THE TRANSMITTAL OF SUBSIDENCE INTERIM PLAN AND MOTION TO SCHEDULE WORKSHOP

Date: June 17, 2002
Time: 4:00
Dept: R8

HATCH AND PARENT
21 East Carrillo Street
Santa Barbara, CA 93101

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22 1. My name is Michael Fife and I am an attorney with the law firm of Hatch and Parent.
23 2. Hatch and Parent is the General Counsel for the Chino Basin Watermaster.
24 3. In my capacity as General Counsel for the Chino Basin Watermaster I have participated in
25 the negotiations regarding the Interim Plan for the Management of Subsidence.
26 4. I have personal knowledge of the progress of these negotiations and of the schedule that
27 has been followed throughout the course of these negotiations.
28

- 1 5. The most recent stakeholder meeting to discuss the Interim Plan occurred on June 11,
2 2002 at the Watermaster offices.
- 3 6. The Agricultural Pool met on June 13, 2002 and discussed the Interim Plan.
- 4 7. The other Pool Committees as well as the Advisory Committee and Board met on June
5 17, 2002 and discussed the Interim Plan.
- 6 8. Watermaster staff represented at each of these meetings that if the parties so directed,
7 Watermaster counsel would transmit the Interim Plan to the Court prior to the scheduled June 19,
8 2002 hearing, and at the hearing would request the Court to schedule a workshop regarding the
9 Interim Plan.
- 10 9. I swear under penalty of perjury that the foregoing is true and correct to the best of my
11 knowledge and belief.

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14 

15 Michael T. Fife

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17
18 DATED: June 17, 2002

FEE EXEMPT

FILED-Rancho Cucamonga District
SAN BERNARDINO COUNTY
SUPERIOR COURT

JUN 17 2002

By Wanda S. ... Deputy

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2 Michael T. Fife (SBN 203025)
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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 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
**TRANSMITTAL OF SUBSIDENCE
INTERIM PLAN AND MOTION
TO SCHEDULE WORKSHOP;
TRANSMITTAL OF ISOB**

Date: June 19, 2002
Time: 11:00 am
Dept: R8

HATCH AND PARENT
21 East Carrillo Street
Santa Barbara, CA 93101

21 I.

22 TRANSMITTAL OF INTERIM PLAN

23 Attached to this pleading as Exhibit "1" is a copy of Watermaster's Interim Plan for the
24 Management of Subsidence ("Interim Plan"). This Interim Plan has been approved by each of the
25 three Pool Committees and on June 17, 2002 was approved by the Advisory Committee and the
26 Board. The Interim Plan also includes various exhibits labeled "A" through "F."

27 The Staff Report that accompanied the Interim Plan as presented to the Pool Committees,
28 the Advisory Committee and the Board includes a detailed discussion of the Interim Plan and

1 some of the issues concerning adoption of the Plan. This Staff Report has been included here as
2 Exhibit "2" in order to facilitate the Court's understanding of these issues and of the Interim Plan
3 itself. However, upon presentation of the Interim Plan to the Advisory Committee, further
4 revisions to the plan were made in an attempt to resolve these issues. Thus, the Interim Plan as
5 transmitted to the Court deviates from that described in the Staff Report in two important
6 respects:

- 7 1. Exhibit "E" was modified to include additional Chino Hills wells. This change
8 was made in order to give Chino Hills greater flexibility in managing its system
9 should it elect to reduce its production as a participant in the Interim Plan.
- 10 2. The Interim Plan was modified so that the election to reduce pumping as a
11 participant in the Interim Plan entails a three year commitment to that same
12 quantity of a reduction in production, though the participating producer does
13 retain the ability to alter its distribution of this quantity of reduction in production.

14
15 **II.**
16 **MOTION FOR A SPECIAL REFEREE WORKSHOP REGARDING THE INTERIM**
17 **PLAN**

18 In its February 28, 2002 Order, the Court scheduled the hearing on June 19, 2002 for the
19 purpose of scheduling any further briefing that may be necessary and to schedule a new hearing
20 date. Because the Interim Plan is a complicated document that has only very recently been
21 completed and approved, Watermaster believes that an appropriate first step in this further
22 scheduling would be to hold a workshop to allow for a presentation of the Plan to the Court
23 through the Special Referee.

24 Watermaster suggests a date of August 29, 2002 for such a workshop, at a time that is
25 convenient for the Special Referee and her assistant.

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HATCH AND PARENT
21 East Carrillo Street
Santa Barbara, CA 93101

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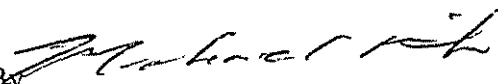
III.

TRANSMITTAL OF FINAL INITIAL STATE OF THE BASIN REPORT

Included with this pleading is a final copy of the Initial State of the Basin ("ISOB") report. This final ISOB comes is contained in a hardbound binder and so cannot be attached to this pleading as an exhibit. Copies have been previously served on all parties. Any party wishing an additional copy may contact Watermaster, and full color copies can be obtained from the Watermaster website at <www.cbwm.org>.

DATED: June 17, 2002

HATCH AND PARENT

By 

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

Exhibit 1

PROPOSED WATERMASTER INTERIM PLAN FOR MANAGEMENT OF SUBSIDENCE

I. RECITALS

- A. The Peace Agreement was executed in June 2000; Watermaster subsequently approved the Agreement and the Court ordered that Watermaster proceed in accordance with its terms;
- B. Watermaster also approved an Optimum Basin Management Program (OBMP) for the Chino Basin, and Exhibit B to the Peace Agreement contained an Implementation Plan for the OBMP (Implementation Plan);
- C. Program Element Four of the Implementation Plan acknowledges the existence of subsidence and fissuring within Management Zone 1 and further states that, although there is some uncertainty as to the causes, “[t]he occurrence of subsidence and fissuring in Management Zone 1 is not acceptable and should be reduced to tolerable levels or abated . . .” (Implementation Plan at p. 26);
- D. Program Element Four requires that information should be collected and analyzed by Watermaster, so that an effective long-term plan can be developed and further, that certain actions will be taken under an interim management plan to minimize subsidence and fissuring or reduce them to tolerable levels (OBMP Implementation Plan at p. 26.);
- E. Watermaster intends that the interim management plan must fairly and reasonably allocate expenses among the parties to the Judgment and that it shall include the following components: voluntary modifications to groundwater production patterns in Management Zone 1 (MZ1), a monitoring the long-term balance of recharge and production within MZ1, identification of data needs and the knowledge deficiency, an effort to bridge gaps in knowledge base and lead to the proper formulation of a long-term plan;

- F. Competing contentions have been offered by the parties to the Judgment related to a number of matters including but not limited to the extent of Watermaster's jurisdiction to address subsidence with or without the consent of the parties and the proper rights and remedies of the parties to the Judgment under paragraph 15 or otherwise;
- G. Without prejudice to or limitation on (i) any party's position, (ii) the competing contentions that have been made or may be asserted regarding subsidence, and (iii) the rights or remedies referenced in the preceding recital or otherwise held by any party, Watermaster has developed this Interim Plan. The agreement or acquiescence by any party to the Judgment with regard to Watermaster's decision to implement the Interim Plan by securing Substitute Water for eligible parties shall not be considered a waiver of their right to object to or oppose future Watermaster actions or to further contest the propriety of proposed cost allocations among parties to the Judgment;
- H. As proposed, the Interim Plan includes a purely voluntary participation by parties to the Judgment in the partial forbearance in groundwater production in those cases where the party to the Judgment is eligible to receive Substitute Water as arranged by Watermaster. In proposing the Interim Plan, Watermaster makes no presumed or assumed relationship between the historical causes of subsidence, express or implied, by its agreement to secure Substitute Water for the benefit of any eligible party and the studies that are associated with the Interim Plan. The portion of the Interim Plan that is designed to make Substitute Water available to parties to the Judgment is the result of multiple considerations including, but not limited to, available facilities, cost of water, and future demands; and
- I. The proposed Interim Plan is the product of a concerted effort to gain support from the parties to the Judgment. The Interim Plan has been discussed by stakeholders; it has also been presented to and approved by the Pool Committees, the Advisory Committee and the Watermaster Board.

