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10 **CHINO BASIN WATERMASTER**

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

11 CHINO BASIN MUNICIPAL WATER  
12 DISTRICT,

13 Plaintiff,

14 v.

15 CITY OF CHINO, et al.,

16 Defendant.

**Case No. RCV 51010**

[Assigned for All Purposes to the Honorable  
STANFORD E. REICHERT]

**NOTICE OF MOTION AND MOTION  
FOR COURT APPROVAL OF  
TEMPORARY SUBSTITUTE RATE FOR  
PHYSICAL SOLUTION TRANSFERS  
UNDER EXHIBIT "G" TO THE  
JUDGMENT; REQUEST THAT THE  
COURT RECEIVE AND FILE OBMP  
STATUS REPORT 2013-1;  
DECLARATION OF BRADLEY J.  
HERREMA IN SUPPORT THEREOF**

Date: November 20, 2015  
Time: 1:30 P.M.  
Dept.: R-6

22 TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF RECORD:

23 PLEASE TAKE NOTICE THAT the Chino Basin Watermaster ("Watermaster") hereby  
24 moves this Court, pursuant to Paragraph 15 of the Restated Judgment in this action, for an Order  
25 approving a temporary substitute rate applicable to "physical solution transfers" pursuant to  
26 Exhibit "G" to the Restated Judgment in this matter. This request is made pursuant to the Court's  
27 continuing jurisdiction and authority to enforce and carry out the Restated Judgment in this action  
28 with respect to the rights established thereunder.

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1 The Motion will be based upon this Notice of Motion and Motion, the attached  
2 Memorandum of Points and Authorities, the pleadings, records and files in this action, and upon  
3 such oral argument and other evidence as may be presented at the hearing on the Motion.

4 As described in the Declaration of Bradley J. Herrema in support of Motion for Court  
5 Approval of Temporary Substitute Rate for Physical Solution Transfers Under Exhibit "G" to the  
6 Restated Judgment ("Herrema Decl."), the proposed substitution that is the subject of this Motion  
7 was unanimously approved by the Overlying (Non-Agricultural) and Appropriative Pool  
8 Committees, Advisory Committee and Watermaster Board, and Watermaster does not believe that  
9 any party will oppose this Motion. For this reason, Watermaster requests that the Court grant this  
10 motion without hearing.

11 Additionally, this Motion requests that the Court receive and file a copy of Watermaster's  
12 OBMP Status Report 2013-1, attached to this pleading as Exhibit "A."

13 Dated: September 28, 2015

BROWNSTEIN HYATT FARBER  
SCHRECK, LLP

14  
15  
16  
17 By: 

SCOTT S. SLATER  
BRADLEY J. HERREMA  
Attorneys for  
CHINO BASIN WATERMASTER

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Pursuant to Paragraph 15 of the Restated Judgment in this action, the Chino Basin Watermaster ("Watermaster") respectfully requests that the Court grant this Motion and the relief herein requested, which are necessary to enforce and carry out the Chino Basin Judgment<sup>1</sup> ("Restated Judgment"). Watermaster petitions the Court to allow Watermaster to temporarily deviate from the requirements of certain provisions of Exhibit "G" to the Restated Judgment, due to unique circumstances for Fiscal Year 2015-2016. Specifically, Watermaster seeks the Court's approval to utilize a substitute "Physical Solution Transfer" rate applicable to transfers from the Overlying (Non-Agricultural) Pool to Watermaster, and thence to members of the Appropriative Pool, pursuant to Paragraph 9 of Exhibit "G" to the Restated Judgment, as explained below.

**II. BACKGROUND**

Under this Court's continuing jurisdiction, reserved to it pursuant to Paragraph 15 of the Restated Judgment, upon application of any party by properly noticed motion and after hearing thereon, the Court may "...make such further or supplemental orders to direction as may be necessary or appropriate for interpretation, enforcement or carrying out of this Judgment, and to modify, amend or amplify any of the provisions of the Judgment." (Restated Judgment, ¶ 15.)

Exhibit "G" to the Restated Judgment is the Overlying Non-Agricultural Pooling Plan. Paragraph 9 of Exhibit "G," entitled "Physical Solution Transfers," provides mechanisms pursuant to which, during the term of the Peace Agreement, the members of the Overlying (Non-Agricultural) Pool have the right to transfer or lease their quantified Production rights and carry-over water held in storage accounts. (Restated Judgment, Exh. "G", ¶ 9.) Specifically as pertains to this Motion, the members of the Overlying (Non-Agricultural) Pool may transfer water to Watermaster, and thence to members of the Appropriative Pool, in accordance with the guidelines contained in Paragraph 9. (Restated Judgment, Exh. "G", ¶ 9.)

<sup>1</sup> On September 27, 2012, this Court entered an Order Adopting Restated Judgment, Approving Intervention of Tad Nakase (TDN Land Company) into the Chino Basin Judgment. Pursuant to that Order, the Court ordered that the Restated Judgment shall serve as the official and legally operative copy of the Judgment in this case. All references to the "Judgment" herein are to that Restated Judgment.

By way of summary, the procedure for these transfers, as described in Paragraph 9 of Exhibit "G", is as follows: by December 31 of each year, the members of the Overlying (Non-Agricultural) Pool shall notify Watermaster of the amount of water each member shall make available in their individual discretion for purchase by the Appropriators. By January 31 of the following year, Watermaster shall provide a Notice of Availability of each Appropriator's pro-rata share of such water. (Restated Judgment, Exh. "G", ¶ 9(a).) The members of the Appropriative Pool have until March 1 of that year to determine whether to purchase such pro-rata share, and if a member's pro-rata share is not purchased, it is made available to the remaining members of the Pool in accordance with their resulting pro-rata shares. (Restated Judgment, Exh. "G", ¶ 9(c).) Commensurate with the cumulative commitments by members of the Appropriative Pool to purchase the water made available by the members of the Overlying (Non-Agricultural Pool), Watermaster will purchase the surplus water made available by the Overlying (Non-Agricultural) Pool on behalf of the members of the Appropriative Pool, and, by June 30 of each year, each member of the Appropriative Pool must complete its payment for its share of the water made available. (Restated Judgment, Exh. "G", ¶ 9(d).) Paragraph 9(d) of Exhibit "G" specifies that payment for such purchased water will be 92% of the then-prevailing "[Metropolitan Water District of Southern California] Replenishment Rate." (*Id.*)

### **III. ARGUMENT**

#### **A. Temporary Adjustment of the Physical Solution Transfer Rate is Necessary in the Event MWD does not Publish a Replenishment Rate**

