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**EXEMPT FROM FILING FEES  
GOV'T CODE § 6103**

6 Attorneys for Defendant Jurupa Community Services District  
7

8 IN THE SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF SAN BERNARDINO

10 CHINO BASIN MUNICIPAL  
WATER DISTRICT

11 Plaintiff

12 v.

13 CITY OF CHINO, et al.,

14 Defendants.  
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CASE NO. RCV 51010

[Assigned for all purposes to the Honorable Stanford  
E. Reichert]

**JURUPA COMMUNITY SERVICES  
DISTRICT'S RESPONSE TO JUDGE  
REICHERT'S REQUEST FOR  
CLARIFICATION, MARCH 22, 2016**

Hearing Date: May 6, 2016  
Time: 1:30 pm.  
Dept.: R6

{00354522;4}

1 JCSD appreciates this opportunity provided by the Court to amplify JCSD's discussion of  
2 this Court's October 8, 2010 Order Approving Watermaster's Compliance with Condition  
3 Subsequent Number Eight and Approving Procedures to Be Used to Allocate Surplus Agricultural  
4 Pool Water in the Event of a Decline in Safe Yield ("2010 Order"), and to further explain how the  
5 Order relates to the relief JCSD has requested in its Opposition ("JCSD Opposition") to the  
6 October 23, 2015 Motion Regarding the Safe Yield Reset Agreement ("2015 Motion"). JCSD  
7 understands and appreciates the Court's need for additional clarification concerning aspects of the  
8 2015 Motion and JCSD's Opposition. Over the past two decades the Chino Basin management  
9 framework has become a complicated, and often conflicting, set of basin management policies,  
10 agreements, concepts, rules and court orders that would make Rube Goldberg proud. The Chino  
11 Basin management contraption no longer works. There are too many parts, and those parts no  
12 longer effectively work together. The fundamental point of JCSD's Opposition to the 2015  
13 Motion is that management of the Chino Basin needs to be simplified and rebuilt around the  
14 Judgment, and not further complicated by the SYRA and the 2015 Motion.

15 JCSD has responded to question Nos. 3 and 4 posed by the Court in its March 22, 2016  
16 Order, which appear more directed at the issues raised in JCSD's Opposition. Question Nos. 1  
17 and 2 appear to be more directed at the City of Chino and Watermaster. If JCSD has additional  
18 information concerning any of the questions presented in the Court's March 22, 2016 Order, it will  
19 provide such information to the Court and the parties on April 11, as directed in the March 22,  
20 2016 Order.

21 **Question 3:** The court understands that this might seem very basic, but the court does not  
22 understand exactly how the reduction in Safe Yield affects Operational Safe Yield.

23 **JCSD response:**

24 As a practical matter, the reduction of Safe Yield does not affect the Operating<sup>1</sup> Safe Yield  
25 allocated to the Appropriative Pool, nor does it affect the share of the Operating Safe Yield  
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27 <sup>1</sup> The Court used the term "Operational" Safe Yield in its question to the parties. JCSD is not familiar with that term  
28 of art or definition in the Judgment and implementing documents, and understands that the Court meant to use the  
term "Operating" Safe Yield and has responded as such.

1 allocated to any individual appropriator. This is because Exhibit “H,” Paragraph 10(a)(1) of the  
2 Judgment provides that the first priority to water allocated to, but not pumped by, the Overlying  
3 (Agricultural) Pool (“Unproduced Water”) – i.e., the volume of water equal to 82,800 af of Safe  
4 Yield allocated to the Overlying (Agricultural) Pool every year, less the actual production by the  
5 Overlying (Agricultural) Pool in a given year – shall “supplement, in the particular year, water  
6 available from Operating Safe Yield to compensate for any reduction in Safe Yield by reason of  
7 recalculation thereof after the tenth year of operation thereunder.” (Judgment, Ex. “H,” para.  
8 10(a)(1)). Agricultural production from the Chino Basin has declined significantly since the time  
9 of entry of the Judgment, and current credited production is approximately 33,600 acre-feet  
10 annually.<sup>2</sup> (See Declaration of Todd Corbin in Support of Opposition to Watermaster’s Motion  
11 regarding 2015 Safe Yield Reset Agreement, dated January 19, 2016, Ex. A.)

12 Thus, under the Judgment itself, there is a substantial volume of Unproduced Agricultural  
13 Pool Water available (currently more than 49,000 acre feet per year “afy”) under the allocation  
14 methodology in Exhibit H, para. 10(a) to offset Watermaster’s proposed reduction in Operating  
15 Safe Yield (i.e., 5,000 afy). As a result, there is no practical consequence to the Operating Safe  
16 Yield of the Appropriative Pool or to any individual Pool members resulting from Watermaster’s  
17 proposed Safe Yield reduction from 140,000 afy to 135,000 afy. Of course, the reduction or  
18 decline in Safe Yield does have the effect of reducing the amount of Unproduced Water available  
19 to individual Appropriative Pool members to satisfy conversion claims and to supplement  
20 Operating Safe Yield under Exhibit H, paragraph 10.

