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SEP 30 2002

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By *Kevin Richardson*
Deputy

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 COMMENTS
TO REFEREE REPORT ON
INTERIM PLAN AND MOTION
FOR AN ORDER TO PROCEED IN
ACCORDANCE WITH THE
INTERIM PLAN**

Hearing Date: October 17, 2002
Time: 1:30 a.m.
Dept: 8

19
20 **I.**
21 **INTRODUCTION**

22 On September 18, 2002 the Special Referee filed her report titled, *Special Referee's*
23 *Report on Interim Plan Workshop and Recommendation Concerning Subsidence Issues*. This
24 Report followed the workshop which was held on August 29, 2002 at which Watermaster's
25 Interim Plan for the Management of Subsidence was presented and explained.

26 This workshop was held pursuant to order of the Court dated February 28, 2002.
27 Following the filing of the Referee's Report, the Court ordered that comments to the Report be
28 filed by September 30, 2002. Any responses to these comments are then due by October 10,

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1 2002, and a hearing on the Interim Plan and the Referee's Report will be held on October 17,
2 2002.

3 Any motion by Watermaster for an order instructing it to proceed in accordance with the
4 Interim Plan shall be filed and served by September 30, 2002.

5 **II.**

6 **WATERMASTER COMMENTS TO SPECIAL REFEREE REPORT**

7 The Referee's Report raised a number of issues with the Interim Plan, but noted with
8 special concern the fact that full agreement with the plan had not yet been achieved and that there
9 still remained ambiguity as to whether Chino Hills would participate in the production
10 forbearance portion of the plan.

11 **A. REVISIONS TO INTERIM PLAN TO FACILITATE FULL**
12 **PARTICIPATION**

13 Having received the benefit of the Special Referee's Report, the stakeholders met and
14 conferred. On Thursday, September 26, 2002 the Watermaster Advisory Committee and Board
15 received a joint proposal submitted by the Cities of Chino and Chino Hills according to which
16 Watermaster would modify the proposed Interim Plan to further encourage and facilitate
17 participation in the Plan. The proposal was accepted unanimously by the Advisory Committee
18 and the Board. A revised version of the Interim Plan is attached to this pleading as Exhibit "A"
19 for review by the Court.

20 According to this joint proposal, the Interim Plan has been modified and clarified in the
21 following ways:

- 22 (a) paragraph 3 was amended to require a forbearance election for only "one
23 year" instead of "three years";
- 24 (b) paragraph 3 was amended to allow each party the right to make an
election in each year of the Interim Plan;
- 25 (c) the parties agreed to a clarification that did not require an amendment to
26 the Interim Plan that Chino and Chino Hills reserve discretion as to
which wells on Exhibit "E" of the Interim Plan that they elect to include
27 within their forbearance in each year;
- 28 (d) paragraph 2.c. was amended to add: "The Technical Group will assess
whether (i) the current monitoring program is sufficient and if not, (ii)

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consider potential improvements, including but not limited to a broader area of monitoring and analysis.”;

(e) paragraph 3 was amended to add a subsection f. which reads: “Each year the Technical Group will evaluate a producer’s eligibility to receive substitute water in accordance with the conditions set forth above in section 3.a. and consider other feasible methods to encourage additional forbearance within MZ1.”; and

(f) paragraph 3 was amended to add a subsection g. which reads: “Any party may withdraw from the forbearance portion of the program in the event that litigation is initiated by any party to the Judgment to address subsidence in MZ1.”

On the basis of these changes, the City of Chino Hills has agreed to participate in the forbearance portion of the Interim Plan at the quantity of 1,500 acre-feet for a period of one year with the right to renew for subsequent years. In addition, the City of Chino has agreed to request the Court to continue its Paragraph 15 motion until August 15, 2003. If Chino Hills elects to continue its participation in the forbearance portion of the Interim Plan on or before August 1, 2003, then Chino will request a further continuance of its Paragraph 15 motion until August 13, 2004. Watermaster is not aware of any party to the Judgment that contests this request.

Implementation of the Interim Plan has already begun. Meetings of the Management Zone 1 Technical Committee have taken place, and based on input received at these meetings, Watermaster has completed a draft of its subsidence monitoring program. A copy of this draft is attached here as Exhibit “B.” This draft was distributed to the Technical Committee on September 25, 2002 for review and further comment.

With the approval by the parties of the changes described above, the Interim Plan now has unanimous support and will proceed toward full implementation. As the Court noted in its February 28, 2002 Order, this agreement makes it unnecessary for the Court to address the issues raised in Chino’s paragraph 15 motion and the subsequent pleadings filed in response to Chino’s motion.

B. THE COURT SHOULD NOT SET A FURTHER BRIEFING SCHEDULE

The Referee Report offers a number of helpful suggestions regarding the Interim Plan, and makes several recommendations to the Court which Watermaster and the other parties

1 support (*see* Part III, below). However, the Report also recommends that the Court set a briefing
2 schedule to address legal issues. (Referee Report 51:1-2.) Having obtained unanimous support
3 for the Interim Plan, Watermaster believes there is no present case or controversy that requires
4 further briefing to the Court. Accordingly, Watermaster requests that the Court take no further
5 action on this Special Referee recommendations.

6 **1. Jurisdiction**

7 One of the purposes of the October 17, 2002 Court hearing is for the Court to set a
8 briefing schedule regarding the City of Chino's motion under Paragraph 15 of the Judgment. This
9 motion, among other things, requests the Court to "assume jurisdiction over the land subsidence
10 in the Area of Subsidence within the City of Chino." (Chino Motion 2; *see also* Referee Report
11 41:1-3.) Given the heretofore uncertain nature of the full participation in the Interim Plan, the City
12 of Chino has desired to keep this motion active before the Court. Accordingly, the issues raised
13 by the motion were addressed in the Referee's Report and a recommendation was made that a
14 briefing schedule be set to further address these issues.