As described above, Paragraph 9(d) of Exhibit G provides that Watermaster will purchase the surplus water made available by the Overlying (Non-Agricultural) Pool water, on behalf of the members of the Appropriative Pool, at a rate of 92% of the then-applicable Metropolitan Water District of Southern California ("MWD") Replenishment Rate. (Restated Judgment, Exh. G, ¶ 9(d).) According to Watermaster's past practices, the MWD Replenishment Rate utilized is that applicable for the calendar year in which Watermaster's purchase takes place. (Declaration of Bradley J. Herrema in Support of Motion for Court Approval of Temporary Substitute Rate for Physical Solution Transfers under Exhibit "G" to the Judgment, dated September 28, 2015 and

1 attached hereto ("Herrema Dec.," at ¶ 4.) As applied to transfers in Fiscal Year 2015-2016, as  
2 payment would be made by June 30, 2016, MWD's Replenishment Rate for 2016 would be  
3 utilized. (Herrema Dec., ¶ 4.) Watermaster, the members of the Appropriative Pool, and the  
4 members of the Overlying (Non-Agricultural) Pool are aware, however, that MWD discontinued  
5 its Replenishment Rate prior to 2013. (Herrema Dec., ¶ 5.) Accordingly, as this is the case,  
6 Watermaster and the parties to the Restated Judgment are left without a rate from which to  
7 calculate the rate for Physical Solution Transfers in Fiscal Year 2015-2016. (See Herrema Dec., ¶  
8 5.)

9 Recognizing this problem, Watermaster, the Overlying (Non-Agricultural) Pool and the  
10 Appropriative Pool have stipulated that the substitution of a rate of 85.52% of MWD's 2016 Tier  
11 1 Untreated Rate for the rate of 92% of its Replenishment Rate for Physical Solution Transfers  
12 during Fiscal Year 2015-2016 would be appropriate. (See attached Stipulation and Proposed  
13 Order.) Watermaster and the members of the Appropriative and Overlying (Non-Agricultural)  
14 Pools have all agreed that 85.52% of MWD's Tier 1 Untreated Rate is a proper rate to be used  
15 temporarily. (Herrema Dec., ¶¶ 6, 7.) It is important that the substitute rate be identified prior to  
16 the December 31, 2015 date by which members of the Overlying (Non-Agricultural) Pool must  
17 determine whether to make water available for transfer so that they may properly evaluate  
18 whether to do so. (Herrema Dec., ¶ 8.) The Court's approval of a substitute rate under Paragraph  
19 9(d) of Exhibit "G" would allow transfers to proceed without further issue, allowing the parties to  
20 discuss a long-term solution once MWD's plan for offering replenishment water in the future  
21 becomes clear.

22 **B. Court Approval is Necessary for Watermaster Compliance with the Peace II**  
23 **Measures**

24 In its December 21, 2007 Order, this Court approved the amendment to the Restated  
25 Judgment to include the current Exhibit "G." (Order Concerning Motion for Approvals of Peace  
26 II Documents (Dec. 21, 2007), at p 7:11-12.) The Court required Watermaster to "proceed in  
27 accordance with the second amendment to the Peace Agreement," and "comply with all  
28 commitments it has made in the Peace II documents...." (Order Concerning Motion for

1 Approvals of Peace II Documents (Dec. 21, 2007), at p 7:13-14, p. 8:24-25.) In order to remain  
2 compliant with Watermaster's Peace II obligations and with the terms of Exhibit "G" to the  
3 Restated Judgment, Watermaster seeks court approval to temporarily deviate from the terms of  
4 the Restated Judgment and utilize the MWD 2016 Tier 1 Untreated rate in place of the MWD  
5 Replenishment Rate for transfers under Paragraph 9 of Exhibit G. Watermaster requests that the  
6 temporary substitute 85.52% of the 2015 Tier 1 Untreated Rate apply only for Physical Solution  
7 Transfers in Fiscal Year 2015-2016.

8 **C. Submission of Status Report**

9 The OBMP Status Report 2013-1 ("Status Report") was approved and adopted by  
10 Watermaster Board on September 24, 2015. (Herrema Decl., at ¶ 9.) Watermaster is not aware  
11 of any party who opposes the Court's receipt or filing of a copy of the Status Report. (Herrema  
12 Decl., at ¶ 10.)

13 **IV. CONCLUSION**

14 For the reasons stated above, there is good cause to grant Watermaster's Motion for Court  
15 Approval of Temporary Substitute Rate under Exhibit "G", allowing temporary deviation from  
16 the terms of the Restated Judgment to substitute a rate of 85.52% of MWD's Tier 1 Untreated  
17 Rate for Fiscal Year 2015-2016.

18 Dated: September 28, 2015

BROWNSTEIN HYATT FARBER  
SCHRECK, LLP

22 By: \_\_\_\_\_  
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# Exhibit A

# Optimum Basin Management Program

## Staff Status Report 2013-1: January to June 2013



Optimum Basin Management Program

CHINO BASIN WATERMASTER

### Highlighted Activities

- As a requirement of Mitigation Measure 4.4-3 from the Peace II Subsequent Environmental Impact Report (SEIR), Watermaster, Inland Empire Utilities Agency (IEUA) and Orange County Water District (OCWD) continued to develop a Prado Basin Habitat Sustainability Program. During this reporting period, the Technical Specifications, the Sampling and Analysis Plan, and the Health and Safety Plan were prepared for the cone penetrometer test (CPT) and monitoring well installation. IEUA continued property acquisition efforts for the nine monitoring well sites. The bidding process began for contractors to perform the CPT and well installation. Development of the Adaptive Management Plan began.
- Watermaster continued work on the 2013 Amendment to the 2010 Recharge Master Plan (2013 RMPU). The Recharge Master Plan Update Steering Committee (Steering Committee) met twice per month to complete sections of the 2013 RMPU. Sections 5, 6, and 7 of the Amendment were completed and approved by Watermaster during this period.
- Watermaster and IEUA jointly identified a series of recharge projects outside of the 2013 RMPU effort, and jointly agreed to fund these projects. Watermaster and IEUA staff started meeting monthly to plan these projects. Watermaster's share of the cost of these projects was included in the budget adopted by Watermaster for fiscal year 2013/14. Watermaster and IEUA continue to work together toward the creation of a fifth retention facility at the Turner Basin. Following completion, anticipated in 2015, the expansion project is projected to recharge an additional 300 AF of storm runoff annually. Watermaster and IEUA planned the Wineville Basin proof-of-concept investigation during the reporting period. The proof-of-concept investigation was designed to determine the effective infiltration rate in the Wineville Basin that in turn can be used to estimate the long-term average annual stormwater recharge.
- A right of entry agreement was entered into with the California Institution for Men (CIM) to allow Watermaster to continue monitoring wells on the CIM property that were otherwise planned to be destroyed.
- During this reporting period, approximately 2,088 acre-feet of stormwater and 7,017 acre-feet of recycled water were recharged; no imported water was recharged. During the entire fiscal year, approximately 5,298 acre-feet of stormwater and 10,479 acre-feet of recycled water were recharged; no imported water was recharged.