21 **Question 4:** To Jurupa Community Services District (JCSD) and Watermaster: In its  
22 reply, Watermaster points out that JCSD in its opposition did not address the court’s October 8,  
23 2010 Order Approving Watermaster’s Compliance with Condition Subsequent Number Eight and  
24 Approving Procedures to Be Used to Allocate Surplus Agricultural Pool Water in the Event of a  
25 Decline in Safe Yield.

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27 \_\_\_\_\_  
28 <sup>2</sup> Actual groundwater production for agricultural purposes is approximately 22,000 afy but credited agricultural  
production includes agricultural land irrigated with reclaimed water.

1       **JCSD Response:**

2       **A.       JCSD's Opposition to the Reallocation Methodology is Timely**

3       Watermaster Reply brief, p. 23, fn. 24 states that JCSD's Opposition omits a discussion of  
4 the Court's October 8, 2010 Order Approving Watermaster's Compliance with Condition  
5 Subsequent Number Eight and Approving Procedures to Be Used to Allocate Surplus Agricultural  
6 Pool Water in the Event of a Decline in Safe Yield. This statement is incorrect. The thrust of  
7 JCSD's entire Opposition is directed at the reallocation methodology described in the 2010 Order,  
8 and specifically the section thereof that involves the relative priorities of "Early Transfer" waters  
9 and "Conversion Claims" with respect to Unproduced Water. The reallocation methodology that  
10 Watermaster proposed in its 2010 Motion is precisely what JCSD opposes now that the Court is  
11 considering Watermaster's proposed reduction in Safe Yield as contemplated in the 2010 Order.  
12 Moreover, JCSD specifically and expressly cited to and even quoted from Watermaster's Motion  
13 regarding the 2010 Order (at p. 15 of the Opposition), and JCSD attached the Watermaster's  
14 Motion and the Proposed Order to the Opposition as Exhibit G. The final Court Order, which was  
15 signed by Judge Reichert on October 8, 2010, is identical to the Proposed Order attached to  
16 JCSD's Opposition (the only difference being the signature added and "Proposed" stricken from  
17 the caption in the final October 8, 2010 Order). Thus, contrary to the statement in Watermaster's  
18 Reply Brief, JCSD did not omit discussion of the 2010 Order.

19       JCSD's Opposition explained why the reallocation methodology for Unproduced Water, as  
20 proposed by Watermaster in its 2010 Motion and as set forth in Watermaster Rules and Regulation  
21 section 6.3, is in conflict with and inconsistent with the express allocation methodology in the  
22 Judgment, Ex. H, paragraph 10. As we explain below, at least part of the 2010 Order itself is  
23 consistent with JCSD's reading of the Judgment and the proper allocation of Unproduced Water.  
24 As further explained below, moreover, JCSD's Opposition is more timely and pertinent now, in  
25 the context of Watermaster's request for approval of a reset of the Safe Yield, than it was back in  
26 2010 when Watermaster presented the Proposed Order to this Court.

27       It should be noted that the 2010 Order was prepared by Watermaster and presented to the  
28 Court. The reallocation methodology at issue was but one of numerous Watermaster requested

1 court approvals that were addressed in the 2010 Order. There were several parties that opposed  
2 Watermaster's proposed revised reallocation methodologies for Unproduced Water when the  
3 methodology was presented to the Appropriative Pool prior to the 2010 Motion to the Court,  
4 including JCSD. (Declaration of Todd Corbin in Response to Judge Reichert's Request for  
5 Clarification, March 22, 2016, ¶¶ 7, 8.) The motion was not opposed by any party when it was  
6 presented to the Court, however, presumably because the proposed reallocation methodology was  
7 not to take effect unless and until there is a decline or reduction in Safe Yield (i.e., as Watermaster  
8 now proposes with the 2015 Motion). There is no indication in the record that Watermaster  
9 explained to the Court the potential implications of the proposed reallocation methodology beyond  
10 the discussion in the Watermaster's Motion.

11 The 2010 Order directs Watermaster to "... utilize the procedures regarding re-allocation  
12 of surplus Agricultural Pool water in the event of a decline in Safe Yield" as described in a  
13 Watermaster staff report and legal memorandum that were appended to Watermaster's 2010  
14 Motion. (2010 Order, p. 4, ll. 19-21, emphasis added). The 2010 Motion did not request or  
15 propose that the Court approve a decline in the Safe Yield at that time, and in fact Watermaster  
16 has continued to manage the Basin since 2010 at the adjudicated Safe Yield volume of 140,000  
17 acre feet per annum. Only now, in the 2015 Motion to reset the Safe Yield, is Watermaster  
18 proposing a reduction in Safe Yield, and thus triggering the reallocation methodology described in  
19 the 2010 Motion and Order. Accordingly, JCSD's Opposition to the 2015 Motion on the SYRA is  
20 the appropriate time for JCSD and any other party to the Judgment to contest the validity of the  
21 revised allocation methodology described in the 2010 Motion and the 2015 Motion. Even if  
22 Watermaster's proposed re-allocation methodology were appropriate and not in conflict with the  
23 Judgment, which JCSD disputes, "a decline in Safe Yield" is expressly made a condition  
24 precedent to the effectiveness of the proposed reallocation methodology described in the 2010  
25 Order. As such, challenges to the methodology are now ripe with Watermaster's requested  
26 approval of a decline in Safe Yield.<sup>3</sup>