15 At the time the Referee's Report was filed with the Court, the joint proposal to revise the
16 Interim Plan had not yet been formulated. Since that time, however, the parties have revised the
17 Interim Plan so that participation by Chino Hills in the forbearance portion of the Interim Plan
18 has been confirmed. In turn, the City of Chino will request the Court to continue the paragraph
19 15 motion for a year. If Chino Hills elects to continue its participation in the forbearance portion
20 of the Plan, then Chino will make a further request for continuation of the motion.

21 This change in circumstances since the time the Referee's Report was filed has obviated
22 any need for the Court to set a briefing schedule relative to the issue of the jurisdiction of the
23 Court over subsidence. The Court should therefore refrain from addressing the issue at this time.
24 Watermaster believes that the other parties concur in this position, and will file briefs with the
25 Court to this effect.

26 **2. Cost Allocation**

27 The Referee Report notes that there is concern by some parties about the potential costs
28 of Watermaster's efforts to address subsidence. (Referee Report 45:15-17.) While Watermaster

1 acknowledges that this issue is of concern to some parties, it is also important to understand this
2 concern within its proper context.

3 As of the Watermaster Advisory Committee and Board meetings on September 26, 2002,
4 Watermaster's proposed Interim Plan has been unanimously adopted. While some parties have a
5 general concern over the cost of implementation of the Plan and the Long-Term Plan that
6 develops out of it, they have agreed to the Interim Plan as currently formulated. There is thus no
7 immediate controversy over the issue except for a general statement from the parties that they
8 will be watching the issue closely. There is nothing to be resolved at this time and no reason at
9 all to think that any issue that arises in the future will not be able to be resolved through the
10 consensus-based process that has worked for every other issue so far. The current consensus-
11 based approach to these cost issues is more likely to engender cooperation and the development
12 of a regional, rather than strictly local, solution that recognizes the interdependence of a number
13 of Peace Agreement and OBMP activities already agreed upon and being implemented. For
14 example, it is possible that the Storage and Recovery Program may generate sufficient economic
15 and other Basin-wide benefits to eclipse the subsidence cost issues, or at least mitigate such costs
16 to a non-controversial level.

17 **3. No Further Briefing is Necessary**

18 For more than two and a half years, Watermaster has approached problem resolution
19 through consensus building. In each instance, the price of consensus may be some initial delay in
20 program design and implementation. However, in each case, Watermaster has successfully
21 avoided the gridlock and infighting among the parties to the Judgment that historically precluded
22 Watermaster from more coordinated and efficient management.

23 Perhaps consensus on the question of how to address subsidence was slower to develop
24 than most. But an Interim Plan that has unanimous support is far more likely to succeed than one
25 that is tied-up in the courts. While we recognize the Court's power to ultimately decide contested
26 issues of law and fact and to ensure the Watermaster's proper administration of basin
27 management in accordance with the Judgment and the Peace Agreement, Watermaster
28 respectfully requests that the Court continue to exercise patience in allowing those parties that

1 will bear the burden of implementation the opportunity to voluntarily determine the best methods
2 to do so. Accordingly, Watermaster urges the Court to adopt the Interim Plan as amended.

3 **III.**

4 **MOTION FOR AN ORDER INSTRUCTING WATERMASTER TO PROCEED IN**
5 **ACCORDANCE WITH THE PROPOSED INTERIM PLAN**

6 The Referee Report makes five primary recommendations to the Court relative to the
7 Interim Plan. The Report recommends that the Court Order Watermaster to:

- 8 (1) implement the monitoring program described in the Interim Plan;
9 (2) form and work with the Technical Group;
10 (3) begin to develop a Long-Term Plan;
11 (4) report to the Court regarding participation in the forbearance program; and
12 (5) increase Watermaster's reporting regarding subsidence from twice yearly to quarterly.

13 Together these recommendations embrace the entirety of the implementation of the
14 Interim Plan. Watermaster thus respectfully requests the Court to Order Watermaster to proceed
15 in accordance with the Interim Plan as recommended by the Referee's Report.

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18 DATED:

HATCH AND PARENT

19
20 By Michael T. Fife

21 SCOTT S. SLATER
22 MICHAEL T. FIFE
23 Attorneys for Chino Basin Watermaster
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EXHIBIT 'A'

Revised Interim Plan for the Management of Subsidence

PROPOSED WATERMASTER INTERIM PLAN FOR MANAGEMENT OF SUBSIDENCE

Revised

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;

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- 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

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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. The Technical Group will assess whether (i) the current monitoring program is sufficient and if not, (ii) consider potential improvements, including but not limited to a broader area of monitoring and analysis.

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

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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 in each year~~ 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 ~~of each year that the Interim Plan is in place.~~ 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 ~~for each year that the Interim Plan is in place.~~ 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.

f. Evaluation of Eligibility. Each year the Technical Group will evaluate a Producer's eligibility to receive Substitute Water in accordance with the conditions set forth above in section 3.a and consider other feasible methods to encourage additional forbearance within MZ1.

g. Withdrawal. Any party may withdraw from the forbearance portion of the program in the event that litigation is initiated by any party to the Judgment to address subsidence in MZ1.