### Important Court Hearings and Orders

- JUNE 17, 2013- NOTICE OF ORDER RE JUDGE AND FILE LOCATION

### Program Element 1: Develop and Implement a Comprehensive Monitoring Program

#### *Groundwater Level Monitoring*

Watermaster initiated a basin-wide groundwater-level monitoring program as part of the implementation of the OBMP. The monitoring program has been refined over time to satisfy the evolving needs of the Watermaster and IEUA, such as new regulatory requirements, and to increase efficiency. The groundwater-level monitoring program supports many Watermaster functions, such as the periodic reassessment of Safe Yield, the monitoring and management of land subsidence, the assessment of Hydraulic Control, the analysis of desalter pumping impacts at private wells, and the triennial re-computation of ambient water quality that is mandated by the Water Quality Control Plan for the Santa Ana Basin. The data are also used to update and re-calibrate Watermaster's computer-simulation groundwater-flow model, to understand directions of groundwater flow, to compute storage changes, to interpret water quality data, and to identify areas of the Basin where recharge and discharge are not in balance.



# Optimum Basin Management Program

## Program Element 1: Develop and Implement a Comprehensive Monitoring Program (Continued)

The current groundwater-level monitoring program is comprised of about 1,000 wells. At about 800 of these wells, water levels are measured by well owners, which include municipal water agencies, the California Department of Toxic Substances Control (DTSC), the Counties, and various private consulting firms. Watermaster collects these water level data at least semi-annually. At the remaining approximately 200 wells, water levels are measured by Watermaster staff using manual methods once per month or by using pressure transducers that record data once every 15 minutes. These wells are mainly Agricultural Pool wells located south of the 60 freeway.

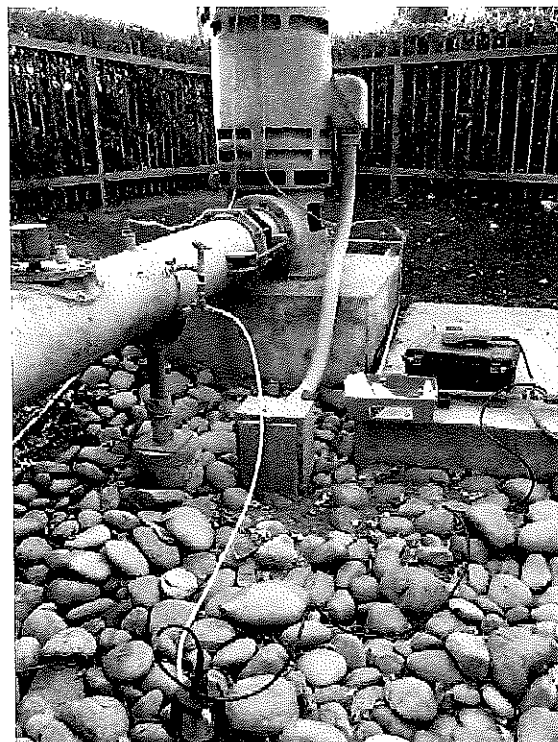
### Groundwater Quality Monitoring

Watermaster initiated a comprehensive groundwater-quality monitoring program as part of the implementation of the OBMP. The groundwater-quality monitoring program consists of the following four components:

1. An Annual Key Well Water Quality Monitoring Program consisting of 111 wells, which are mostly privately-owned agricultural wells in the southern portion of Chino Basin that are otherwise not included in an established sampling program. Twenty of these wells are sampled every year, and the remaining wells are sampled once every three years. The wells sampled annually are for the continuous monitoring of areas of concern associated with the southern edge of the Archibald South (formerly OIA) volatile organic compound (VOC) plume, the southern region of the Chino Airport Plume, and the Kaiser Steel Plume, and includes two multi-port MZ-3 monitoring wells.
2. Annual sampling at nine HCMF multi-port monitoring wells strategically placed between the Chino Desalter well fields and the Santa Ana River. Results of the annual sampling are used to analyze the effect of desalter pumping over time on hydraulic control, by comparing water quality of the native groundwater and the Santa Ana River.
3. Quarterly sampling at four near-river wells to characterize the interaction between the Santa Ana River and nearby groundwater. These shallow monitoring wells along the Santa Ana River consist of two former USGS National Water Quality Assessment Program (NAWQA) wells (Archibald 1 and Archibald 2), and two wells owned by the Santa Ana River Water Company (Well 9 and Well 11).
4. A cooperative basin-wide data-collection effort known as the Chino Basin Data Collection (CBDC) program, which relies on municipal producers and other government agencies to supply groundwater-quality data on a cooperative basis. These sources include the Appropriators, Department of Toxic Substance Control (DTSC), Regional Water Quality Control Board (RWQCB), US Geological Survey (USGS), the Counties, and other cooperators.

All groundwater-quality data are checked by Watermaster staff and uploaded to a centralized database management system that can be accessed online through HydroDaVE<sup>SM</sup>. Groundwater quality data are used by Watermaster for the biennial State of the Basin report, the triennial ambient water quality update mandated by the Basin Plan, and the demonstration of Hydraulic Control (a maximum benefit commitment in the Basin Plan). Data are also used for monitoring nonpoint source groundwater contamination and plumes associated with point source discharges and to assess the overall health of the groundwater basin. Groundwater quality data are also used in conjunction with numerical models to assist Watermaster and other parties in evaluating proposed groundwater remediation strategies.

A right of entry agreement was entered into with the California Institution for Men (CIM) during this reporting period to allow Watermaster to continue monitoring groundwater level and groundwater quality from wells on the CIM property that were otherwise planned to be destroyed.



Water Quality Sampling

# Optimum Basin Management Program

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## Program Element 1: Develop and Implement a Comprehensive Monitoring Program (Continued)

### *Groundwater Production Monitoring*

All active wells (except for minimum user wells) are now metered. Watermaster reads the agricultural production data from the meters on a quarterly basis and enters these data into Watermaster's relational database.

### *Surface Water Monitoring*

**Water Quality and Quantity in Recharge Basins.** Watermaster and IEUA continually measure the quantity of storm and supplemental water entering the recharge basins. Pressure transducers or staff gauges are used to measure water levels during recharge operations. In addition to these quantity measurements, imported water quality data for State Water Project water are obtained from the Metropolitan Water District of Southern California (MWDSC) and recycled water quality data for the RP-1 and RP-4 treatment plant effluents are obtained from IEUA. Combining the measured flow data with the respective water qualities enables the calculation of the blended water quality in each recharge basin, the New Yield to the Chino Basin, and the adequate dilution of recycled water.