27  
28 <sup>3</sup> Although Watermaster should not have implemented the revised methodology until this Court approved a decline in

1           **B.       The Reallocation Methodology Proposed in the 2010 Order is Inconsistent**  
2           **with the Judgment**

3           Moreover, the reallocation methodology described in the 2010 Order that was signed by  
4           the Court is actually different than the methodology proposed in Watermaster's 2010 Motion and  
5           the methodology that is described in Section 6.3 of Watermaster's amended Rules and  
6           Regulations. Paragraph 5.3 of the SYRA proposes to continue through the term of the Peace II  
7           Agreement the reallocation methodology described in both (1) Section 6.3(c) of Watermaster's  
8           Rules and Regulations and (2) Section III.(6) of the 2010 Order. Watermaster's 2010 Motion and  
9           Section 6.3(c) of the Rules and Regulations propose a reallocation methodology that "equalizes"  
10          the relative priorities of Conversion Claims and Early Transfers to Unproduced Water, to the  
11          detriment of Conversion Claim agencies such as JCSD.<sup>4</sup> Interestingly, at least part of Section  
12          III.(6) of the October 8, 2010 Order actually describes the reallocation methodology that is  
13          consistent with the Judgment, viz.:

14                       Specifically, in the event that Operating Safe Yield is reduced  
15                       because of a reduction in Safe Yield, Watermaster will follow the  
16                       hierarchy provided for in the Judgment, Exhibit "H," by first  
17                       applying the unproduced Agricultural Pool water to compensate  
18                       Appropriative Pool members for the reduction in Safe Yield.  
19                       (Judgment, Exhibit "H," paragraph 10(a).) If there is unallocated  
20                       water left, Watermaster will then follow the remainder of the  
21                       hierarchy and reallocate unallocated Agricultural Pool water next to  
22                       conversion claims then to supplement Operating Safe Yield without  
23                       regard to reductions in Safe Yield.... (2010 Order, p. 4, l. 21 to p. 5,  
24                       l. 1, emphasis added).

25           This is precisely the reallocation methodology directed by Exhibit "H" paragraph 10 of the  
26           Judgment, which states unequivocally and unambiguously, that Unproduced Water (i.e., the  
27           difference between 82,800 af and actual agricultural production) is to be allocated according to the

28           \_\_\_\_\_ Safe Yield, JCSD's Opposition does not currently request reimbursement for overpayments nor a re-accounting of  
Basin storage using the methodology in the Judgment. Rather, JCSD's Opposition asks only that the court direct  
Watermaster to utilize the proper reallocation methodologies in the future. JCSD will consider at a later date whether  
it will pursue claims for reimbursement for overpayments and a re-accounting of Basin storage accounts.

<sup>4</sup> As described in JCSD's opposition, there is not enough Unproduced Water to fully satisfy the first two priorities in  
Exhibit H, Paragraph 10 – i.e., (1) the reduction in Operating Safe Yield and (2) Conversation Claims – and also to (3)  
separately supplement Operating Safe Yield with 32,800 afy of Early Transfer water. Under the Judgment, Exhibit H,  
the first two priorities should be met and any remainder would be allocated to supplement Operating Safe Yield  
without regarding to a reduction in Safe Yield. Watermaster's "equalization" of the second and third priorities  
reduces the volume of Unproduced Water from the Safe Yield that should be allocated to satisfy conversion claims.

1 following priorities:

- 2 • First, to offset reductions to the Operating Safe Yield of all of the Appropriator
- 3 Pool members resulting from a reduction in Safe Yield;
- 4 • Second, if any water is left over, to satisfy conversion claims; and
- 5 • Then third, if water is left over, to supplement Operating Safe Yield without regard
- 6 to reductions in Safe Yield.<sup>5</sup>

6 Unfortunately, the 2010 Order does not stop with the above-quoted text, but goes on to  
7 include additional language that re-injects confusion and ambiguity back into the 2010 Order. The  
8 additional language in the 2010 Order states that Watermaster should follow the Judgment, as  
9 stated above, "... according to the guidance provided by Peace Agreement I & II and  
10 Watermaster's Rules and Regulations, as amended." (2010 Order, p. 4, ll. 1-2). The 2010 Order  
11 then goes on to state:

12 If, after applying the unallocated Agricultural Pool water to  
13 compensate the Appropriative Pool members for a reduction in Safe  
14 Yield, the actual combined production made available to the  
15 Agricultural Pool, which includes overlying Agricultural Pool Uses  
16 combined with land use conversion claims and the Early Transfer,  
exceeds 82,800 [acre-feet] in any year, the amount of water  
available to the Appropriative Pool shall be reduced pro rata in  
proportion to the benefits received according to the procedures  
outlined in the Watermaster Rules and Regulations.