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"

**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

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 piezometers 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

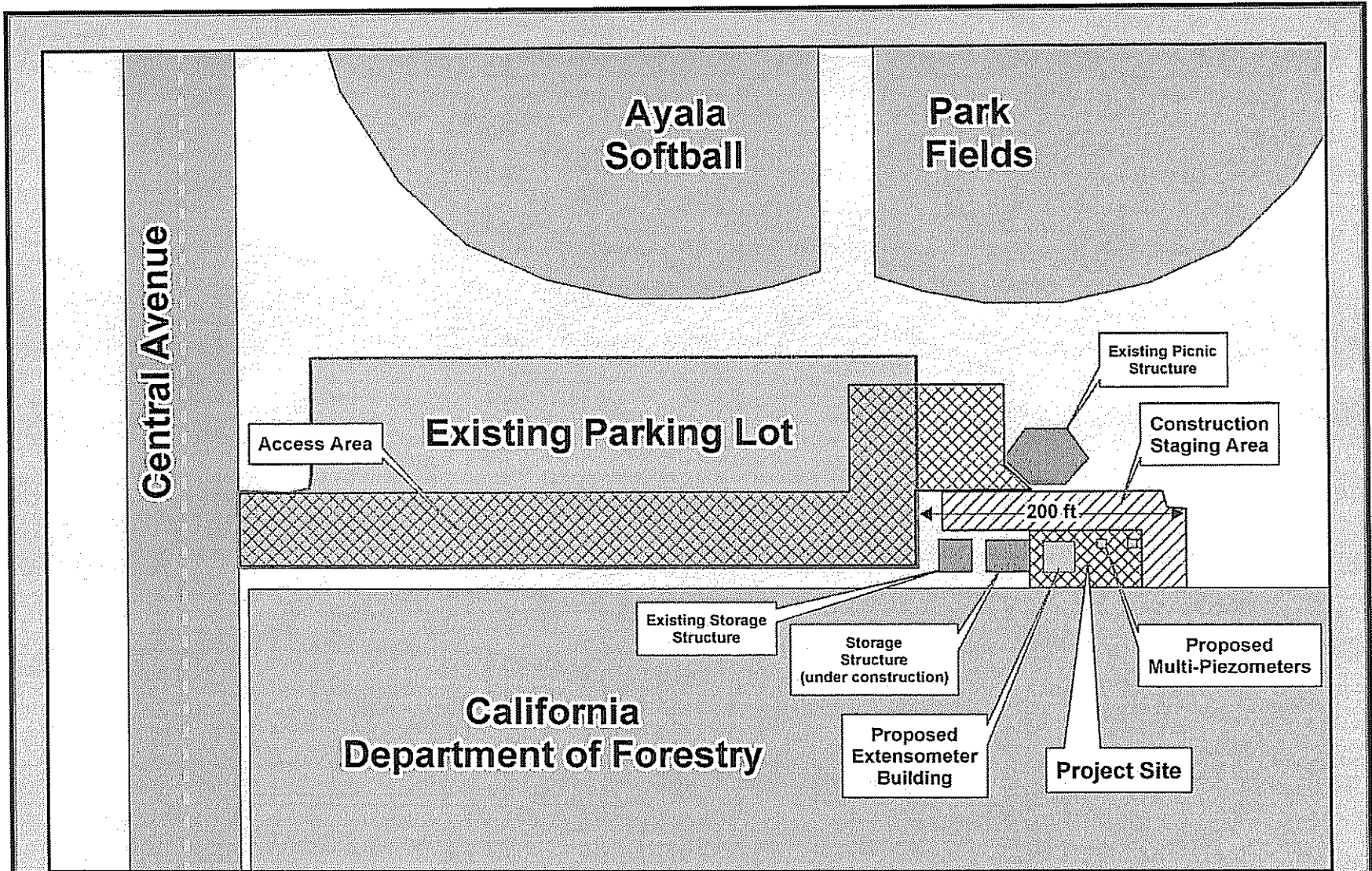
EXHIBIT A

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 Wildermuth
 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" 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"

**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"

**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

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

Cumulative total of 1,500 acre-feet

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 'B'
MZ-1 Interim Plan
Monitoring Program
Draft Work Plan

Chino Basin Watermaster

OPTIMUM BASIN MANAGEMENT PROGRAM

MANAGEMENT ZONE 1 (MZ-1) INTERIM PLAN MONITORING PROGRAM

DRAFT WORK PLAN



Prepared by
Wildermuth Environmental, Inc.

September 27, 2002

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ACRONYM AND ABBREVIATIONS LIST

CIM	California Institution for Men
GPS	Global Positioning System
InSAR	Synthetic Aperture Radar Interferometry
MZ-1	Management Zone 1
WEI	Wildermuth Environmental, Inc.



Exhibit B

DRAFT MANAGEMENT ZONE 1 (MZ-1) INTERIM PLAN MONITORING PROGRAM

1. BACKGROUND

The area underlying the City of Chino and the California Institution for Men (CIM) has experienced ground fissuring as early as 1973, but an accelerated occurrence of ground fissuring ensued during the early 1990s. A common cause of ground fissuring within alluvial basins is the removal of subsurface fluids resulting in compaction of poorly-consolidated aquifer materials and land subsidence (Fife *et al.*, 1976; Galloway *et al.*, 1998). A number of studies have attributed this process to the ground fissuring and land subsidence that has occurred in this area (Fife *et al.*, 1976, Kleinfelder, 1993, 1996, 1999; Geomatrix, 1994).

The City of Chino commissioned a number of repeat vertical-control benchmark surveys from 1987 through 2001 that have documented the land subsidence that has occurred within Chino (Kleinfelder, 1993, 1996, 1999, 2001). Remote sensing studies of subsidence were conducted for the City of Chino (Peltzer, 1999) and Chino Basin Watermaster (WEI, 2002) to further characterize subsidence in Chino Basin. These studies employed Synthetic Aperture Radar Interferometry (InSAR), which utilizes radar imagery from an Earth-orbiting spacecraft to map ground surface deformation. The InSAR studies independently confirmed the location and relative magnitude of subsidence in Management Zone 1 as defined by benchmark surveys and have indicated the occurrence of subsidence north and northeast of the City of Chino.