NOW THEREFORE, with a consensus among the parties to the Judgment and in consideration of the continuing voluntary commitments made by and among the parties to the Judgment, Watermaster will request an order of the Court instructing it to proceed in accordance with this interim management plan for MZ1 (Interim Plan) that reasonably and fairly allocates costs among the parties to the Judgment in accordance with the Judgment, the Peace Agreement and the OBMP with the following terms:

1. Formation of Technical Group. A technical group will be formed among the Producers for the purpose of monitoring and recommending actions in satisfaction of the requirement in Program Element Four of the Implementation Plan based upon credible scientific information.
 - a. Objectives. In pursuing the goal of Program Element Four for the Interim Plan, the Technical Group shall serve as a clearing house for scientific information, as well as the source for full professional discussion, input and peer review by its members, for the benefit of Watermaster. The Technical Group shall provide comment where appropriate and assist Watermaster in Watermaster's development of recommendations for consideration and potential action by Watermaster under the Interim Plan. In addition, the Technical Group will provide similar assistance to Watermaster in its effort to develop a long-term plan as provided in Program Element Four. An important objective and work product of the Technical Group shall be its effort to serve in advisory capacity to assist Watermaster in its development of a Long-Term Plan. The Technical Group and Watermaster shall develop the Interim and Long-Term Plans consistent with the Peace Agreement and OBMP.
 - b. Membership. Membership in the Technical Group shall be reserved for representatives from those parties to the Judgment that are presently producing groundwater within MZ1. Each of the following producers shall be entitled to one representative on the Technical Group: Chino, Chino Hills, Ontario, Upland, Pomona, MVWD, So. Cal. Water, CIM independently, and the Ag Pool.
 - c. Full and Fair Discussion. Discussion between and among the members of the Technical Group shall be considered as good faith settlement discussions and therefore privileged as an offer of compromise. This will ensure an environment of full and candid discussion among professionals. Representatives of the Technical Group will be required to execute acknowledgments of the privileged character of the discussions as a precondition to participation in meetings in a form substantially similar to Exhibit

“A” attached hereto. The privilege shall extend to all conversations among and between members of the Technical Group and any written work product that is developed and presented for the primary purpose of consideration by the Technical Group and its members. The existence of the privilege shall have no bearing on the existence or non-existence of other potential privileges that may be asserted with regard to any documents, reports or opinions.

d. Qualifications. A representative member of the Technical Group may be selected at the discretion of the party that is a member. However, the representative shall be of a professional background with an emphasis in operations, geology, hydrology or engineering fields.

e. Rules and Procedures of the Technical Group. The meeting of the Technical Group will be convened by Watermaster upon providing proper notice to the members. Watermaster shall provide all technical support for the meetings. Watermaster will make a good faith effort to facilitate the development of a consensus with due consideration for proper science among the members of the Technical Group. Where possible the Technical Group shall act by consensus. In those instances in which Watermaster is unable to achieve a consensus among the members of the group, Watermaster shall appoint a facilitator to assist the Technical Group.

2. Monitoring Program. Watermaster will proceed with a comprehensive monitoring program for all of MZ1 in accordance with Program Element Four.

a. Extensometers and Piezometers. Watermaster will proceed to install the extensometers and piezometers as provided in Program Element Four no later than September 1, 2002. Watermaster shall execute the Right of Entry Agreement attached hereto as Exhibit “B,” no later than July 1, 2002.

b. Initial Wells Included Within Study Zone. Within MZ1, a list of wells has been compiled by Watermaster and is attached as Exhibit “C” hereto and incorporated herein by this reference. Watermaster may add other wells to the study group where supported by sound scientific data.

c. Review. Watermaster Staff shall regularly review the technical data and make periodic reports to the Technical Group. This report shall occur a minimum of two times a year and as often as

necessary for the Technical Group to receive appropriate input, feedback and direction. Watermaster will consider recommendations from the Technical Group but it reserves its discretion to determine what portion of its annual budget will be allocated for the monitoring program.

3. Substitute Supply of Water. Watermaster will arrange for the delivery of up to 3,000 acre-feet of water from the Metropolitan Water District and the Inland Empire Utilities Agency via the Water Facilities Authority (WFA) for each of the first three years that the Interim Plan is in effect. Thereafter, Watermaster may, in its sole discretion, continue to arrange for the delivery of Substitute Water. Watermaster will make Substitute Water available to induce voluntary participation in the Interim Plan.

a. Eligibility. Each party to the Judgment within MZ1 may be eligible to receive Substitute Water for each well that meets the following conditions:

- (1) The well must be identified on Exhibit "C";
- (2) The party must have produced more than 50 (fifty) acre-feet of water from the identified well in Water Year 2001-2002 and determined that it is likely to produce more than 50 (fifty) acre-feet in 2002-2003 and each subsequent year the Interim Plan is in place;
- (3) The party must be able to physically receive Substitute Water the Metropolitan Water District (MWD) and the Inland Empire Utilities Agency (IEUA) via the WFA.
- (4) The party must agree to modify groundwater production so that it produces a quantity of water that is less than the base quantity under Paragraph 5.a. and corresponds to the amount of Substitute Water made available by Watermaster

b. Election. Any party to the Judgment may be eligible to participate in the voluntary program by exercising its election to receive Substitute Water by completing and filing "Notice of Forbearance" in accordance with Exhibit "D" with Watermaster no later than August 1, 2002 for the three years that the Interim Plan is in place. If a party makes that election and no other party does so, the party which made the election may rescind that election on or before August 10 of 2002. A proposed schedule for voluntary participation by the parties to the Judgment in 2002-2003 is attached hereto as Exhibit "E." The parties to the Judgment may confirm or modify their participation by filing a notice with

Watermaster no later than August 1 2002. The fact that a party elects to include one or more wells in one year shall not obligate that party to include the same wells in subsequent years. Each party reserves complete discretion to revise the quantity of reduction from any well identified on Exhibit "E" in each year of the Interim Plan, so long as that party's cumulative reduction is not reduced below the initial cumulative quantity of 1,500 acre-feet per year.