17 JCSD's Opposition asks: how is this allocation methodology consistent with priority  
18 schedule set forth in the Judgment? How is this methodology even consistent with the earlier  
19 sentences in paragraph (6) of the 2010 Order, quoted above? The answer is that the methodology  
20 is not consistent with the Judgment, and conflicts squarely with the water rights and allocation  
21 priority and schedule in the Judgment.

22 The gist of JCSD's Opposition to the 2015 Motion is that paragraph 5.3 of the SYRA,  
23 which references both Section III.(6) of the 2010 Order and Section 6.3(c) of the Watermaster  
24 Rules and Regulations, is inconsistent with the clear and unambiguous methodology for  
25

26 <sup>5</sup> As contemplated in the Peace Agreement that created the "Early Transfer" concept, any Unproduced Water  
27 allocated to Early Transfers was to follow this priority, and if the volume exceeded the first two priorities, it was to be  
28 allocated to supplement the Operating Safe Yield of the Appropriative Pool without regard reductions in Safe Yield.  
There is nothing in the Peace Agreement that was intended to create an "equal priority" for Conversion Claims and  
third priority rights to Unproduced Water.

1 reallocation of Unproduced Water under the Judgment. The Judgment itself provides all of the  
2 “guidance” that Watermaster needs to reallocate Unproduced Water as between (1) reductions in  
3 Safe Yield, (2) Conversion Claims, and (3) supplementation of Operating Safe Yield as  
4 contemplated in the Early Transfer policy. The Early Transfer concept is simply a mechanism  
5 created by Watermaster and the parties to the Peace Agreement to ensure maximum use of  
6 Unproduced Water, first by satisfaction of Conversion Claims and then by supplementation of  
7 Operating Safe Yield of the Appropriative Pool (up to the full amount of Unproduced Water). The  
8 Early Transfer concept does not amend the priority of supplementation of Operating Safe Yield  
9 under the Judgment; that water is third priority, and is only available after compensating for (1)  
10 any court-approved reduction in Safe Yield and (2) satisfying second priority Conversion Claims.  
11 Watermaster’s own policies, not any ambiguity in the Judgment, have created the fiction that the  
12 “Early Transfer” policy in the Peace Agreement created a “water right” of 32,800 afy separate and  
13 apart from other rights to Unproduced Water, and that Early Transfer water rights should have  
14 equal priority to Conversion Claims.

15 **C. The Court Made No Finding that 2010 Order was Consistent with Judgment**

16 It also is important to note that the 2010 Order does not approve or find that Watermaster’s  
17 proposed reallocation methodology is consistent with the Judgment, nor does it conclude that the  
18 methodology is a reasonable interpretation of the Judgment.<sup>6</sup> Rather, the Order states only that in  
19 the event of a decline of safe yield, Watermaster should follow the Judgment “...according to the  
20 guidance provided by Peace Agreement I & II and Watermaster’s Rules and Regulations, as  
21 amended.” As explained in JCSD’s Opposition, the Watermaster Rules and Regulations are to be  
22 interpreted consistent with the Judgment, and the Judgment controls in the event of a conflict  
23 between the Rules and Regulations or the Peace Agreement. (Watermaster Rules and Regulations,  
24 Section 1.3).

25 \_\_\_\_\_  
26 <sup>6</sup> As contemplated in the Peace Agreement that created the “Early Transfer” concept, any Unproduced Water  
27 allocated to Early Transfers was to follow this priority, and if the volume exceeded the first two priorities, it was to be  
28 allocated to supplement the Operating Safe Yield of the Appropriative Pool without regard reductions in Safe Yield.  
There is nothing in the Peace Agreement that was intended to create an “equal priority” for Conversion Claims and  
third priority rights to Unproduced Water.



1           **D.       Court Has Continuing Authority to Address the Reallocation Methodology**

2           Finally, nowhere in its reply to JCSD's Opposition does the Watermaster assert that JCSD  
3 incorrectly interprets the Judgment, only that Watermaster has been interpreting the Judgment  
4 differently in recent years. Even if the Court finds now that this issue was adjudicated in 2010, the  
5 Court has continuing authority over this particular issue to correct past decisions regarding  
6 administration of the Judgment. The Court is fully empowered to review and decide the issues  
7 addressed in JCSD's Opposition, even if some of the issues have been previously addressed by the  
8 parties or the Court. The Court has "[f]ull jurisdiction, power and authority . . . as to all matters  
9 contained" in the Judgment, and the Court is authorized "to make such further or supplemental  
10 orders or directions as may be necessary or appropriate for interpretation, enforcement or carrying  
11 out of this Judgment . . . ." (Judgment, ¶ 15.) Courts retain continuing jurisdiction to change or  
12 modify orders as occasion may require in adjudications implementing physical solutions as "a  
13 solution of many of the difficulties and uncertainties in safeguarding the rights of the parties."  
14 (Peabody v. Vallejo (1935) 2 Cal.2d 351, 380.) Neither the Judgment nor any other authorities  
15 prevent the Court from reevaluating Watermaster's proposed reallocation methodology even if it  
16 has previously issued an order addressing the matter. The courts have broad inherent authority to  
17 reconsider their prior rulings and orders except where expressly limited from doing so by the  
18 Judgment. (See, See, Brown, Winfield & Canzoneri, Inc. v. Superior Court (2010) 47 Cal.4th  
19 1233, 1247 [trial courts have inherent authority to reconsider their previous interim orders]; Le  
20 Francois v. Goel (2005) 35 Cal.4th 1094, 1096-1097 [same].) As stated in Paragraph 15 of the  
21 Judgment, the Court's authority to issue orders or directions is only limited by whether the orders  
22 or directions are "necessary or appropriate for interpretation, enforcement or carrying out of this