**Surface Water Monitoring in the Santa Ana River (SAR).** Watermaster measures selected water quality parameters quarterly at two sites along the Santa Ana River (Santa Ana River at River Road and Santa Ana River at Etiwanda). Along with data collected at four near-river wells, these data are used to characterize the interaction between the Santa Ana River and nearby groundwater. These data are also combined with discharge data from permanent USGS stream gauges, discharge data from publicly-owned treatment works (POTWs), and groundwater modeling to assess the state of hydraulic control.

### *Hydraulic Control*

In January 2004, the RWQCB amended the Water Quality Control Plan (Basin Plan) for the Santa Ana River Basin to incorporate an updated total dissolved solids (TDS) and nitrogen (N) management plan. The Basin Plan Amendment includes both "antidegradation" and "maximum benefit" objectives for TDS and nitrate-nitrogen for the Chino-North and Cucamonga groundwater management zones. The application of the "maximum benefit" objectives relies on Watermaster and IEUA's implementation of a specific program of projects and requirements, which are an integral part of the OBMP. On April 15, 2005, the RWQCB adopted resolution R8-2005-0064, thus approving the Surface Water Monitoring Program and Groundwater Monitoring Program in support of maximum benefit commitments in the Chino and Cucamonga Basins.

One of the main maximum-benefit commitments is to achieve and maintain "hydraulic control" of the Chino Basin so that downstream beneficial uses of the Santa Ana River are protected. Hydraulic control is defined by the Basin Plan as the elimination of groundwater discharge from the Chino-North Management Zone to the Santa Ana River or its reduction to a *de minimus* level. In October 2011, the RWQCB indicated that groundwater discharge in an amount less than 1,000 acre-ft/yr would be considered *de minimus*.

In 2012, the Basin Plan was amended to remove all references to the specific monitoring locations and sampling frequencies required for groundwater and surface water monitoring, thus allowing the program to be modified over time, with approval of the Executive Officer of the RWQCB. The Basin Plan amendment was approved by the RWQCB on February 12, 2012 and by the State Office of Administrative Law on December 6, 2012. This amendment was adopted based on demonstrations made by Watermaster and the IEUA showing that the surface water monitoring program, as included in the Basin Plan, was not meaningfully adding to the body of evidence required to demonstrate hydraulic control. In the place of specific monitoring requirements, the Basin Plan Amendment required that Watermaster and IEUA submit for approval by the Executive Officer a new surface water monitoring program work plan by February 25, 2012 and a new groundwater monitoring program work plan by December 31, 2013. In February 2012, Watermaster and the IEUA submitted, and the RWQCB approved, a new surface water monitoring program that reduced the 2004 monitoring program from bi-weekly water quality measurements at 17 sites and direct discharge measurements at six sites, to quarterly water quality sampling at two sites. The new work plan including these changes was adopted by the RWQCB in March 2012.

During this reporting period, Watermaster measured 480 manual water levels at 83 private wells throughout the Chino Basin, conducted downloads at 99 wells containing pressure transducers, and collected 8 groundwater quality samples and 4 surface water quality samples.

### *Prado Basin Habitat Sustainability Program*

A requirement of Mitigation Measure 4.4-3 from the Peace II SEIR is for Watermaster, IEUA and OCWD to develop an Adaptive Management Plan for the Prado Basin Habitat Sustainability Program (PBHSP). The objective of this plan is to ensure that the riparian

# Optimum Basin Management Program

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## Program Element 1: Develop and Implement a Comprehensive Monitoring Program (Continued)

habitat in Prado Basin is not adversely impacted by drawdown associated with the implementation of the Peace II activities. Seventeen monitoring wells at nine sites will be constructed as part of the monitoring program for the PBHSP.

During this reporting period, the Technical Specifications, the Sampling and Analysis Plan, and the Health and Safety Plan were prepared for the CPT and monitoring well installation. The initial site walk at potential well sites was held on January 22, 2013. IEUA continued property acquisition efforts for the nine monitoring well sites. The bidding process began for contractors to perform the CPT and well installation. Development of the Adaptive Management Plan began.

### *Chino Basin Groundwater Recharge Program*

Watermaster, IEUA, the Chino Basin Water Conservation District (CBWCD), and the San Bernardino County Flood Control District (SBCFCD) jointly sponsor the Chino Basin Groundwater Recharge Program. This is a comprehensive water supply program to enhance water supply reliability and improve the groundwater quality in local drinking water wells throughout the Chino Basin by increasing the recharge of storm water, imported water, and recycled water. The recharge program is regulated under RWQCB Order No. R8-2007-0039 and Monitoring and Reporting Program No. R8-2007-0039.

**Recharge Activities.** Ongoing recycled water recharge occurred in the Brooks, 7th Street, 8th Street, Turner, Victoria, San Sevaine, Ely, Hickory, RP-3, and Banana Basins this reporting period. Stormwater was recharged at 16 recharge basins across all management zones of the Chino Basin during this reporting period. No imported water was recharged this reporting period.

**Monitoring Activities.** Watermaster and IEUA collect weekly water quality samples from recharge basins that are actively recharging recycled water and from lysimeters installed within those recharge basins. During this reporting period, approximately 204 recharge basin and lysimeter samples were collected and 38 recycled water samples were collected for alternative monitoring plans that include the application of a correction factor for soil-aquifer treatment determined from each recharge basin's start-up period. Monitoring wells located down-gradient of the recharge basins were sampled quarterly at a minimum; however, some monitoring wells were sampled more frequently during the reporting period for a total of 99 samples.

**Reporting.** Watermaster and IEUA completed the following required reports concerning the recharge program during the reporting period:

- 4Q-2012 Quarterly Report, submitted to the RWQCB – February 2013
- 1Q-2013 Quarterly Report, submitted to the RWQCB – May 2013
- 2012 Annual Report, submitted to the RWQCB – May 2013

### *Land Surface Monitoring*

In response to the occurrence of land subsidence in the City of Chino, the Watermaster prepared and submitted the MZ-1 Subsidence Management (MZ-1 Plan) to the Court for approval and, in November 2007, the Court ordered its implementation (see Program Element 4: Develop and Implement a Comprehensive Groundwater Management Plan for Management Zone 1). The MZ-1 Plan calls for several monitoring and mitigation measures to minimize or abate the future occurrence of land subsidence and ground fissuring in the western Chino Basin. These measures and activities include:

- Continuing the scope and frequency of monitoring within the so-called Managed Area (southwest MZ-1) that was conducted during the period when the MZ-1 Plan was being developed.
- Expanding the monitoring of the aquifer system and land subsidence into other areas of MZ-1 and Chino Basin where the data indicate concern for future subsidence and ground fissuring.
- Monitoring of horizontal strain across the historical zone of ground fissuring.
- Evaluating the potential contribution of groundwater production in northern MZ-1 on conditions in southern MZ-1.
- Conducting additional testing and monitoring to refine the MZ-1 Guidance Criteria.
- Developing alternative pumping plans for the MZ-1 producers that are impacted by the MZ-1 Plan.