- c. Cost. The cost of the Substitute Water to the Participating Producers shall be the then prevailing WFA treatment and operations costs plus the IEUA surcharge. Exhibit "F", attached hereto, provides the methodology on how the cost of the Substituted Water will be calculated.
- d. Quantities. Each of the Participating Producers shall reduce groundwater production as described in Paragraph 5 in exchange for Watermaster having made the Substitute Water available to the Participating Producers as set forth in the annual notice filed before August 1 of each year the Interim Plan is in place. The participation proposed by Watermaster in 2002-2003 is set forth in Exhibit "E."
- e. Storage. Each acre-foot of Substitute Water or Alternative Water supplied by Watermaster to a Participating Producer shall be considered in-lieu storage under the Judgment. This means that every acre-foot of Substitute Water or Alternative Water that is delivered to a Participating Producer to replace groundwater production by that producer will be considered un-pumped water and then credited to storage. Once the Substitute Water or Alternative Water is stored as Supplemental Water, the Substitute Water or Alternative Water shall be made available by Watermaster to the parties to the Judgment based upon their respective amounts of over-production. If a party to the Judgment elects to purchase the stored water to offset all, or a portion of their annual overproduction, the cost of the Supplemental Water held as stored water made available for replenishment shall be the then prevailing "market price" of replenishment (approximately \$201-\$215 per acre-foot). The price will be subject to the usual 85% - 15% assessment procedure applicable to the purchase and sale of stored water under the Judgment (Judgment Exhibit H, Para. 7(a), pp. 69-70). In the event not all stored water is purchased from Watermaster, it may make any excess water available to appropriate pool members on a first come, first served basis.

- 4. Alternative Water Supply. As an alternative to making Substitute Water available to the Participating Producers in accordance with Paragraph 3,

Watermaster, in its sole discretion, may elect to provide other potable water (“Alternative Water”). Any quantity of Alternative Water provided to a Participating Producer would be credited against Watermaster’s obligation to arrange for up to 3,000 acre-feet of Substitute Water.

- a. Cost. If Watermaster *elects* in its sole discretion to secure Alternative Water instead of the Substitute Water, the cost incurred by Watermaster in arranging for the Alternative Water shall be a Watermaster expense. If the Participating Producer elects, in its sole discretion, to take delivery of the alternative supply, the per acre-foot cost to the Participating Producer shall be at the same cost as the Substitute Water as provided in Paragraph 3 unless Watermaster, in its sole discretion, elects to offer the Alternative Water at a lesser cost to the Participating Producer.
- b. Potential Sources. Potential sources of supply include, but are not limited to, the following: interconnections with other local agencies, desalted water, recycled water, increased deliveries from the Ramona feeder and the Monte Vista Intertie Pipeline. The availability of any potential sources of Alternative Water may be subject to the execution of future agreements between and among parties to the Judgment.
- c. No Commitment. Nothing herein shall commit Watermaster or any party to the Judgment to fund water system improvements for the benefit of any party to the Judgment or to buy water made available by Watermaster instead of that provided pursuant to paragraph 3. Moreover, no party to the Judgment which extracts and uses water solely outside MZ1 shall be required to bear any expenses other than as expressly provided for in this Interim Plan, including but not limited to Exhibit “F” herein, for implementation of the Interim Plan, without its written consent or further Watermaster action in accordance with the Judgment.

5. Conditions on Participation. Any Participating Producer that satisfies the eligibility requirements set forth in Paragraph 3.a. and provides proper and timely notice to Watermaster in accordance with Exhibit “D”, agrees to comply with the following conditions:

- a. Reduction in Production. Production of groundwater from the wells identified by the Participating Producer in accordance with Exhibit “D” shall be temporarily reduced below the historical amount of production for that well for a period of nine (9) months in each year. The temporary reduction in production shall commence on October 1 and conclude on the following June 30. Generally, historical production shall be considered to be the groundwater production by the affected producer from the

identified wells during the months of October 1 through June 30 during the seven-year base period of 1994-2001.

- b. Reduction Contingent Upon Substitute Water or Alternative Water Being Made Available to the Participating Producer. The continuing obligation of any Participating Producer to reduce their respective extractions is expressly subject to a continuing condition that Watermaster provides an equivalent quantity of Substitute Water or Alternative Water to the Participating Party.
 - c. Resumption of Production. A Participating Producer may resume production from each well identified in Exhibit "D" between July 1 and September 30 upon written notice to Watermaster staff and the Technical Group.
 - d. Continued Monitoring. Watermaster staff, in consultation with the Technical Group, will continue to monitor conditions within MZ1 during the entire year, and it may recommend varying periods for consideration by Participating Producers for each year the Interim Plan remains in place.
 - e. Emergency. Any Participating Producer that has reduced production in accordance with the provisions of Paragraph 5.a. shall be entitled to resume production in the event of an emergency or Watermaster's failure to provide Substitute Water or Alternate Water. An emergency shall exist when there is an occurrence such as a drought, storm, flood, fire or an unexpected supply interruption or equipment outage impairing the ability of a Participating Producer to make water deliveries.
6. Other Voluntary Measures. In their complete discretion, all parties to the Judgment that own or operate wells with MZ1 are encouraged to consider voluntary measures that may facilitate the goals of this Interim Plan.
7. No Admission of Liability or Waiver of Rights by Any Producer.
- a. No Acknowledgment of Responsibility. By participating in this voluntary plan for MZ1, no party admits liability or acknowledges responsibility for the actions taken in accordance with the Interim Plan. The parties to the Judgment agree to enter into this Interim Plan voluntarily and in exchange for the benefits provided, agree to abide by its terms. Except for their agreement to proceed in accordance with the provisions of this interim plan and the Judgment, all parties are expressly reserving all claims, rights and defenses as to all matters. The parties to the Judgment do not waive their respective rights regarding interpretation of the Judgment, the OBMP Implementation Plan, the Peace Agreement

or other provision of law. No party to the Judgment may use the fact that any other party elected to voluntarily reduce production and receive Substitute Water or Alternate Water as evidence of any fact, in any legal or equitable proceeding of any kind.

b. No Waiver of Voting Rights. A participating producer does not waive or alter their voting rights under the Judgment, whatever they may be, by its agreement to receive Substitute Water or Alternate Water in-lieu of producing groundwater.

c. No Limitation on Watermaster. Nothing in this agreement limits the ability of Watermaster or any party to the Judgment to negotiate a different formula for the cost of alternate or substitute water with members of the Agricultural Pool, including CIM, if member wells are subsequently deemed eligible to participate in the Interim Plan or a Long-Term Plan.

8. Term. The initial term of this Interim Plan is 3 years. Thereafter, this Interim Plan shall be either extended, amended or replaced by a Long-Term Plan to abate or reduce subsidence and fissuring.

9. Construction. This Interim Plan shall be construed consistent with the Judgment and the Peace Agreement. In the event of a conflict between the provisions of this Plan and the Judgment or the Peace Agreement, the Peace Agreement and the Judgment shall co

Exhibit A

Exhibit "A"

Acknowledgment That Technical Group Communications are Privileged Communications and Technical Group Participation Shall not be Used as Evidence

1. Offer of Compromise. It is hereby agreed by the following parties that all written or oral communications made between or among members of the Technical Group and to Watermaster during meetings of the Technical Group shall be considered privileged communications as good faith settlement discussions. As such, each party agrees that these communications shall be privileged and protected from disclosure as an "offer of compromise" under Evidence Code § 1152. The existence or non-existence of other privileges or the potential application of any privilege to the specific form of communication, whatever the privilege or communication may be, is not affected by this acknowledgment.
2. Participation Not Evidence. The decision by any party to the Judgment to participate in meetings of the Technical Group or to voluntarily modify their production in exchange for receiving Substitute Water or Alternate Water will not be used by a party as evidence of any fact regarding subsidence in any legal or equitable proceeding of any kind.
3. Enforcement. Each party who is a signatory below acknowledges the applicability of this privilege and agrees to abide by the terms of the Interim Plan