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1 Judgment.” (Id.) This standard is satisfied in this instance, as the order and direction sought by  
2 JCSD is necessary for interpretation, enforcement and carrying out the terms of the Judgment.  
3

4 Dated: April 1, 2016

Respectfully submitted,

5 ELLISON, SCHNEIDER & HARRIS L.L.P.

6  
7 By Robert E. Donlan

8 Robert E. Donlan  
9 Elizabeth P Ewens  
10 Craig A. Carnes, Jr.  
11 Attorneys for Defendant  
12 Jurupa Community Services District  
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**PROOF OF SERVICE**

I declare that:

I am employed in the County of Sacramento, State of California. I am over the age of eighteen years and am not a party to the within action. My business address is ELLISON, SCHNEIDER & HARRIS, L.L.P.: 2600 Capitol Avenue, Suite 400; Sacramento, California, 95816. On April 1, 2016, I caused the foregoing documents described as:

**JURUPA COMMUNITY SERVICES DISTRICT'S RESPONSE TO JUDGE REICHERT'S REQUEST FOR CLARIFICATION, MARCH 22, 2016**

**DECLARATION OF TODD CORBIN IN RESPONSE TO JUDGE REICHERT'S REQUEST FOR CLARIFICATION, MARCH 22, 2016**

to be sent via electronic mail in portable document format ("PDF") to:

Janine Wilson  
Chino Basin Watermaster  
9641 San Bernardino Road  
Rancho Cucamonga, CA 91730

E-Mail: [jwilson@cbwm.org](mailto:jwilson@cbwm.org) For service by Watermaster staff on parties to Judgment.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on April 1, 2016, at Sacramento, California.

  
\_\_\_\_\_  
Patty Slomski

1 ELLISON, SCHNEIDER & HARRIS L.L.P.  
Robert E. Donlan (State Bar No. 186185)  
2 Elizabeth P. Ewens (State Bar No. 213046)  
Craig A. Carnes, Jr. (State Bar No. 238054)  
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**EXEMPT FROM FILING FEES  
GOV'T CODE § 6103**

5 Attorneys for Defendant Jurupa Community Services District  
6

7 IN THE SUPERIOR COURT OF CALIFORNIA

8 COUNTY OF SAN BERNARDINO

9 CHINO BASIN MUNICIPAL  
WATER DISTRICT

10 Plaintiff

11 v.

12 CITY OF CHINO, et al.,

13 Defendants.  
14

CASE NO. RCV 51010

[Assigned for all purposes to the Honorable Stanford  
E. Reichert]

**DECLARATION OF TODD CORBIN IN  
RESPONSE TO JUDGE REICHERT'S  
REQUEST FOR CLARIFICATION,  
MARCH 22, 2016**

Hearing Date: May 6, 2016  
Time: 1:30 pm.  
Dept.: R6

15  
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17  
18 I, Todd Corbin, declare as follows:

19 1. I am the General Manager of Defendant Jurupa Community Services District  
20 ("JCSD"), which has its office located in Jurupa Valley, CA. I have personal knowledge of the  
21 facts stated in this declaration, except where stated on information and belief, and if called as a  
22 witness I could and would competently testify to them under oath. I make this declaration in  
23 support of the above-captioned matter.

24 2. JCSD provides water, sewer and street lights for over 118,500 people and  
25 maintains more than 160 acres of parks and over 25 miles of frontage landscape.

26 3. My duties as General Manager of JCSD include, among other things, being  
27 responsible for policy development and implementation, water resources planning and  
28

1 distribution, wastewater collection, treatment, disposal and reclamation, fiscal management,  
2 administration and operation of all JCSD functions, programs and activities. I am also  
3 responsible for assisting with the implementation and attainment of JCSD's goals and objectives  
4 and for implementing the policies of JCSD's elected board of directors. I am responsible for the  
5 preparation of specific long range plans and action proposals, including future water supply plans  
6 for JCSD. I represent JCSD in interactions with other entities, including the Chino Basin  
7 Watermaster, and work directly with those entities on matters affecting JCSD. I am responsible  
8 for developing a diversified water supply portfolio for JCSD and for managing JCSD's water  
9 supply resources to meet the demands, both current and future, of JCSD's growing customer  
10 base. Ensuring that JCSD has access to a sustainable groundwater supply is a top priority in  
11 developing a diversified water supply portfolio for JCSD.