2. MZ-1 INTERIM PLAN MONITORING PROGRAM

Program Element 4 (of the Optimum Basin Management Program) – *Develop and Implement a Comprehensive Groundwater Management Plan for Management Zone 1* relates specifically to ground fissuring and land subsidence in the Chino Basin. This program element calls for the development and implementation of an interim plan for MZ-1 that will:

- Minimize subsidence and fissuring in the short-term
- Collect information necessary to understand the extent, rate, and mechanisms of subsidence and fissuring
- Formulate a long-term management plan

The MZ-1 Interim Plan Monitoring Program is being developed and implemented to address the second bullet above. The data collected and analyzed as part of this effort will be utilized to develop effective management tools and, ultimately, a long-term management plan that will minimize or completely abate ground fissuring and subsidence in Management Zone 1.

This monitoring program consists of three main elements: benchmark survey, InSAR, and aquifer-system monitoring. The benchmark surveys and the InSAR analyses will monitor deformation of the land surface. Aquifer-system monitoring will measure the hydraulic and mechanical changes within the aquifer-system that cause land surface deformation.



3. BENCHMARK SURVEYS

InSAR data indicate that the west side of Chino Basin is experiencing persistent subsidence over time (see Figure 1). Repeated benchmark surveys will be performed to measure vertical (and in some cases horizontal) ground surface deformation along selected profiles within Chino Basin – mainly on the west side. The benchmark surveys will (1) establish a datum from which to measure land surface deformation during the Interim Management Plan period, (2) evaluate the effectiveness of the long-term management plan, (3) “ground-truth” the InSAR data, and (4) allow determination of historical subsidence at any historical benchmarks that can be recovered.

Figure 1 depicts the locations of five (5) proposed benchmark survey profiles. Four of these profiles (Lines A, B, C, and D) will measure vertical displacement of the land surface over time. The fifth profile (Line E) will be aligned across (perpendicular to) the known fissure zone and will measure both vertical and horizontal displacement over time.

3.1 Lines A, B, C, D

Lines A through D will consist of approximately ___ permanent benchmarks with spacing of $\frac{1}{4}$ - $\frac{3}{4}$ miles along each profile. The initial leveling survey along these lines will commence in April 2003, just prior to the upcoming pumping season and coincident with maximum seasonal groundwater-level recovery in Chino Basin. The elastic rebound of the land surface due to the recovery of groundwater levels should be near a maximum in April. These lines will be surveyed again one-year later in April 2004, and thence, every two years. The consistency of surveying in April will allow measurement of the persistent subsidence while minimizing the interference of elastic land surface deformation caused by seasonal pumping and recharge of the underlying aquifer-system.

Line A is aligned in a north-south direction along Monte Vista and Central Avenues, between Foothill Boulevard to the north and the Chino Hills to the south. It will be approximately ___ miles long and will include approximately ___ benchmarks. Line A runs parallel to the main trough of subsidence on the west side of Chino Basin as delineated by InSAR data.

Line B is aligned in an east-west direction along Philadelphia Street, between the Chino Hills to the west and Euclid Avenue to the east. It will be approximately ___ miles long and will include approximately ___ benchmarks. Line B runs perpendicular to the main trough of subsidence on the west side of Chino Basin as delineated by InSAR data.

Line C is aligned in an east-west direction along Schaefer Avenue, between the Chino Hills to the west and Euclid Avenue to the east. It will be approximately ___ miles long and will include approximately ___ benchmarks. Line C runs perpendicular to the main trough of subsidence on the west side of Chino Basin as delineated by InSAR data and past benchmark surveys.

Line D also is aligned in an east-west direction along Kimball Avenue, between Central Avenue to the west and Cucamonga Creek to the east. It will be approximately ___ miles long and will include approximately ___ benchmarks. Line D runs along the southern boundary of the Chino-I Desalter well field – an area where past InSAR data are absent – in an attempt to measure land surface deformation, if any, caused by desalter production. Ultimately, Line D will be extended to run through the Chino-II Desalter well field, once that well field is constructed.

3.2 Line E



Line E will consist of approximately ___ permanent benchmarks spaced every 200-feet along Edison Avenue between Central Avenue to the west and Mountain Avenue to the east (see Figure 1). This alignment runs across (perpendicular to) a known fissure zone.

The initial survey along this line will commence in April 2003, just prior to the upcoming pumping season and coincident with maximum seasonal groundwater-level recovery in Chino Basin. The elastic rebound of the land surface due to the recovery of groundwater levels should be near a maximum in April. This line will be surveyed to determine both vertical displacement at individual benchmarks and horizontal displacement between adjacent benchmarks. Line E will be surveyed quarterly to measure vertical and horizontal land surface deformation relative to seasonal drawdown and recovery within the underlying aquifer-system.

The information obtained from the Line E surveys and other monitoring data will be used to develop and recommend a more refined horizontal monitoring program for the fissure area. The future program may involve horizontal extensometers.

3.3 Starting Benchmark

All surveys will be started from a benchmark located near the Ayala Park Extensometer facility near the intersection of Central and Edison Avenues. An absolute elevation will be determined for this benchmark, using survey-grade global positioning system (GPS). This benchmark will then be surveyed to the deep extensometer, which is anchored at depth in bedrock, and hence, is expected to be a stable benchmark unaffected by land surface deformation caused by aquifer-system compaction and expansion.

3.4 Cost Estimates

A detailed cost estimate is in preparation but will depend on the final profile alignments and monument spacing intervals agreed upon by the Technical Group.