City of Chino

City of Chino Hills

City of Ontario

City of Upland

City of Pomona

Monte Vista Water District

State of California

Southern California Water Company

Agricultural Pool

Exhibit B

RIGHT OF ENTRY AGREEMENT

THIS RIGHT OF ENTRY AGREEMENT ("Agreement") is entered into by and between THE STATE OF CALIFORNIA ("State"), CITY OF CHINO ("City") and CHINO BASIN WATERMASTER ("Watermaster") on this ____ day of June, 2002, with reference to the following facts and intentions:

RECITALS

- A.** The State owns certain property in the City of Chino commonly known as the "Ayala Community Park (the "Park")."
- B.** City leased Ayala Community Park from the State on June 27, 1994 for public park and recreational uses, for an initial term that terminates in 2018, subject to an extension of that term for an additional period of twenty (20) years.
- C.** Land subsidence and fissuring has been observed in a portion of that area identified in the Optimum Basin Management Program of Watermaster as Management Zone 1.
- D.** Watermaster intends to research this land subsidence and fissuring phenomenon, with the goal of more fully understanding the causes of this phenomenon, and thereby enabling a reduction in the risk of such future subsidence and fissuring.
- E.** Watermaster desires to have a right of entry over portions of the Ayala Community Park for installation and maintenance of a multi-level piezometer and extensometer for purposes of measuring aquifer system compaction and expansion, in order to acquire additional information pertaining to land subsidence and fissuring problems in the area ("**Project**").

AGREEMENT

NOW, THEREFORE, the parties hereto agree as follows:

1. **Authorization for Entry.** State and City grant to Watermaster, its agents, employees, contractors, subcontractors, and persons acting on behalf of Watermaster, authorization and the right to enter and have access upon, in, across, over, under and through that portion of the Park, described in the attached Exhibit "A," for the purposes hereinafter set forth.
2. **Affected Portions of Park.**
 - a. **Project Site.** Watermaster shall be entitled to use that portion of the Park described, depicted and labeled "Project Site" on the attached

Figure 1 for the construction, installation, operation, maintenance, repair, replacement, and management of the Project.

b. Construction Staging Area. Watermaster shall be entitled to use the portion of the Park described, depicted and labeled "Construction Staging Area" on the attached Figure 1 for all necessary and appropriate construction phases/staging activities related to constructing, installing, maintaining, repairing, and replacing the Project, including but not limited to the drill rigs, fencing, wastewater tanks, and materials storage for the Project. Watermaster shall install minimum 6' height temporary fencing with imbedded posts to exclude the public from the Construction Staging Area during all periods of construction. At the end of each work day, Watermaster shall install steel plates over any excavations. If Watermaster needs to make repairs that require a construction-scale effort, it will provide reasonable prior notification to the City.

c. Access Area. For so long as the Project is located in the Park, Watermaster shall be entitled to use the portion of the Park described, depicted, and labeled "Access Area" on the attached Figure 1 for access to the Project Site at all times during construction. State or City shall be entitled to relocate the Access Area provided that said relocation retains access to the Project Site that is reasonable and comparable to the Access Area depicted on Figure 1.

3. Activities and Purposes. This Agreement is granted for the following activities and purposes:

a. Exploratory Borehole. Watermaster shall be entitled to drill an exploratory borehole to gather lithologic and geophysical data. If the data indicates, in Watermaster's sole discretion, that the Park is not a favorable location for the Project, Watermaster shall abandon the exploratory borehole and Watermaster will begin a new site selection process, which process may include but is not limited to consideration of another Project site within the Park, subject to approval of an amendment to this Agreement by State, City and Watermaster.

- b. Pre-Construction Requirements.** Prior to Project construction:
1. Watermaster shall relocate any existing water irrigation supply pipeline currently located within the Project Site, to an area approved by the City in advance.
 2. Watermaster shall present for City approval a detailed site plan depicting the construction phase/staging activities and the completed Project site plan. City may not unreasonably disapprove such site plan

c. Piezometers.

1. Watermaster shall be entitled to install approximately ten (10) multiple-depth, nested piezometers in as many as three boreholes.
2. Watermaster shall be entitled to construct at grade well-head enclosures of a style similar to existing utility vaults in the Park.
3. During piezometer installation, drilling and well installation activities shall be performed on a continuous basis, to the extent within Watermaster's control, with the objective of completing these activities within approximately 45 days after commencement. Excepting during the drilling phase (which the parties acknowledge must be conducted on a continuous basis), construction work shall be limited to normal City work hours.
4. Watermaster shall be responsible for obtaining all necessary approvals from the Regional Water Quality Control Board for the disposal of groundwater.
5. Watermaster shall be entitled to use a time period of at least six (6) months, during which Watermaster will monitor groundwater after installation of the piezometer, to make its determination as to the final construction specifications for extensometers.
6. Concurrent with piezometer construction, Watermaster shall prepare plans and specifications for the extensometer and extensometer building, which shall be subject to review and approval by the City for compliance with the terms described below in section d.
7. During the time between construction of the piezometers and construction of the extensometers and with the City's approval which approval shall not be unreasonably withheld, the surrounding park area will be returned to a useable condition.

d. Extensometers.

1. Watermaster shall be entitled to install two extensometers, one deep (base of the alluvial fill) and the other shallow (just above a major confining stratigraphic unit).

2. Watermaster shall be entitled to construct the extensometer structure east of and adjacent to the new storage building as shown in Figure 1.
3. During extensometer installation, drilling and well installation activities will be performed on a continuous basis for approximately 45 days. Excepting the drilling phase, construction work shall be limited to normal City work hours.
4. City shall provide to Watermaster a supply of electricity for the extensometer structure, the cost of which shall be reimbursed by Watermaster.
5. The installation of the extensometer and construction of the extensometer structure shall take place during approximately a three (3) month period.
6. Building style and material for the extensometer structure must match existing buildings.
7. Watermaster shall be responsible for maintenance of the extensometer structure.

e. Post-Construction Requirements.

1. If tree removal is required during Project construction, Watermaster shall replace removed trees on a one-to-one ratio with trees that are no smaller than 24" boxes of a species approved by the City. Watermaster may relocate replacement trees to a location at least 50 feet from the location of the proposed extensometer building.
2. Watermaster shall repair or replace any turf or irrigation facilities damaged during Project installation, construction, operation, maintenance and repair.
3. Except during the initial construction period, Watermaster shall not park or store construction equipment and materials within the Park without approval of City.
4. Any new structures constructed after the construction of the extensometer building shall be set back a sufficient distance from the extensometer building so as not to place any loads on or induce any settlement of the extensometer or the extensometer building. The City and/or the State will consult

with Watermaster prior to constructing or allowing to be constructed any new structures within 200 feet of the extensometer building.

4. **Term.** This Agreement shall be coterminus with the Peace Agreement dated June 29, 2000 whose initial term expires on December 31, 2030 pursuant to Peace Agreement Section 8.2. To the extent that the term of the Peace Agreement is extended, so shall the term of this Agreement be extended. It is acknowledged, however, that the City operates the Park under a lease from the State of California which lease expires in 2018. If such lease is not renewed, and the City exercises no more interest in the Park, then the City's obligations under this Agreement will cease.