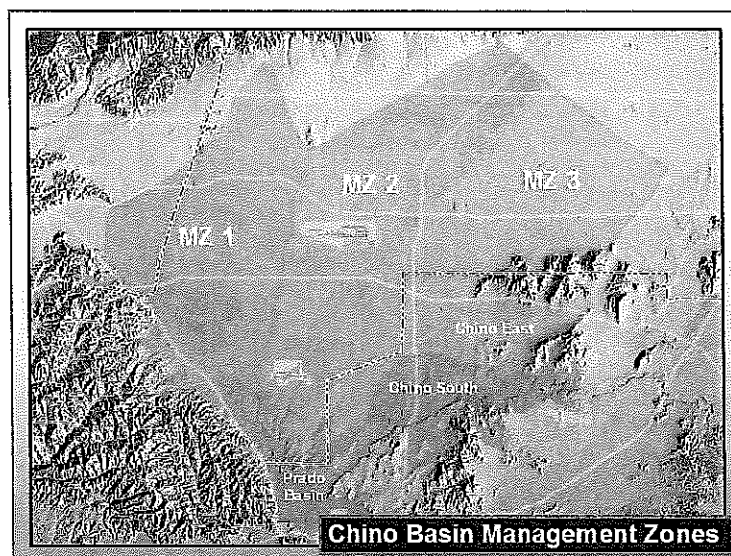
# Optimum Basin Management Program

## Program Element 1: Develop and Implement a Comprehensive Monitoring Program (Continued)

- Constructing and testing a lower-cost cable extensometer facility at Ayala Park.
- Evaluating and comparing ground-level surveying and Interferometric Synthetic Aperture Radar (InSAR), and recommending future monitoring protocols for both techniques.
- Conducting an ASR (aquifer storage recovery) feasibility study at a City of Chino Hills production well within the MZ-1 Managed Area (Well 16).
- Providing for recovery of groundwater levels in the MZ-1 Managed Area.

During the reporting period, Watermaster undertook the following activities called for in the MZ-1 Plan:

- The continuation of detailed water-level monitoring at wells within the Managed Area and across much of the western portion of Chino Basin. All monitoring equipment is inspected at least quarterly and is repaired and/or replaced as necessary. The data collected were checked and analyzed to assess the functionality of the monitoring equipment and for compliance with MZ-1 Plan.
- The continuation of monitoring and maintenance at the extensometer facilities including: Ayala Park, Chino Creek, and Daniels sites.
- The collection of InSAR data from radar satellites in January, April and June, 2013, which will be analyzed for ground motion in early 2014.
- Assisted the City of Chino Hills in required quarterly reporting for its DWR grant to support the ASR pilot test.



## Program Element 2: Develop and Implement a Comprehensive Recharge Program

The average stormwater recharge is approximately 10,000 acre-feet/yr (AFY), the supplemental “wet” water recharge capacity is approximately 60,600 AFY, and the in lieu supplemental water recharge capacity ranges from 25,000 to 40,000 AFY. There is also a demonstrated well injection capacity of 5,600 AFY. Current total supplemental water recharge capacity ranges from 91,200 to 106,200 AFY, which is greater than projected supplemental water recharge capacity required by Watermaster.

Stormwater recharge during this reporting period was approximately 2,088 AF. Recycled water recharge during this reporting period was approximately 7,017 AF. No imported water was recharged during this reporting period. The IEUA and Watermaster recharge permit was amended in fiscal year 2009/10 to allow for underflow dilution and extended the dilution period from a running 60 months to a running 120 months. The significance of this permit amendment was to reduce the amount of imported and stormwater required for dilution. IEUA projects that dilution requirements will likely be met through 2019/20, even if no imported water were available for dilution.

The total amount of supplemental water recharged in MZ-1 since the Peace II Agreement through June 30, 2013 was approximately 41,710 AF, which exceeds the 39,000 AF required by June 30, 2013 (annual requirement of 6,500 AF). The amount of supplemental water recharged into MZ-1 during the reporting period was approximately 2,722 AF.

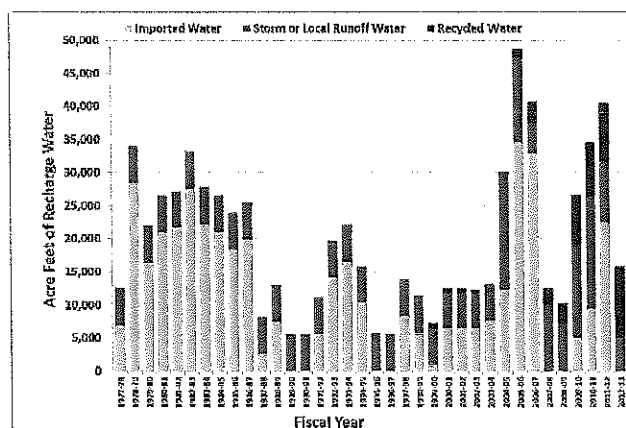
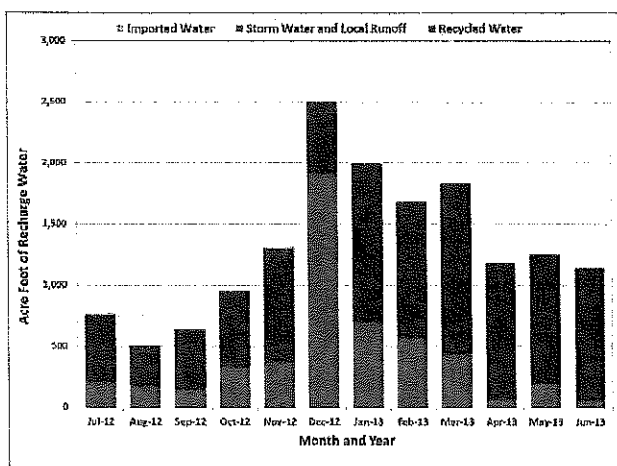
Watermaster and IEUA continued work on the Turner Basins/Guasti Park Recharge Expansion Project in MZ-2. Following completion, anticipated in 2015, the expansion project is projected to recharge an addition 300 AF of storm runoff annually. Watermaster and IEUA planned the Wineville Basin proof-of-concept investigation during the reporting period. The proof-of-concept investigation is

# Optimum Basin Management Program

## Program Element 2: Develop and Implement a Comprehensive Recharge Program (Continued)

designed to determine the effective infiltration rate in the Wineville Basin that in turn can be used to estimate the long-term average annual stormwater recharge. Also during the reporting period, Watermaster and IEUA jointly identified a series of projects outside of the 2013 RMPU effort that will increase stormwater and supplemental water recharge, and have jointly agreed to fund these projects. Watermaster and IEUA staff's started meeting monthly to plan these projects. Watermaster's share of the cost of these projects was included in the budget adopted by Watermaster for fiscal year 2013/14.