4. SYNTHETIC APERTURE RADAR INTERFEROMETRY (INSAR)

Whereas benchmark survey data are a measure of ground deformation at specific points on the land surface, InSAR data provide a measure of land surface deformation over a continuous grid of the land surface. InSAR data that can be used for land surface deformation studies were acquired by the European Space Agency satellites ERS-1 and ERS-2. These data are available from 1992 to the present. A third satellite, NVSAT, has been launched and will be acquiring data for sale in Spring 2003.

4.1 Historical InSAR

In the past, the City of Chino and Watermaster have, in separate efforts, acquired InSAR imagery and prepared interferograms covering periods ranging from one to three years. The coherency of these interferograms in the agricultural areas and part of CIM was poor and, therefore, the interferograms were unable to produce information on land surface changes in these areas. The coherency of interferograms created from InSAR images closer in time such as a month or two (as opposed to one to three years) may be much better and provide useful information on land surface changes in agricultural and CIM areas. Interferograms created from InSAR imagery taken one to two months apart can be used to estimate the time history of subsidence in the Chino Basin. Watermaster proposes to acquire all available imagery for the period 1992 to the present. Interferograms, created from this imagery will be used to estimate a time



history of the land surface changes from 1992 to the present. These data will be used to characterize the area and historical rate of subsidence in the Chino Basin and could be used later to calibrate a numerical model that could be used to evaluate future management plans.

Watermaster proposes to acquire and process the InSAR imagery for the period 1992 through 1993 to determine if the interferograms created from InSAR imagery taken one to two months apart will be coherent and provide subsidence data throughout the entire Basin. If successful, Watermaster would acquire the remaining imagery and estimate a time history of the land surface changes from 1992 to the present.

4.2 Future InSAR

Watermaster proposes to acquire InSAR imagery to monitor ongoing subsidence for the duration of the Interim Plan. Imagery will be acquired and analyzed at frequency to maximize coherence and information regarding subsidence in the Basin.

4.3 Cost Estimates

In preparation and will be available in a week.

5. AQUIFER-SYSTEM MONITORING

Aquifer-system monitoring will measure the stresses within the aquifer-system that cause the land surface deformation that will be measured by benchmark surveys, InSAR, and the extensometers (described below). The centerpiece of the aquifer-system monitoring program is the Ayala Park Extensometer – a highly sophisticated monitoring facility consisting of a multi-piezometer and dual-extensometer that will be located just north of CIM property in Ayala Park. This facility will monitor the hydraulics and mechanics of the underlying aquifer-system as the aquifer-system undergoes various stresses due to groundwater production and recharge. The construction of this facility, and the subsequent aquifer-system testing, will proceed in two phases: an initial reconnaissance study followed by a comprehensive investigation.

5.1 Reconnaissance Phase

The Reconnaissance Phase of aquifer-system monitoring includes construction of a multiple-depth piezometer at Ayala Park followed by three months of aquifer-system testing and monitoring. The construction of the piezometer is underway and is expected to be completed in mid-October. From October thru January 2003, Watermaster proposes to, among other activities, conduct aquifer stress tests (pumping tests) and monitor water levels and groundwater production at nearby monitoring wells and production wells. These initial three months of testing and monitoring are reconnaissance in nature, and are intended to assist in the development of the Comprehensive Phase of monitoring and testing to be initiated after construction of the extensometer (Spring 2003).

All groundwater producers in MZ-1 will be asked to participate in both phases of aquifer-system monitoring; however, the major groundwater producers closest to the Ayala Park Extensometer, specifically the City of Chino, City of Chino Hills, and CIM, are being asked to participate in greater scope (See Table 1).



Table 1. Wells within Aquifer-System Monitoring Program

Pumper	Total Number of Wells	Number of Wells Involved in:			
		Long-term Continuous Piezometric Level Monitoring ¹	Long-term Continuous Pumping Monitoring ²	Cooperative Piezometric Level Monitoring ³	Cooperative Monthly Production Monitoring
Ayala Park Extensometer	11	11	0	0	0
CIM	48	14	7	34	3
City of Chino	16	9	9	7	0
City of Chino Hills	16	14	12	2	1
Monte Vista Water District	21	0	0	21	15
City of Ontario	4	0	0	4	3
City of Pomona	22	0	0	22	20
City of Upland	6	0	0	6	6
San Antonio Water Company	5	0	0	5	3

Notes: 1 equipped with water level transducers at a sampling rate of 15 minutes or less
 2 includes wells with water level transducers or SCADA
 3 measurements made by well owners at sampling rate to be determined, but not greater than once every two weeks

The multiple-depth piezometer at the Ayala Park Extensometer will have eleven (11) isolated completions at various depths through the entire saturated column of aquifer sediments. Nine of the piezometers will be completed within coarser-grained aquifer sediments, and two of the piezometers will be completed within finer-grained aquitard sediments. Pressure transducers equipped with data-loggers will continuously record piezometric levels (one record every 15 minutes) at each piezometer.

Aquifer-system stresses will be applied by pumping wells that surround the Ayala Park Extensometer. Continuous monitoring of pumping and the water levels at the multi-piezometer will demonstrate how pore pressure changes propagate horizontally and vertically through the aquifer-system. Analyses of these data will assist in the development of the Comprehensive Phase of aquifer-system testing and monitoring, assist in the design of the shallow extensometer, and, potentially, provide estimates of aquifer-system parameters for later use in groundwater flow models.

This program requires that groundwater production be continuously monitored at nearby pumping wells (wells within about 1.5 miles of the Ayala Park Extensometer) during the entire three-month period of testing and monitoring. The data collected at each well will be:

- Time on
- Time off



- Pumping rate
- Water level

Time on/off and water levels can be recorded by installing pressure transducers equipped with data-loggers in each pumping well. Average pumping rates are typically known by operations staff. Pressure transducers also will be installed in other nearby non-pumping wells to monitoring water levels. Figure 2 shows the wells that are proposed to participate in the initial three months of aquifer-system testing and monitoring.