5. **Termination of Agreement.** This Agreement and all rights granted herein shall be irrevocable but shall automatically terminate upon Watermaster's determination, in Watermaster's sole discretion, that the Park is an inappropriate location for the Project. Upon making such a determination, Watermaster shall notify the State and City in writing of Watermaster's termination of this Agreement.

Upon termination of this Agreement, Watermaster shall abandon all boreholes in accordance with applicable State law, and Watermaster shall remove all structures and equipment from the Park, and restore the site to its original condition.

6. **General Provisions.**

a. **Indemnification.** Watermaster shall indemnify, defend, and hold City and/or State, their officers, employees and agents harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state or municipal law or ordinance, or other cause in connection with the acts or omissions of Watermaster, its employees, subcontractors, or agents, or on account of the performance or character of this work, except for any such claim arising out of the sole negligence or willful misconduct of the City and/or State, their officers, employees or agents. It is understood that the duty of Watermaster to indemnify and hold harmless includes the duty to defend as set forth in section 2778 of the California Civil Code. Within fifteen (15) days of City and/or State's notice that it has been made a party to an action arising out of Watermaster's acts or omissions under this agreement, Watermaster shall provide a defense to the City and/or State in that action. In the event Watermaster fails to provide such a defense to City and/or State, Watermaster shall be liable to the City and/or State for its attorney's fees and litigation costs incurred to defend itself beginning on the sixteenth (16th) day from the date of the City and/or State's notice and request for a defense. Acceptance of insurance certificates and endorsements required under this agreement does

not relieve Watermaster from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

b. Good Faith. Except where expressly set forth to the contrary, wherever in this Agreement a party has the right to approve an act of another party, the former shall exercise such discretion in good faith and according to reasonable commercial standards. Similarly, where a party is required to satisfy a condition or complete an act in a certain fashion or within a specified time period, that party shall pursue such objectives in good faith and make all reasonable efforts to accomplish the same; the other party shall likewise in good faith cooperate and assist the other party in accomplishing this task to cause the consummation of the Agreement as intended by the parties and evidenced by this Agreement.

c. Other Instruments. The parties shall, whenever and as often as reasonably requested by the other party, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered any and all documents and instruments as may be necessary, expedient or proper in the reasonable opinion of the requesting party to carry out the intent and purposes of this Agreement.

d. Construction. The provisions of this Agreement should be liberally construed to effectuate its purposes. The language of this Agreement shall be construed simply according to its plain meaning and shall not be construed for or against any party, as each party has participated in the drafting of this Agreement and had the opportunity to have their counsel review it. Whenever the context and construction so requires, all words used in the singular shall be deemed to be used in the plural, all masculine shall include the feminine and neuter, and vice versa.

e. Captions, Headings, Exhibits and Abbreviations. The captions and headings of this Agreement are for convenience only and have no force and effect in the interpretation or construction of this Agreement. Words indicated in parenthesis signify an abbreviation for the previous set of words or terms, so that when the abbreviation is used within the Agreement, it shall have the same meaning as a full statement of the words or terms. All exhibits attached to this Agreement are incorporated by this reference as though fully stated in this Agreement.

f. Severability. If any term, provision, covenant or condition of this Agreement shall be or become illegal, null, void or against public policy, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected, impaired or invalidated thereby. The term, provision, covenant or condition that is so invalidated, voided or held to be

unenforceable shall be modified or changed by the parties to the extent possible to carry out the intentions and directives stated in this Agreement.

g. Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of each of the parties hereto and their respective legal representatives, successors and permitted assigns.

h. Notices. All notices, approvals, acceptances, demands and other communications required or permitted under this Agreement, shall be in writing and delivered in person, by U.S. mails (postage prepaid, certified, return receipt requested), or by Federal Express or other similar overnight delivery service to the party to whom the notice is directed at the address of such party as follows:

To State: Department of General Services Director of Corrections
Real Estate Services Division P.O. Box 942883
707 Third Street Ste. 6-130 Sacramento, CA 94283
West Sacramento, CA 95605 Attn: Director of Corrections

To City: City of Chino
P.O. Box 667
Chino, CA 91710
Attn: City Manager

To Watermaster: Chino Basin Watermaster
8632 Archibald Ave., Suite 109
Rancho Cucamonga, CA 91730
Attn: Chief of Watermaster Services

Any written communication given by mail shall be deemed delivered two (2) business days after such mailing date and any written communication given by overnight delivery service shall be deemed delivered one (1) business day after the dispatch date. Either party may change its address by giving the other parties written notice of its new address as provided above.

i. Notice Watermaster will provide copies of all data collected from the peiozometers and extensometers, as well as any analysis and reports prepared from such data, to the State and the City. Two copies will be provided to the Department of General Services and one copy will be provided to the Department of Corrections.

j. Compliance with Laws. In the performance of this agreement, Watermaster shall abide by and conform to any and all applicable laws of the United States and the State of California, and the Chino Municipal Code and all ordinances, resolutions, rules and regulations of the City. Watermaster warrants that all work done under this agreement will be in compliance with all applicable

safety rules, laws, statutes, and practices, including but not limited to Cal/OSHA regulations.

k. Attorney's Fees. The parties each agree that, in the event of any breach of this agreement, the party aggrieved shall be entitled to recover from the party who breaches, in addition to any other relief provided by law, such costs and expenses as may be incurred by said party, including court costs, attorney's fees, and other costs and expenses, taxable or otherwise, reasonably necessary in preparing the defense of, defending against, or seeking or obtaining an abatement of, or an injunction against, such action or proceeding, or in enforcing this Agreement, or in establishing or maintaining the applicability of, or the validity of, this agreement, or any provision thereof, and in the prosecuting any counter claimor cross-complaint based thereon.

l. Entire Agreement and Amendment. This Agreement and the documents referenced herein contain the entire understanding and agreement of the parties with respect to the Project. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their right to claim, contest or assert that this Agreement was modified, canceled, superseded or changed by any oral agreement, course of conduct, waiver or estoppel.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth above in _____, California.

Dated: June _____, 2002

**STATE of CALIFORNIA
Department of General Services**

By: _____
Deborah Hysen
Deputy Director Real Estate
Services Division

Dated: June _____, 2002

**CITY OF CHINO,
A Municipal Corporation**

By _____
Mayor/Vice Mayor

Attested By: _____
City Clerk or Asst. City Clerk;

Dated June _____, 2002

CHINO BASIN WATERMASTER

By: _____
John V. Rossi
Chief Executive Officer

APPROVED AS TO FORM:

STATE OF CALIFORNIA
Department of Corrections

Dated: June _____, 2002

By: _____
Business Management Branch

Dated: June _____, 2002

**LAW OFFICES OF JIMMY
GUTIERREZ**

By: _____
James Erickson
Attorneys for City of Chino

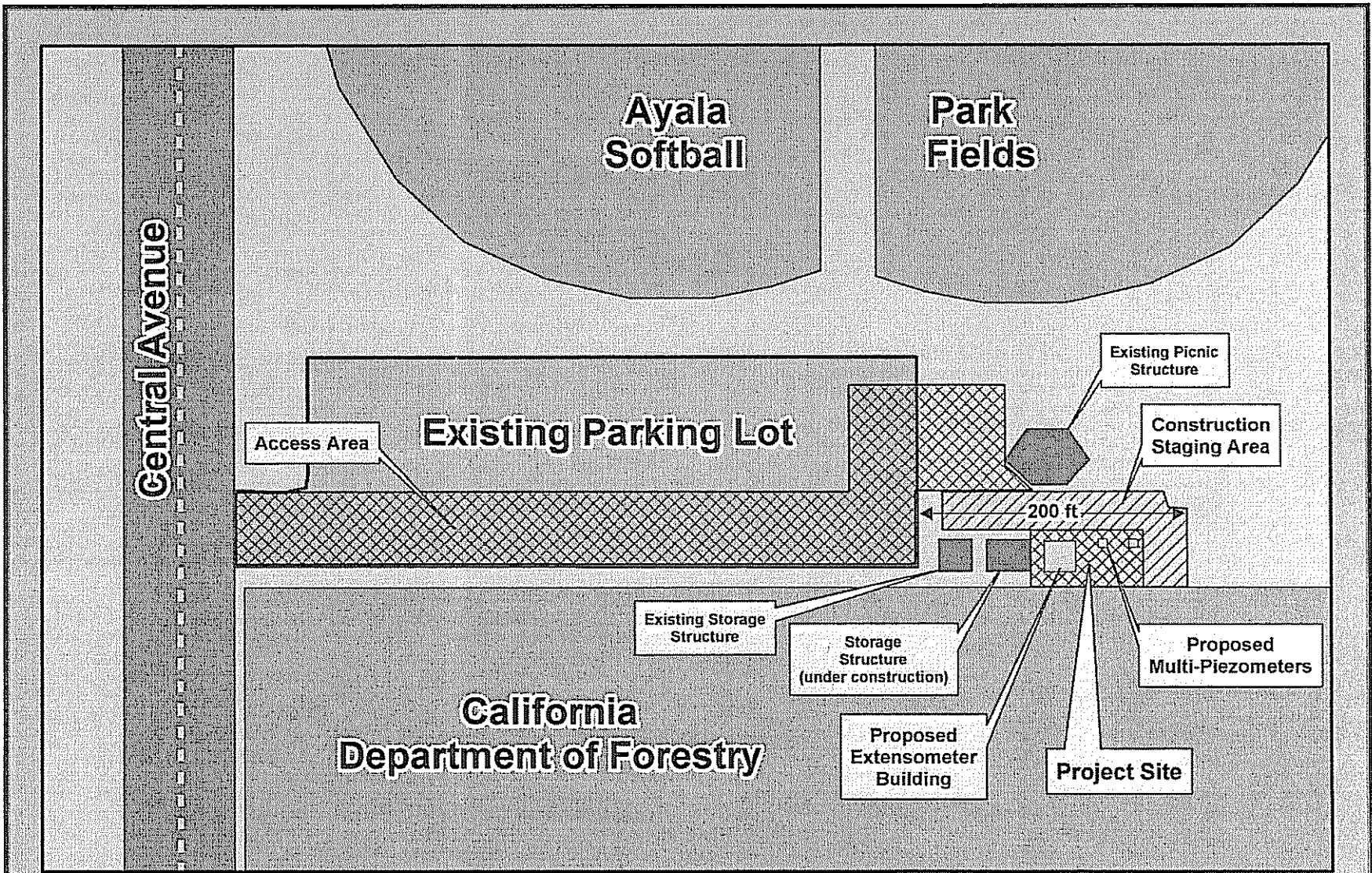
EXHIBIT A

All that certain real property situated, lying and being in the County of San Bernardino, consisting of approximately one hundred seventy (170) acres particularly described as follows:

That portion of Lots 38, 39, 40, 41, 42 and 43, Section 13 and Lots 33, 34, 35, 36, 45, 46, 47 and 48 Section 14 Township 2 South, Range 8 West, San Bernardino Base and Meridian, according to the Map Rancho Santa Ana Del Chino, per plat recorded in Book 1026, Page 01 and Book 1021, Pages 35, 32, 31 and 28, in the office of the County Assessor of San Bernardino, California.

Being portions of Lots 49, 50, 51, and 52 of Section 14, Township 2 South, Range 8 West, according to Map of Subdivision of a part of Rancho Santa Ana Del Chino, in the County of San Bernardino, State of California, as per plat recorded in Book 6 of Maps, page 15, records of said county, described as follows:

The north 550 feet of Lots 49, 50, 51 and 52; except the east 215 feet of Lot 49 and the west 50 feet of Lot 52 (measured from the original west line of said Lot and also being known as the centerline of Central Avenue).



Map prepared by:
WE Wilderemuth
 Environmental
 Date: May 2002

Figure 1
Location Map of Right of Entry Agreement
for Extensometer Shelter and Multi-Piezometer

North



0 25 50 75 100
 Feet

Approximate Scale

0 10 20 30
 Meters

Exhibit C

Exhibit "C" List of Wells

Status	Owner	Local Name
Active	Agricultural/Other	
Active	Agricultural/Other	
Active	Agricultural/Other	
Active	Agricultural/Other	
Active	Agricultural/Other	
Active	Agricultural/Other	
Active	CIM	1
Active	CIM	11A
Active	City Of Chino	4
Active	City Of Chino	6
Active	City Of Chino	12
Active	City Of Chino Hills	14
Active	City Of Chino Hills	19
Active	City Of Chino Hills	15B
Active	City Of Chino Hills	16A
Active	City Of Chino Hills	17A
Active	City Of Chino Hills	1A
Active	City Of Chino Hills	1B
Active	City Of Chino Hills	7A
Active	City Of Chino Hills	7B
Active	City Of Chino Hills	7D
Active	City of Pomona	P-26
Active	City of Pomona	P-29
Inactive	Monte Vista Water District	2
Inactive	Monte Vista Water District	22
Inactive	Monte Vista Water District	23
Inactive	Monte Vista Water District	24

To 6/30/01 7-Year Ave
1
77
11
13
2
5
352
605
1,094
852
1,299
55
392
1,054
101
493
696
68
272
466
0
403
576
0
0
0
0

Exhibit D

Exhibit "D"

**Notice of Forebearance
Under Management Zone 1 Interim Plan**

Name of Party

Street Address

City

Telephone

Well number from which reduction in production is to occur: _____

State the average production from this well during the period from October 1 through June 30 during the period 1994-2001: _____

State the estimated amount of reduction in production from this well: _____

State the maximum total quantity anticipated to be produced from this well for the period applied for: _____

Are you requesting to be supplied with substitute water? yes no

Exhibit E

Exhibit "E"

**WATERMASTER'S PROPOSED SCHEDULE FOR
PARTICIPATING PRODUCERS
IN 2002-2003, 2003-2004, 2004-2005**

Party to the Judgment Well Number Quantity

City of Chino, 1,500 acre-feet, as follows:

Well Number 4 up to 1,000 acre-feet

Well Number 6 up to 852 acre-feet

Well Number 12 a minimum of 500 acre-feet, however,
the minimum may be reduced by an amount equal to the pumping reduction in
Chino Hills' wells 7A and 7B set forth below.