Watermaster continued work on the 2013 Amendment to the 2010 Recharge Master Plan (2013 RMPU). The Recharge Master Plan Update Steering Committee (Steering Committee) met twice per month to complete the 2013 RMPU. During this period, the following sections of the Amendment were completed and approved by Watermaster: 5-Monitoring, Reporting, and Accounting Practices to Estimate Long-Term Average Annual Net New Stormwater Recharge; 6-Recharge Options to Improve Yield and Assure Sustainability; and 7-Evaluation Criteria.



## Program Element 3: Develop and Implement Water Supply Plan for the Impaired Areas of the Basin; and

## Program Element 5: Develop and Implement Regional Supplemental Water Program

Construction of the Chino I Desalter Expansion and the Chino II Desalter facilities was completed in February 2006. As currently configured, the Chino I Desalter provides 2.6 million gallons per day (MGD) of treated (air stripping for VOC removal) water from Well Nos. 1-4, 4.9 MGD of treated (ion exchange for nitrate removal) water from Well Nos. 5-15, and 6.7 MGD of treated (reverse osmosis for nitrate and TDS removal) water from Well Nos. 5-15 for a total of 14.2 MGD (15,900 AFY). The Chino II Desalter provides 4.0 MGD of ion exchange treated water and 6.0 MGD of reverse osmosis treated water from eight additional wells for a total of 10.0 MGD (11,200 AFY).

Planning continued between the Chino Desalter Authority (CDA) and Western Municipal Water District (WMWD) to expand the Chino II Desalter by 10.5 MGD (11,800 AFY). Raw water will be drawn from existing CDA II wells, and possible additional new wells, if needed. In addition, a new Chino Creek Desalter Well Field, required for the hydraulic control commitment associated with Maximum Benefit, will provide additional raw water to the Chino I Desalter, enabling some existing wells to direct production to the expanded Chino II Desalter facility. Watermaster and the CDA demonstrated continued progress on the project schedule RWQCB approved by the RWQCB in June 2010, which calls for completion of the expansion in 2015. Existing design contracts for pipeline, well and pump facilities continue to lead toward task and eventual project completion.

In June 2012, the WMWD was awarded a \$51 million state grant from the California Department of Health for the desalter expansion project. To date, more than \$70 million in grant funds have been secured toward this expansion project.

# Optimum Basin Management Program

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## **Program Element 4: Develop and Implement a Comprehensive Groundwater Management Plan for Management Zone 1**

### *MZ-1 Management Plan*

Because of the historical occurrence of pumping-induced land subsidence and ground fissuring in southwestern Chino Basin (southern MZ-1), the OBMP called for the development and implementation of an Interim Management Plan (IMP) for MZ-1 that would:

- Minimize subsidence and fissuring in the short-term,
- Collect information necessary to understand the extent, rate, and mechanisms of subsidence and fissuring, and
- Formulate a management plan to reduce to tolerable levels or abate future subsidence and fissuring.

From 2001-2005, Watermaster developed, coordinated, and conducted an Interim Monitoring Program (IMP) under the guidance of the MZ-1 Technical Committee. The investigation provided enough information for Watermaster to develop Guidance Criteria for the MZ-1 producers in the investigation area that, if followed, would minimize the potential for subsidence and fissuring during the completion of the MZ-1 Plan. The Guidance Criteria included a listing of Managed Wells and their owners subject to the criteria, a map of the so-called Managed Area, and an initial threshold water level (Guidance Level) of 245 feet below the top of the PA-7 well casing. The MZ-1 Summary Report and the Guidance Criteria were adopted by the Watermaster Board in May 2006. The Guidance Criteria formed the basis for the MZ-1 Plan, which was approved by Watermaster in October 2007. The Court approved the MZ-1 Plan in November 2007 and ordered its implementation.

During this reporting period, Watermaster continued implementation of the MZ-1 Plan. Drawdown at the PA-7 piezometer stayed above the Guidance Level during the reporting period, and very little, if any, permanent compaction was recorded at the Ayala Park Extensometer. The ongoing monitoring program called for by the MZ-1 Plan continues to be implemented. Watermaster staff and consultants prepared a draft of the 2012 Annual Report of the Land Subsidence Committee.

The Land Subsidence Committee met in March 2013. Watermaster staff and consultants provided an update on the ongoing monitoring and testing program in the MZ-1 Managed Area, on the ASR pilot test at Chino Hills Well 16, and on the recent data collected from the newly-installed extensometer at the Chino Creek Well Field. In addition, the Committee prepared a scope of work and cost-estimate for the program for fiscal year 2013/14.

## **Program Element 6: Develop and Implement Cooperative Programs with the Regional Water Quality Control Board, Santa Ana Region (Regional Board) and Other Agencies to Improve Basin Management; and Program Element 7: Develop and Implement a Salt Management Program**

### *Archibald South Plume*

In July 2005, the RWQCB prepared draft Cleanup and Abatement Orders (CAOs) for seven parties who were tenants on the Ontario International Airport (OIA) with regard to the Archibald South (trichloroethene [TCE]) Plume. The draft CAOs required the parties to "submit a work plan and time schedule to further define the lateral and vertical extent of the TCE and related VOCs that are discharging, have been discharged, or threaten to be discharged from the site" and to "submit a detailed remedial action plan, including an implementation schedule, to cleanup or abate the effects of the TCE and related VOCs." Four of the parties (Aerojet, Boeing, General Electric [GE], and Lockheed Martin) voluntarily formed a group (known as ABGL) to work jointly on a remedial investigation. Northrop Grumman declined to participate in the group. The US Air Force, in cooperation with the US Army Corps of Engineers, funded the installation of one of the four clusters of monitoring wells installed by ABGL.

In 2012, the RWQCB issued a draft CAO to the City of Ontario, the City of Upland, and IEUA concerning the former Ontario-Upland Sewage Treatment Plant (Regional Recycling Plant No. 1), located in the City of Ontario. The draft CAO states that these parties are "responsible parties subject to this Order because, as the former and current owners and operators of the WWTP and disposal areas, they are responsible for discharge of wastes that resulted in the presence of TCE in groundwater down-gradient of the WWTP and disposal areas." In part, the draft CAO requires the parties to "supply uninterrupted replacement water service...to all residences south of Riverside Drive that are served by private domestic wells at which TCE has been detected at concentrations at or exceeding 5 µg/L..." and to report this information to the RWQCB. In addition, the parties are to "prepare and submit [a] ...feasibility study" and "prepare, submit and implement the Remedial Action Plan" to mitigate the "effects of the TCE groundwater plume."