If and when possible, Watermaster will request “controlled” pumping of various wells, which would possibly require modification of the normal pumping schedules. Watermaster realizes this may not be possible given water supply constraints and the impending Interim Management Plan forbearance agreement. Controlled aquifer stress testing will likely consist of pumping designated wells continuously at a constant rate for a period of 3-10 days.

5.2 Comprehensive Phase

The Comprehensive Phase of aquifer-system monitoring includes construction of a dual-borehole extensometer at Ayala Park followed by three months of aquifer-system testing and monitoring. The construction of the extensometer is expected to be complete in spring of 2003. The dual-borehole extensometer will measure differential consolidation in the major fine-grain units underlying the City of Chino and CIM and, from these observations, provide valuable information on the physical properties and conditions of the compressible sediments. A schematic diagram of the dual-borehole extensometer is shown in Figure 3.

The period of testing and monitoring of the aquifer-system, following extensometer completion will be similar to the Reconnaissance Phase, except more focused with longer duration of pumping tests at surrounding wells. Aquifer-system stresses will be applied by pumping wells that surround the Ayala Park Extensometer. Continuous monitoring of the surrounding pumping, the water levels at the multi-piezometer and other nearby wells, and the aquifer-system deformation recorded at the extensometer will demonstrate how pore pressure changes propagating horizontally and vertically through the aquifer-system deform the aquifer-system. Analyses of these data will provide estimates of aquifer-system parameters for input to predictive tools that can be used to develop a long-term management plan for Management Zone 1.

6. REPORTING

Watermaster proposes to make all monitoring data available to the members of the Technical Committee for their review and use. The data will be provided in digital format as they are collected and organized.

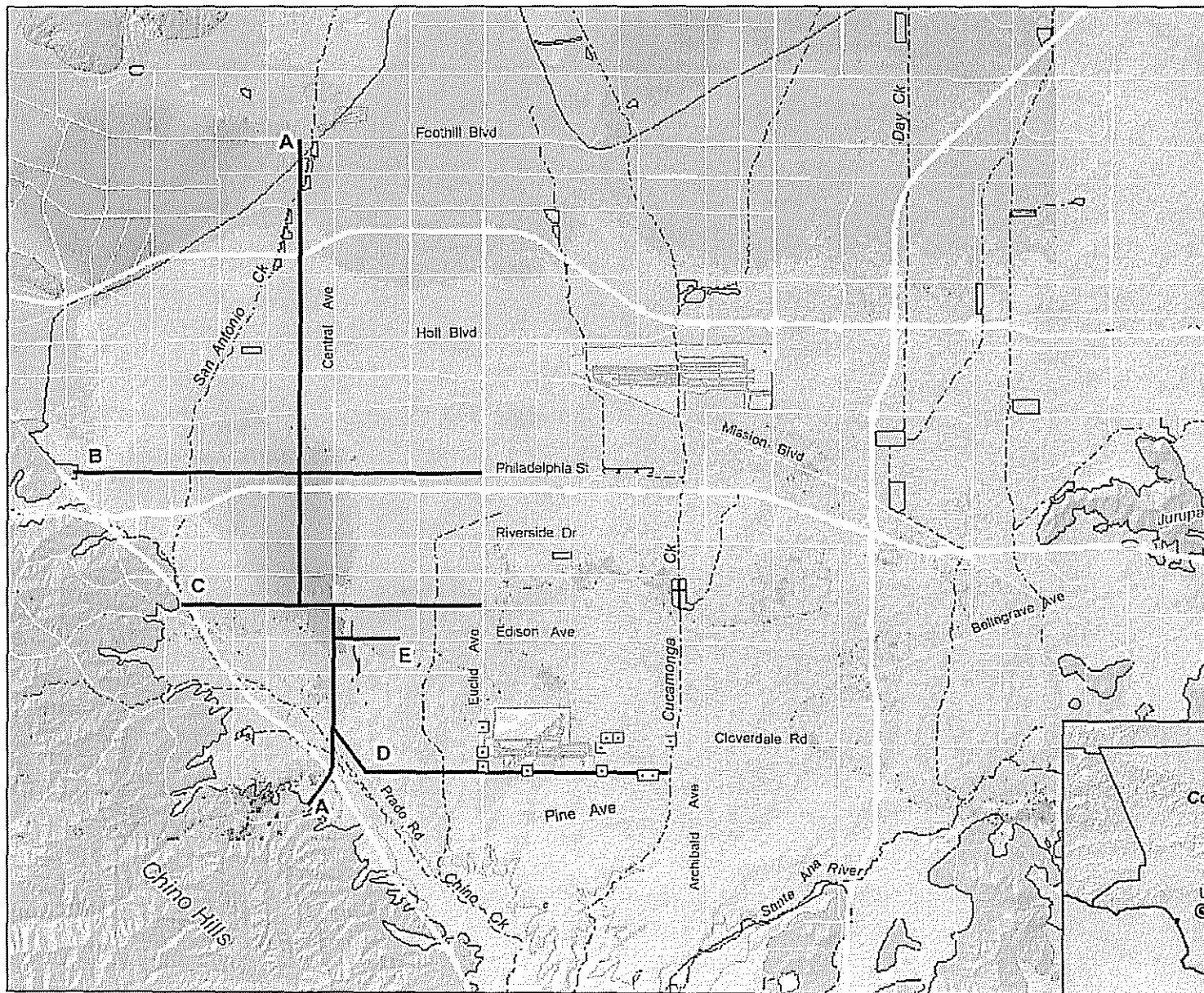
Watermaster will prepare a quarterly monitoring report for the Technical Committee and the Court. These reports will cover monitoring periods ending March 31, June 30, September 30, and December 31. The report content will be cumulative, that is they will contain data and analyses from the start of the monitoring program. Each report will provide a summary of the content of the Technical Committee Meetings. The reports will be provided to the Technical Committee within 30 days after the end of the monitoring period and to the Court at the normal programmed status report dates – March 31 and September 30.