City of Chino Hills, 1,500 acre-feet, as follows:

Well Number 19 up to 392 acre-feet

Well Number 17 up to 493 acre-feet

Well Number 15B up to 1,054 acre-feet

Well Number 14 up to 55 acre-feet

Well Number 16 up to 101 acre-feet

Well Number 1A up to 696 acre-feet

Well Number 1B up to 68 acre-feet

Well Number 7A up to 194 acre-feet

Well Number 7B up to 113 acre-feet

Cumulative total of 1,500 acre-feet

Exhibit F

Exhibit "F"

**MZ1 Interim Management Plan
Supplemental Water Cost**

A. Costs to Parties Modifying Pumping

Entities modifying pumping will pay the WFA treatment costs for the WFA water delivered to them, the IEUA surcharge and the same Watermaster assessments as if they had produced the water (i.e. no increase in normal Watermaster assessments). An example of the estimated costs is as follows:

WFA treatments costs (estimated) (note 1)	\$ 46.00
IEUA Surcharge (estimated)	\$ 7.00
Increase in Watermaster Assessments (note 2)	\$ 0.00
Estimated cost per acre-foot	\$ 53.00
Proposed modification to pumping each:	1,500 af
Total Estimated Cost	\$79,500.00

Note 1: WFA Treatment costs are variable & based on an estimate provided by MVWD.

Note 2: All in-lieu exchanges are considered production by the entity that modifies pumping in the Watermaster assessment package. All assessments (other than replenishment and water reallocated from the Agricultural Pool) are based on total production of the pool from the prior year divided into the total current year budgeted costs for the pool. This means there would be no change in assessments to any party due to the in-lieu exchange itself.

B. Costs to All Appropriative Pool Members

The estimated increase in cost associated with buying imported water for delivery at the WFA plant will be paid by the Appropriative Pool. Watermaster will purchase the water at MWD's replenishment rate of \$233 per acre-foot. Watermaster will make the water available at the local "market rate" to offset production to those producers, on a prorated basis, that would have otherwise been overproducers.

Therefore, the Watermaster's net cost would be approximately \$28 per acre foot for 3,000 AF of water:

Imported Water Purchased	3,000 af
Cost per acre-foot	\$ 233.00
Total Cost	\$699,000.00
Replenishment Water Sales	3,000 af
Market Price per acre-foot (estimated)	\$ 205.00
Total Sales Revenue	\$615,000.00
Net Cost to Pool Members	\$ 84,000.00
If assessed on production as an OBMP cost (Note 3)	\$0.76/af

Note 3: Assumed 110,000 af of production in the pool.

Exhibit 2



CHINO BASIN WATERMASTER

8632 Archibald Avenue, Suite 109, Rancho Cucamonga, Ca 91730
Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

JOHN V. ROSSI
Chief Executive Officer

TRACI STEWART
Chief of Watermaster Services

STAFF REPORT

DATE: June 13, 2002
June 17, 2002

TO: Watermaster Pool Committee Members
Watermaster Advisory Committee & Board Members

SUBJECT: Proposed Watermaster Interim Plan for Management of Subsidence

SUMMARY

Issue – Develop a Watermaster Interim Plan for Management of Subsidence pursuant to Program Element Four of the OBMP Implementation Plan.

Recommendation – Approve the Proposed Watermaster Interim Plan for Management of Subsidence and authorize staff to file the proposed Interim Plan and Staff Report with the Court prior to the June 19, 2002 hearing date.

Fiscal Impact – The incremental cost is anticipated to be assessed based on production in the Appropriative Pool pursuant to Exhibit F and should be approximately \$.76 cents per acre-foot.

BACKGROUND

Program Element Four of the OBMP Implementation Plan requires Watermaster to develop an interim management plan "to minimize subsidence and fissuring while new information is collected to assess the causes and to develop an effective long-term management plan." Watermaster staff has held more than a dozen stakeholder meetings to evaluate potential methodologies and obtain a broad consensus of support among the parties to the Judgment.

The attached Proposed Interim Plan reflects considerable and diverse input from many parties to the Judgment. In general, the proposed Interim Plan has received consensus support from the stakeholders. On this basis, Watermaster staff is forwarding this Interim Plan to you with its recommendation for approval. This staff report describes the substance of the Proposed Interim Plan, the remaining objections to some its provisions and the procedural status of the Plan.

Elements of the Interim Plan

In accordance with Program Element Four of the OBMP Implementation Plan, the Proposed Interim Plan includes the following measures:

- Establishes a Technical Working Group to assist Watermaster in the collection and review of data and the development of a long-term plan. This data collection effort includes: (i) monitoring of long term balance of recharge and production in Management Zone 1; (ii) determining gaps in existing knowledge and (iii) implementing a process to fill gaps in existing knowledge.
- Provides a Right of Entry Agreement between Watermaster, the State of California and the City of Chino so that Watermaster may install extensometers and piezometers and thereby monitor subsidence.

- Enables the coordinated study of geologic and hydrologic conditions with Management Zone 1.
- Includes a program to secure "voluntary modifications" to groundwater production by making 3,000 acre feet of "Substitute Water" or "Alternative Water" available to the Participating Producers within Management Zone 1 during each year of the Interim Plan.
- Obligates Watermaster to purchase Substitute Water for the benefit of Participating Producers under financial terms that are designed to be fair to the Participating Producers and Watermaster. Watermaster may also elect to arrange for alternative water for the benefit of the Participating Producers under the same terms.
- Limits the number of parties to the Judgment that are eligible to participate in the program to those meeting specific objective criteria: quantity of production and availability of Substitute Water to be received by the Participating Producer instead of producing groundwater.
- Requires a minimum of 3 years of study of conditions within Management Zone 1. The Interim Plan can be extended, modified or replaced by a long-term plan only by further Watermaster action.

Objections

Several parties to the Judgment have expressed their concern over specific elements of the proposed Interim Plan. These objections are specific in nature and do not reflect opposition to most elements of the Interim Plan. These objections and the comments of Watermaster Staff are as follows:

- City of Chino Hills. The City of Chino Hills objects to Watermaster's proposed schedule of reduction as provided in Exhibit "E."
 - *Staff Comment:* Watermaster Staff believes that optimal results for study could be achieved by the parties adhering to the schedule provided in Exhibit "E." In addition, Watermaster staff acknowledges that the parties have discretion as to which wells they wish to include in the program by filing its Notice of Forebearance before August 1 of each year. Accordingly, Watermaster Staff is recommending no further change.
- City of Chino. The City of Chino supports a three-year term but objects to the right of the Participating Producers to make an annual election as to whether they wish to continue to receive Substitute Water and voluntarily reduce groundwater production. In general, concern has been expressed that 3 years of study is necessary to obtain the required information to evaluate management options. Further, it is contended that so long as Substitute Water is made available to the Participating Producer, there is no financial harm to the Participating Producer that occurs with a commitment to participate for each of the 3 years of the Interim Plan. In summary, the annual decision to receive Substitute Water will be an opportunity for mischief and the waste of Watermaster resources.
 - *Staff Comment:* Program Element Four of the OBMP Implementation Plan calls for "voluntary modifications to groundwater production patterns in Management Zone 1." Watermaster Staff agrees that a three-year commitment by all Participating Producers, in advance would be preferable. However, one of the parties eligible to receive Substitute Water has expressed an unwillingness to commit, in advance, to three years of Substitute Water. Therefore, Watermaster Staff is concerned that requiring a three-year advance commitment will chill participation in the Interim Plan and defeat a primary measure of the Plan. Watermaster Staff believes it is likely that cooperation in the Technical Group will bring further cooperation. Given that the financial consequences of participation are virtually neutral for the Participating Producers, Watermaster staff hopes for continued participation by Chino Hills. Moreover, the City of Chino still has a motion on file with the Court under

paragraph 15 of the Judgment and it may take its motion "off-calendar" for a year to ensure fair participation. Staff recommends no change.