12 4. JCSD is a party to the Restated Judgment ("Judgment")<sup>1</sup> in Case No. RCV 51010  
13 for the Chino Groundwater Basin ("Chino Basin") adjudication and is a member of the  
14 Appropriative Pool thereunder.

15 5. The Chino Basin Watermaster Advisory Committee provides input and  
16 recommendations to the Chino Basin Watermaster.

17 6. JCSD regularly participates in the Chino Basin Watermaster Advisory  
18 Committee meetings and to the best of my knowledge JCSD has always participated in these  
19 meetings.

20 7. To the best of my knowledge, as I was not General Manager of JCSD at the time,  
21 the December 18, 2008 Chino Basin Watermaster Advisory Committee meeting included an  
22 agenda item concerning the procedure and methodology for reallocation of Unproduced  
23 Agricultural Pool water in the event of a reduction in safe yield. To the best of my knowledge,  
24 the representatives from JCSD and the City of Chino opposed Watermaster's proposed motion  
25 for court action on the reallocation methodology that was the subject of the October 8, 2010  
26 Court Order "Approving Watermaster's Compliance with Condition Subsequent Number Eight  
27

28 <sup>1</sup> The original judgment ("Original Judgment") in this case was entered in 1978. In 2012, the Court approved the  
Restated Judgment as the official and legally operative judgment.

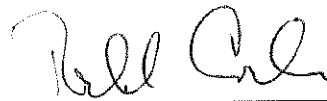
1 and Approving Procedures to be Used to Allocate Surplus Agricultural Pool Water in the Event  
2 of a Decline in Safe Yield.”

3 8. JCSD’s opposition is reflected in the meeting minutes of the Chino Basin  
4 Watermaster Advisory Committee Meeting, dated December 18, 2008.

5 9. As of the date of this declaration, the meeting minutes of the Chino Basin  
6 Watermaster Advisory Committee for the period of 2003 to the present were available on the  
7 Watermaster’s website at [http://www.cbwm.org/met\\_advcommit.htm](http://www.cbwm.org/met_advcommit.htm).

8 10. Attached as Exhibit A hereto is a true and correct copy of the minutes of the  
9 Chino Basin Watermaster Advisory Committee Meeting, dated December 18, 2008.

10 I declare under penalty of perjury under the laws of the State of California that the  
11 foregoing is true and correct and that this Declaration was executed this 30<sup>th</sup> day of March 2016,  
12 in Jurupa Valley, California.

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15 Todd Corbin  
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# Exhibit A

**Minutes**  
**CHINO BASIN WATERMASTER**  
**ADVISORY COMMITTEE MEETING**

*December 18, 2008*

The Advisory Committee meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga CA, on December 18, 2008 at 9:00 a.m.

**ADVISORY COMMITTEE MEMBERS PRESENT**

Appropriative Pool

Robert DeLoach, Chair	Cucamonga Valley Water District
Mark Kinsey	Monte Vista Water District
Ken Jeske	City of Ontario
Robert Tock	Jurupa Community Services District
Ron Craig	City of Chino Hills
Anthony La	City of Upland
Dave Crosley	City of Chino
Charles Moorrees	San Antonio Water Company
Raul Garibay	City of Pomona
Mike McGraw	Fontana Water Company

Non-Agricultural Pool

Bob Bowcock via teleconference	Vulcan Materials Company (Calmat Division)
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Agricultural Pool

Jennifer Novak	State of California Dept. of Justice, CIM
Bob Feenstra	Ag Pool – Dairy
Jeff Pierson	Ag Pool – Crops
Rob Vanden Heuvel	Milk Producers Counsel

**Watermaster Board Members Present**

Charles Field	Western Municipal Water District
Ken Willis	City of Upland
Terry Catlin	Inland Empire Utilities Agency

**Watermaster Staff Present**

Ken Manning	CEO
Sheri Rojo	CFO/Asst. General Manager
Ben Pak	Senior Project Engineer
Danielle Maurizio	Senior Engineer
Sherri Lynne Molino	Recording Secretary

**Watermaster Consultants Present**

Michael Fife	Brownstein, Hyatt, Farber & Schreck
Scott Slater	Brownstein, Hyatt, Farber & Schreck
Tom McCarthy	Wildermuth Environmental Inc.

**Others Present**

Marty Zvirbulis	Cucamonga Valley Water District
Bill Kruger	City of Chino Hills
Dave Penrice	Aqua Capital Management
Gary Meyerhofer	Carollo Engineers
Sandra Rose	Monte Vista Water District
Rich Atwater	Inland Empire Utilities Agency
Martha Davis	Inland Empire Utilities Agency



David DeJesus  
Steven Lee  
Michael Camacho  
Eunice Ulloa

Three Valleys Municipal Water District  
Reid & Hellyer  
Visitor  
Chino Basin Water Conservation District

Chair DeLoach called the Advisory Committee meeting to order at 9:06 a.m.