7. REFERENCES

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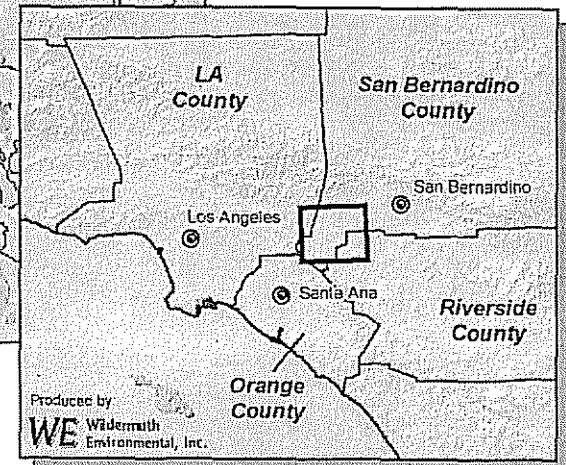




Main Map Features

—●—●—●— Benchmark Survey Line

DRAFT



Benchmark Surveys
MZ-1 Interim Plan Monitoring Program

Figure 1



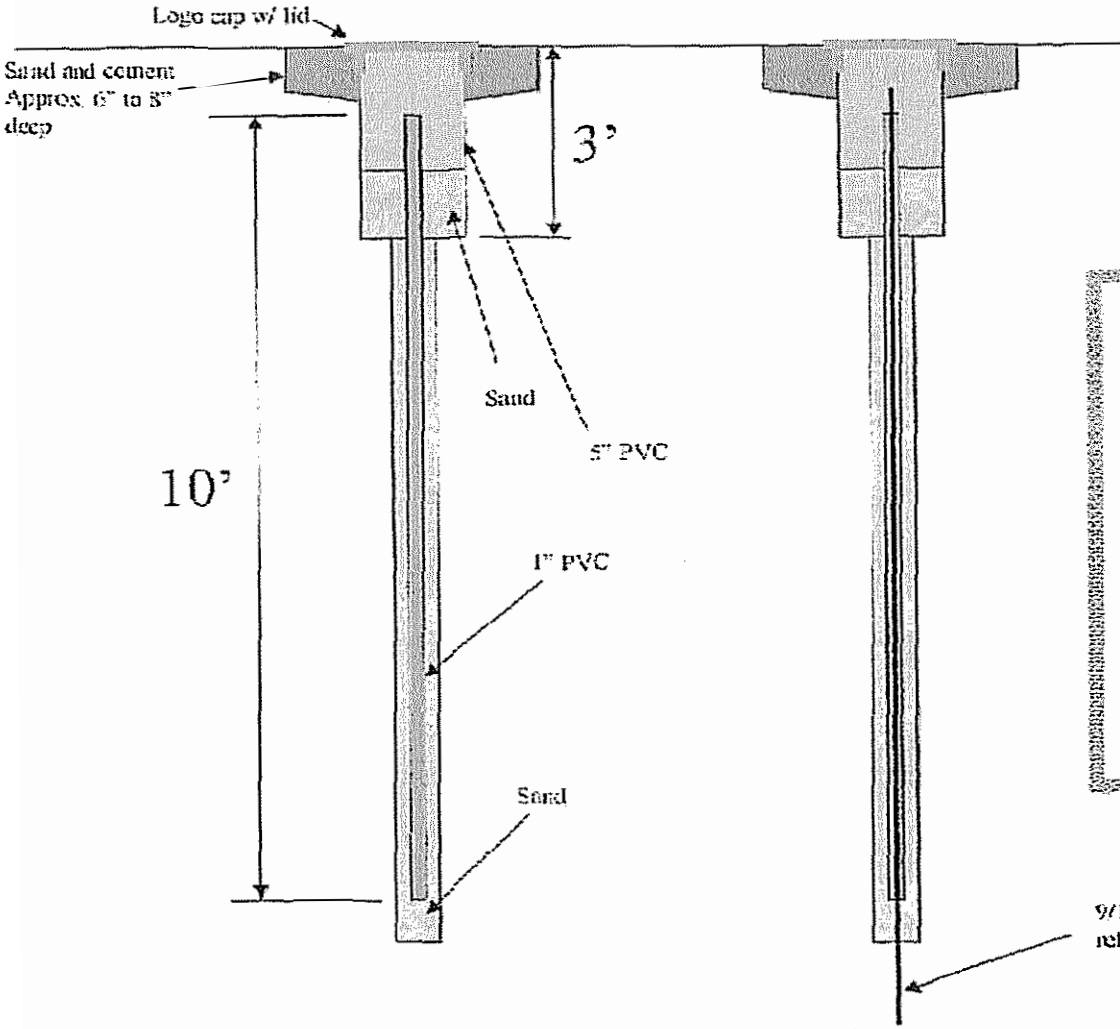
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Figure 2