- Fontana Union, San Antonio Water Company, Cucamonga County Water District, Jurupa Community Services District. These parties to the Judgment have expressed concern that, as producers of groundwater outside of Management Zone 1, they are being asked to unfairly subsidize Watermaster efforts to implement the Interim Plan. Specifically they contend that they have already supported the expenditure of substantial sums to implement the OBMP for the benefit of producers with Management Zone 1 and that the Interim Plan unfairly places the financial burden of acquiring Substitute Water upon them.
- *Staff Comment. It is true that parties outside of Management Zone 1 are asked to bear some share of the costs associated with securing Substitute Water. However, all parties to the Judgment benefit from a well-managed basin. The proposed Interim Plan will allow the parties to proceed in a coordinated manner and hopefully avoid contentious proceedings. Furthermore, the proposed Interim Plan has been amended to make it clear that the only costs that Watermaster is going to incur are those provided in the Interim Plan and as set forth in Exhibit F (See paragraph 4c.) and that the matter is not precedent for further Watermaster action. (Recital "G".) The projected financial impact is also nominal. (Approximately 75 cents per acre-foot for each of the three years.) Staff recommends no change.*

DISCUSSION

Staff requests Watermaster approve the Proposed Watermaster Interim Plan for Management of Subsidence and authorize staff to file the Proposed Interim Plan and this Staff Report with the Court prior to the June 19, 2002 hearing date; and if the Court believes it necessary to request a workshop with the Court or its referee Ms. Schneider in August to discuss the Proposed Interim Plan. If approved, this Proposed Interim Plan would remain in place for a minimum period of three years unless amended or replaced. The Cities of Chino and Chino Hills would have the right to file their Notice of Forebearance with Watermaster, no later than August 1.

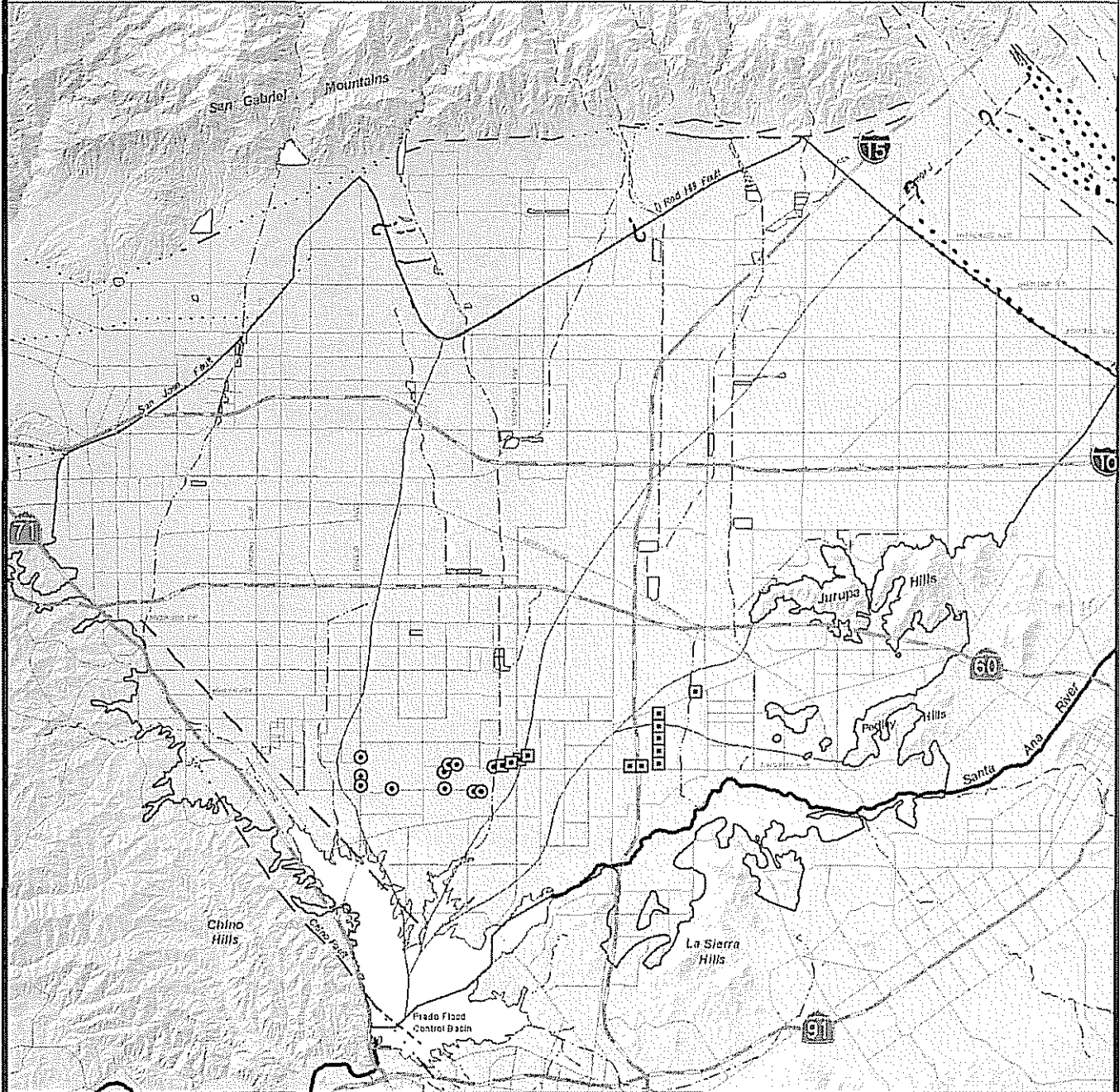
6117102 for full text
See Libraries

Chino Basin Optimum Basin Management Program

Draft Final

Initial State of the Basin Report

Draft Final



June, 2002

Prepared by
WE Wildermuth
Environmental

CHINO BASIN WATERMASTER

Case No. RCV 51010

Chino Basin Municipal Water District v. The City of Chino

PROOF OF SERVICE

I declare that:

I am employed in the County of San Bernardino, California. I am over the age of 18 years and not a party to the within action. My business address is Chino Basin Watermaster, 8632 Archibald Avenue, Suite 109, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On June 17, 2002 I served the attached:

SCHEDULED HEARING DATE: June 19, 2002 @ 11:00 a.m.

- 1. EX PARTE APPLICATION FOR AN ORDER SHORTENING TIME FOR THE TRANSMITTAL OF SUBSIDENCE INTERIM PLAN & MOTION TO SCHEDULE WORKSHOP***
- 2. TRANSMITTAL OF SUBSIDENCE INTERIM PLAN AND MOTION TO SCHEDULE WORKSHOP; TRANSMITTAL OF INITIAL STATE OF THE BASIN REPORT***

in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:

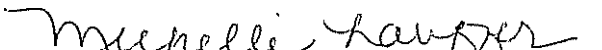
See attached service list:

Attorney Service List

Mailing List 1

The Subsidence Interim Plan and the Initial State of the Basin Report were previously distributed to the parties. Final copies can be obtained from Watermaster at (909) 484-3888 and are available at the Watermaster website at www.cbwm.org.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Rancho Cucamonga, California, on June 17, 2002.


Michelle Lauffer, Water Resources Specialist

Attorney Service List

Updated 6/17/02

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