## Optimum Basin Management Program

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### **Program Element 6: Develop and Implement Cooperative Programs with the Regional Water Quality Control Board, Santa Ana Region (Regional Board) and Other Agencies to Improve Basin Management; and**

### **Program Element 7: Develop and Implement a Salt Management Program (Continued)**

Upon the direction of the Regional Board, sampling at residential taps in the affected area has been conducted approximately every two years (2007-2008, 2009, 2011). Alternative water systems (tanks) have been installed at residences in the area where well water contains TCE at or above 80% of the MCL for TCE. Residents who declined tank system are being provided bottled water. Watermaster also routinely samples for water quality at private wells in the area, and uses data obtained from this monitoring to delineate the plume.

The Regional Board has indicated that many of the potential responsible parties issued Draft CAOs will work together to prepare a remedial action feasibility study. Discussions among those parties are ongoing to resolve details about how to proceed with that work.

#### *Chino Airport*

The County of San Bernardino, Department of Airports is working under RWQCB CAO No. R8-2008-0064, which requires the County to define the lateral and vertical extent of the plume and prepare a remedial action plan. Beginning in 2007, Tetra Tech, the consultant to the County, conducted several off-site plume characterization studies to delineate the areal and vertical extent of the plume. Since 2003, the County has conducted quarterly monitoring events at their monitoring wells. Conclusions from this monitoring program can be found in reports posted on the Regional Board's GeoTracker website.

Watermaster has also collected samples from dedicated monitoring wells and private wells in and around the Chino Airport plume area. The County and Watermaster have been sharing these investigation data so that both parties can utilize a robust data set for plume characterization. Watermaster has used its calibrated groundwater model to estimate cleanup times and contaminant concentrations in the Chino Creek Well Field (CCWF). This work will be updated, given new information about the extent of contamination, subsurface hydrogeology, well performance, and the need for habitat sustainability in the Prado Basin.

In 2012, Tetra Tech installed groundwater monitoring well clusters (at least two wells per location) at seven locations, and submitted a VOC Plume Characterization and Monitoring Well Installation Report in January 2013 (revised March 2013). In May 2013, Tetra Tech submitted a Historical Site Assessment Report identifying on-site areas of concern at the Airport. Additional work expected to be completed in 2013 includes the preparation of a work plan for additional on-site characterization of the Airport property. The County has not yet performed any groundwater remediation activities.

#### *Other Water Quality Issues*

Watermaster continues to track monitoring programs and mitigation measures associated with other point sources in the Chino Basin, including: Alumax Aluminum Recycling, the California Institute for Men, Crown Coach, GE Test Cell and Flatiron, Kaiser Steel, Milliken Landfill, Upland Landfill, and the Stringfellow National Priorities List sites.

### **Program Element 8: Develop and Implement a Groundwater Storage Management Program; and Program Element 9: Develop and Implement a Storage and Recovery Program**

Recent events demonstrate the importance of groundwater storage to the Chino Basin. Watermaster has committed to investigate the technical and management implications of Local Storage Agreements, improve related policies and procedures, and then revisit all applications of Local Storage Agreements.

The existing Watermaster/IEUA/MWDSC/Three Valley Municipal Water District (TVMWD) Dry-Year Yield (DYY) program continued during the reporting period. By April 30, 2011, all DYY program construction projects and a full "put" and "take" cycle had been completed, leaving the storage account with a zero balance. No water has been placed into the DYY account since that time. Watermaster, IEUA, TVMWD, and MWDSC are negotiating potential amendments to the current contract.

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Facsimile: 805.965.4333

5 Attorneys for  
6 **CHINO BASIN WATERMASTER**

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

10  
11 CHINO BASIN MUNICIPAL WATER  
12 DISTRICT,

13 Plaintiff,

14 v.

15 CITY OF CHINO, et al.,

16 Defendant.

**Case No. RCV 51010**

[Assigned for All Purposes to the Honorable  
STANFORD E. REICHERT]

**DECLARATION OF BRADLEY J.  
HERREMA IN SUPPORT OF MOTION  
FOR COURT APPROVAL OF  
TEMPORARY SUBSTITUTE RATE FOR  
PHYSICAL SOLUTION TRANSFERS  
UNDER EXHIBIT "G" TO THE  
JUDGMENT AND REQUEST THAT THE  
COURT RECEIVE AND FILE OBMP  
STATUS REPORT 2013-1**

Date: November 20, 2015  
Time: 1:30 P.M.  
Dept.: R-6

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21 I, Bradley J. Herrema, declare as follows:

22 1. I am an attorney duly admitted to practice before all of the courts of this State, and  
23 am a shareholder in the law firm of Brownstein Hyatt Farber Schreck, LLP, counsel of record for  
24 Chino Basin Watermaster ("Watermaster"). I have personal knowledge of the facts stated in this  
25 declaration, except where stated on information and belief, and if called as a witness, I could and  
26 would competently testify to them under oath. I make this declaration in support of the above-  
27 referenced motion.  
28



1           2.     As legal counsel for Watermaster, I am familiar with Watermaster's practices and  
2 procedures, as well as actions taken by the Pool Committees, Advisory Committee and Board.

3           3.     Exhibit "G" to the Judgment in the above-captioned matter is the Overlying Non-  
4 Agricultural Pooling Plan. Paragraph 9 of Exhibit "G," entitled "Physical Solution Transfers,"  
5 provides mechanisms pursuant to which, during the term of the Peace Agreement, the members of  
6 the Overlying (Non-Agricultural) Pool have the right to transfer or lease their quantified  
7 Production rights and carry-over water held in storage accounts.

8           4.     According to Watermaster's past practice applicable to Physical Solution Transfers  
9 pursuant to Exhibit "G" Paragraph 9 to the Judgment, the Metropolitan Water District of Southern  
10 California ("MWD") Replenishment Rate utilized to calculate the rate to be paid for transferred  
11 water under Exhibit "G" Paragraph 9(d) is the Replenishment Rate applicable for the calendar  
12 year in which Watermaster's purchase of water, on behalf of the members of the Appropriative  
13 Pool, takes place. As applied to transfers in Fiscal Year 2015-2016, as payment would be made  
14 by June 30, 2016, MWD's Replenishment Rate for 2016 would typically be utilized.

15           5.     MWD terminated its Replenishment Rate prior to 2013 and there are no  
16 indications that it will publish a Replenishment Rate for 2016. Accordingly, Watermaster and the  
17 parties to the Judgment will be left without a base rate from which to calculate the required 92%  
18 rate for Physical Solution Transfers in Fiscal Year 2015-2016.