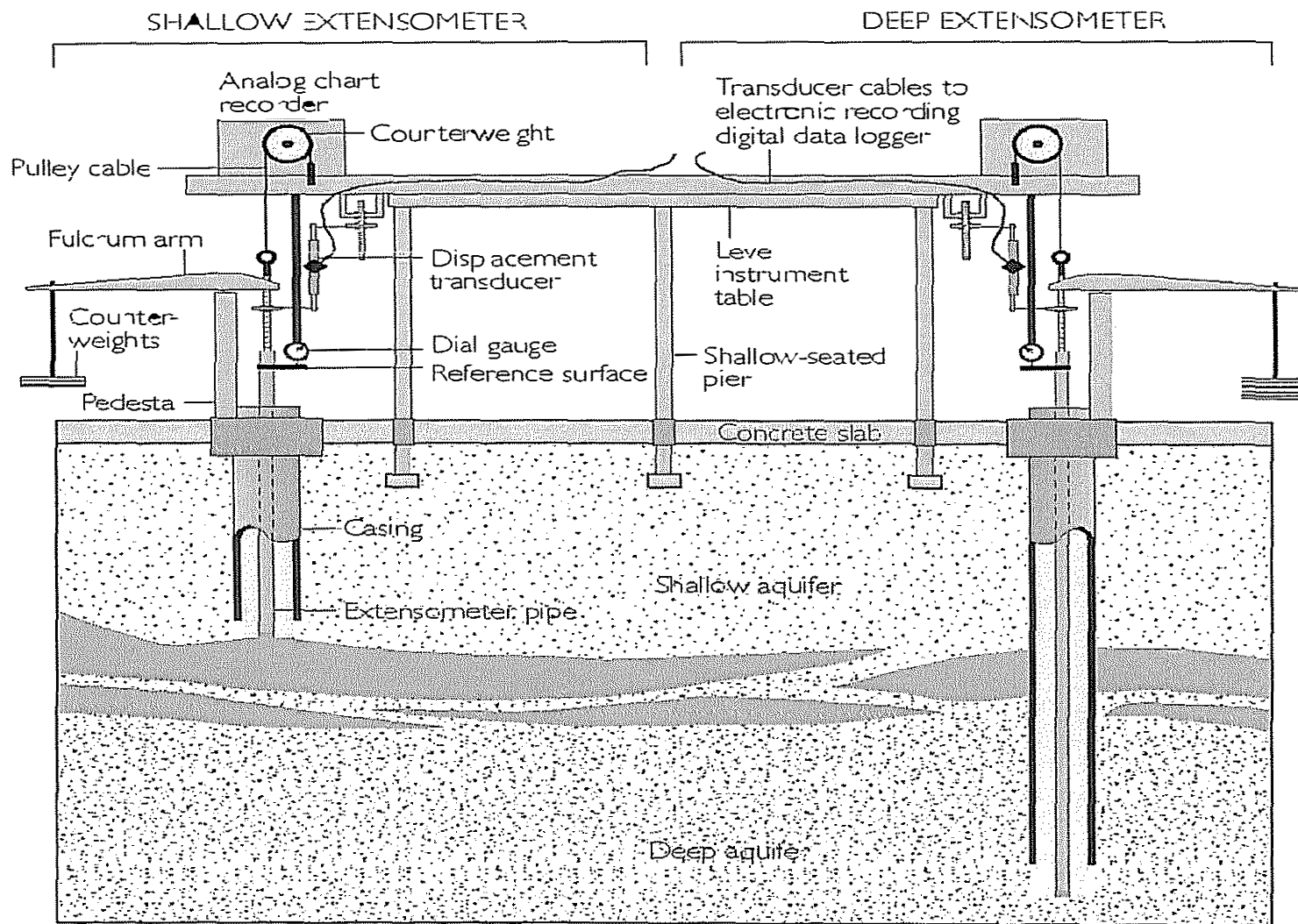
Class A bench mark

Not to scale



- Material List**
- 1. 10'x 1" PVC pipe w/ 1 end capped w/ 5/8" hole. Other end is taped closed and pipe filled with food grade grease. Pipe installed cap end up. (we will provide)
 - 1. Aluminium logo ring with lid. (we will provide)
 - 1. 5" schedule 40 PVC x 3'
 - Approx. 1 bags play sand
 - Approx. 1 bag sand and cement mix

9/16" stainless steel rod driver: to refusal will be done by HGCSO



Not to scale

Figure 4
Schematic of Dual-Borehole Extensometer

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 September 30, 2002 I served the attached:

HEARING DATE: October 17, 2002

- 1) WATERMASTER COMMENTS TO REFEREE REPORT ON INTERIM PLAN AND MOTION FOR ORDER TO PROCEED IN ACCORDANCE WITH THE INTERIM PLAN:
Exhibit "A" - Revised Interim Plan
Exhibit "B" - MZ-1 Interim Plan Monitoring Program - Draft Work Plan
- 2) DEFENDANT CUCAMONGA COUNTY WATER DISTRICT'S OBJECTIONS TO SPECIAL REFEREE'S REPORT AND RECOMMENDATION.
- 3) OPPOSITION OF FONTANA UNION WATER COMPANY TO SPECIAL REFEREE'S RECOMMENDATION TO INSTITUTE A LEGAL PROCEEDING TO DETERMINE EXTENT AND SCOPE OF THE COURT'S JURISDICTION UNDER PARAGRAPH 15 OF THE JUDGMENT.
- 4) JOINDER OF SAN ANTONIO WATER COMPANY TO OPPOSITION OF FONTANA WATER COMPANY.

BY MAIL: 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

BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

BY FACSIMILE: I transmitted said document by fax transmission from (909) 484-3890 to the fax number(s) indicated. The transmission was reported as complete and without error on the transmission report, which was properly issued by the transmitting fax machine.

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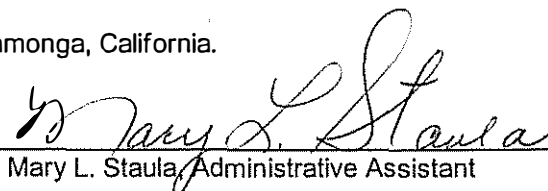
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 30, 2002 in Rancho Cucamonga, California.
San Bernardino County Clerk

SEP 30 2002


Mary L. Staula, Administrative Assistant

By 
Deputy

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Updated 9/30/02

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