**AGENDA - ADDITIONS/REORDER**

No additions or reorders were made to the agenda.

**I. CONSENT CALENDAR**

**A. MINUTES**

1. Minutes of the Advisory Committee Meeting held November 20, 2008

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of November 2008
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through October 31, 2008
4. Treasurer's Report of Financial Affairs for the Period October 1, 2008 through October 31, 2008
5. Budget vs. Actual July 2008 through October 2008

**C. WATER TRANSACTION**

1. **Consider Approval for Notice of Sale or Transfer** – Fontana Water Company ("Company") has agreed to purchase from Cucamonga Valley Water District water in storage in the amount of 4,265 acre-feet. Date of Application: October 6, 2008
2. **Consider Approval for Notice of Sale or Transfer** – Aqua Capital Management LP (Aqua) has agreed to purchase from CCG Ontario LLC (CCG) the amount of all of CCG's water in storage as of June 30, 2008, and a permanent transfer of its share of safe yield of 630,274 acre-feet. Date of Application: November 7, 2008

*Motion by Kinsey, second by La, and by unanimous vote – Bowcock abstained on C2*

***Moved to approve Consent Calendar Items A through C, as presented***

**II. BUSINESS ITEMS**

**A. MOU COOPERATIVE EFFORTS FOR MONITORING PROGRAMS BETWEEN THE INLAND EMPIRE UTILITIES AGENCY AND THE CHINO BASIN WATERMASTER – BRIGHT LINE APPROACH**

Mr. Manning stated the concept of this item has been discussed in great detail at past meetings. There is a previous agreement for monitoring with Inland Empire Utilities Agency and in 2007 there was some disparity regarding what some costs should be and how those numbers were determined. In the discussions over those costs it was decided among Watermaster and IEUA staff to adopt an approach which was referred to as the Bright Line Approach. The concept is that IEUA and Watermaster would divide the monitor work and the information gathered from that monitoring will be cooperatively shared. That particular agreement has been performed based on a handshake since January, 2008, and it has been working well for both parties, however, it now needs to be formalized in writing. This agreement has gone through the Pool process and was approved unanimously.

*Motion by La, second by Garibay, and by unanimous vote*

***Moved to approve the MOU Cooperative Efforts for Monitoring Programs between the Inland Empire Utilities Agency and the Chino Basin Watermaster – Bright Line Approach, as presented***

**B. PUBLIC INFORMATION COST SHARING AGREEMENT WITH INLAND EMPIRE UTILITIES AGENCY FOR 2009 COMMUNITY OUTREACH CAMPAIGN**

Mr. Manning stated this is an item Watermaster has been working on with Inland Empire Utilities Agency since 2005. In 2005, IEUA and Watermaster had discussions with the Daily Bulletin regarding developing a public information program that assists our agencies in dealing with water issues; a proactive approach on recycled water, water reliability issues, scarcity outages, and other water related topics. The idea was to purchase a volume of ad space within the newspaper at a reduced cost. This ad campaign was very successful past years. Watermaster has been a contributor of \$10,000 and this is the amount staff is recommending at this time for another 12-month ad campaign. This will also include an on-line campaign. This agreement has gone through the Pool process and was approved unanimously.

*Motion by Garibay, second by McGraw, and by unanimous vote*

***Moved to approve the Public Information Cost Sharing Agreement with Inland Empire Utilities Agency for 2009 for a 12-month Community Outreach Campaign, as presented***

**C. CONDITION SUBSEQUENT NO. 5**

Mr. Manning stated this item is a follow up to the second phase of Condition Subsequent No. 5. Included on the back table is a draft legal document that would be filed with the court and a copy of a new schedule that WEI has put together. Watermaster is required to update Condition Subsequent No. 5, and to submit update along with the new schedule. At the upcoming hearing on February 2<sup>nd</sup> and 3<sup>rd</sup> the court has asked that Watermaster make a presentation on the physical solution. Counsel Fife stated there is a draft pleading on the back table in order to begin receiving comments from the parties. This is only on Condition Subsequent No. 5 and it will be revised prior to filing it with the court by January 1, 2009. WEI been replaced with Black & Veatch and the Conservation District for some of the tasks. Other dates have been tried up after discussions with Black & Veatch and the Conservation District. This agreement has gone through the Pool process and was approved unanimously.

*Motion by Garibay, second by Kinsey, and by unanimous vote*

***Moved to approve the January 1, 2009 Progress Report on Watermaster's Recharge Master Plan Update pursuant to Condition Subsequent No. 5 to be filed with the court, as presented***