19           6.     Recognizing this problem, Watermaster, the Overlying (Non-Agricultural) Pool  
20 and the Appropriative Pool have agreed to a substitute rate, which is 85.52% of MWD's 2016  
21 Tier 1 Untreated Rate, applicable to Physical solution Transfers in Fiscal Year 2015-2016.  
22 MWD's 2016 Tier 1 Untreated Rate is \$594.00 per acre-foot; 85.52% of that rate is \$508.00 per  
23 acre-foot.

24           7.     At their September 10, 2015 regular meetings, the Overlying (Non-Agricultural)  
25 and Appropriative Pool Committees each approved this rate substitution for Fiscal Year 2015-  
26 2016 transfers. At its regular meeting on September 17, 2015, the Advisory Committee approved  
27 the rate substitution, and at its regular meeting on September 24, 2015, the Watermaster Board  
28 approved the rate substitution.

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1           8.     It is important that the rate for Physical Solution Transfers be identified prior to  
2 the December 31, 2015 date by which members of the Overlying (Non-Agricultural) Pool must  
3 determine whether to make water available for transfer so that they may properly evaluate  
4 whether to do so.

5           9.     At its regularly scheduled meeting on September 24, 2015, the Watermaster Board  
6 adopted OBMP Status Report 2013-1 as it is attached to Watermaster's Motion for Court  
7 Approval of Temporary Substitute Rate for Physical Solution Transfers Under Exhibit "G" to the  
8 Judgment and Request that the Court Receive and File OBMP Status Report 2013-1.

9           10.    No party opposed Watermaster Board's adoption of OBMP Status Report 2013-1.

10          I declare under penalty of perjury under the laws of the State of California that the  
11 foregoing is true and correct. Dated this 28th day of September, 2015, at Los Angeles, CA.

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16 Bradley J. Herrema  
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7 IT IS HEREBY STIPULATED AND AGREED, by and among the undersigned counsel,  
8 solely on behalf of the parties that they represent of record, as follows:

9 1. If any member of the Overlying (Non-Agricultural) Pool Committee (each, a  
10 "NAP Electing Member") elects, pursuant to Section 9(a) of Exhibit "G" to the Judgment, to  
11 make any or all of its current annual Production right or water held in storage available for  
12 purchase by the members of the Appropriative Pool, then such offer shall be subject to the terms  
13 and conditions of Section 9 of Exhibit "G", except that the phrase "92% of the then-prevailing  
14 'MWD Replenishment Rate'" shall be replaced with the phrase "85.52% of the water rate for Full  
15 Service Untreated Volumetric Cost: Tier 1, as adopted by the Metropolitan Water District of  
16 Southern California as of the date hereof to be effective during the period of January 1, 2016  
17 through June 30, 2016, for each acre foot so transferred. MWD's 2016 rate for Full Service  
18 Untreated Volumetric Cost: Tier 1 is \$594.00 per acre-foot; 85.52% of that rate is \$508.00 per  
19 acre-foot." The terms and conditions of this Stipulation shall apply only to water made available  
20 by a NAP Electing Member between the date hereof and December 31, 2015, and only in the  
21 event that MWD does not, prior to December 31, 2015, publish a MWD Replenishment Rate that  
22 is effective during the period of January 1, 2016 through June 30, 2016.

23 2. The approval of a temporary substitute rate for Physical Solution Transfers herein  
24 shall have no precedential effect in regard to the rate that may be implemented for Physical  
25 Solution Transfers in years other than Fiscal Year 2015-2016.

26 3. Legal counsel for the Watermaster Board shall file a motion seeking entry of an  
27 order of the Court approving the rate substitution described in paragraph 1 above, and shall  
28

1 provide notice to other parties thereof. No assertion of fact or law contained in any paper filed  
2 with the Court by the Watermaster Board shall be construed as the belief or position of any other  
3 party.

4 Dated: September 25, 2015

HOGAN LOVELLS US, LLP

6 By: 

7 ALLEN W. HUBSCH  
8 Attorneys for CHINO BASIN  
WATERMASTER OVERLYING (NON-  
AGRICULTURAL) POOL

9 Dated: September 28, 2015

10 BY: 

11 JOHN J. SCHATZ  
12 Attorneys for CHINO BASIN  
WATERMASTER APPROPRIATIVE  
POOL

13 Dated: September 24, 2015

BROWNSTEIN HYATT FARBER  
SCHRECK, LLP

15 BY: 

16 SCOTT S. SLATER  
17 BRADLEY J. HERREMA  
18 Attorneys for CHINO BASIN  
WATERMASTER

19  
20 ORDER

21 Pursuant to the stipulation of the parties and good cause appearing thereof, IT IS SO  
22 ORDERED.

23 DATED: \_\_\_\_\_, 2015

24 \_\_\_\_\_  
25 Judge of the Superior Court

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER  
DISTRICT,  
  
Plaintiff,  
  
v.  
  
CITY OF CHINO et al.,  
  
Defendant.

Case No. RCV 51010  
  
Assigned for All Purposes to the  
Honorable Stanford E. Reichert  
  
**[PROPOSED] ORDER GRANTING  
REQUEST TO RECEIVE AND FILE  
OBMP STATUS REPORT 2013-1**

The Court having read, reviewed, and considered the Request to Receive and File OBMP  
Status Report 2013-1, and good cause appearing therefore:

IT IS SO ORDERED.

Dated: \_\_\_\_\_ JUDGE OF THE SUPERIOR COURT

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**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, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On September 29, 2015 I served the following:

- **NOTICE OF MOTION AND MOTION FOR COURT APPROVAL OF TEMPORARY SUBSTITUTE RATE FOR PHYSICAL SOLUTION TRANSFERS UNDER EXHIBIT "G" TO THE JUDGMENT; REQUEST THAT THE COURT RECEIVE AND FILE OBMP STATUS REPORT 2013-1; DECLARATION OF BRADLEY J. HERREMA IN SUPPORT THEREOF**
- **[PROPOSED] ORDER GRANTING REQUEST TO RECEIVE AND FILE OBMP STATUS REPORT 2013-1**

/X/ 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: Mailing List 1**

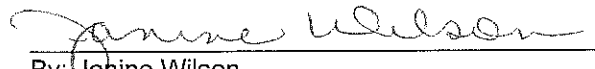
/ BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

/ 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 on the transmission report, which was properly issued by the transmitting fax machine.

/X/ BY ELECTRONIC MAIL: I transmitted notice of availability of electronic documents by electronic transmission to the email address indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting electronic mail device.

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

Executed on September 29, 2015 in Rancho Cucamonga, California.

  
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Chino Basin Watermaster

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