**D. AGRICULTURAL POOL REALLOCATION PROCEDURE**

Mr. Manning stated this item retains to a proposed accounting procedure should there be a potential decline in safe yield. Mr. Manning stated pursuant to a stipulation with Monte Vista Water District dated April 25, 2008, Watermaster committed to include in Condition Subsequent No. 8, a comprehensive analysis and explanation of how and whether Watermaster will calculate replenishment obligations, in light of the model's predicted safe yield decline over time. The Stipulation further required Watermaster to produce information regarding an expected range of Agricultural Pool production prior to July 1, 2008. Watermaster produced this information and at the June 26, 2008 Appropriative Pool meeting, the Appropriative Pool decided to convene a subcommittee to discuss the development of a procedure to respond to this information. At the August 6, 2008 meeting of this subcommittee, staff and legal counsel were asked to put together information for consideration by the subcommittee members. Staff and legal counsel were asked to memorialize a proposed resolution of the method of reallocating Agricultural pool water in the event of a reduction in Safe Yield, and to create spreadsheets that document the results of a range of other methods. On September 8, 2008, Watermaster distributed these materials to the subcommittee and requested comments. Mr. Manning stated the recommendation provided comes from the sub-committees decision and it was noted two parties were in opposition to the sub-committees recommendation; the City of Chino and Jurupa Community Services District. Mr. Manning noted at the recent Agricultural Pool meeting that committee elected to take no position in this matter. A discussion regarding this matter ensued.

*Motion by Kinsey, second by La, and by majority vote – Agricultural Pool abstained, Jurupa Community Services District, and the City of Chino voted no*

***Moved to adopt the procedures for the Agricultural Pool reallocation procedure and instruct counsel to include a description of the procedures in the filing made in of with Condition Subsequent No. 8, as presented***

**E. WATERMASTER PURCHASE AND SALE AGREEMENT – PROPOSED PRICE FLOOR AUCTION**

Counsel Fife stated Peace II allowed for a Purchase and Sale Agreement for the Non-Agricultural Pool water that is in storage. There are various requirements in the Purchase and Sale Agreement and one of them is to establish a process to use this water as part of a Storage and Recovery Program with a deadline to do that by January 20, 2009. The Appropriators met and discussed how to deal with the water and eventually came up with a proposal for how to use the water in connection with the Storage and Recovery Program through what is being called a Price Floor Auction. There is a detailed staff report provided in the meeting packet that describes the terms of this agreement that would be with Western Municipal Water District acting as the minimum floor bidder. There are different procedures for how the auction would proceed and those are outlined in the staff report. The recommendation that staff is asking for are the approval of the recommendations in the staff report, primarily to proceed with the auction process and complete the auction agreement with WMWD by the deadline. Mr. Manning stated this agreement has gone through the Pool process and was approved unanimously. Chair DeLoach noted a letter written by Monte Vista Water District which further articulates some of their comments made at the Appropriative Pool meeting and is available on the back table. Mr. Kinsey offered comment and further clarification on the letter and a discussion regarding this item ensued. Mr. Manning stated this will come back to this committee in a formal contract after it has been discussed with WMWD. Counsel Fife stated the Agreement that is provided in the meeting packet is a draft proposed agreement and the action that is being requested is not to approve this draft agreement but to approve going forward with the process to complete the agreement and then that agreement will be brought back through the Watermaster process. A discussion regarding this matter ensued.

*Motion by Jeske, second by Kinsey, and by unanimous vote*

***Moved to proceed with the price floor auction process including negotiations and to begin to draft documentation of the base bid with Western Municipal Water District and to schedule a process for making a recommendation to Watermaster as to the proposed "broad mutual benefit" to be received by the Storage and Recovery Project and bring it back to the Appropriative Pool for final approval, as presented***

**III. REPORTS/UPDATES**

**A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**

**1. February 2, 2009 Hearing**

Counsel Fife stated a rough draft outline will be distributed to the parties prior to it going to the court and it is available on the back table for review. This draft is open for comments and Counsel Fife noted that not all parties that are listed as witnesses have been contacted prior to them being placed on the list. A discussion regarding the draft outline ensued. It was noted after comments are received a second draft will be presented prior to it going to the court. A discussion regarding the witness list and witness court process ensued.

**2. Condition Subsequent No. 7 Pleading**

Counsel Fife stated this pleading is regarding Wildermuth's report on Condition Subsequent No. 7 and an update on Condition Subsequent No. 5. The pleading will be filed next week along with the recent interventions.

## Added Comment:

Mr. Feenstra inquired about the status of the request made by the Agricultural Pool regarding the special project TMDL Study. Counsel Fife stated no response has been formulated at this point in time; however, it is being looked into with regard to the history of special projects and special project assessments within the Chino Basin. A discussion regarding this matter ensued.

**B. ENGINEERING REPORT**1. Oral Progress Report on Engineering Activities November 2008

No comment was made regarding this item.

2. Progress Report on the AB303 Grant ASR Pilot Project in MZ3

No comment was made regarding this item.

**C. FINANCIAL REPORT**1. Agricultural Pool Fund Analysis

Ms. Rojo stated this item is being presented at the request of the Advisory Committee last month to give an update of the history as to where the Agricultural Pool funds came from. At the Ag Pool meeting of June 16, 1988, the pool members ratified an agreement with the Appropriative Pool whereby the Appropriators will assume all future Ag Pool administrative expenses, including special project expenses, in return for which the Appropriators will receive an early transfer of the Ag Pools unpumped water rights. The Ag Pool transferred all pool administrative reserves at June 30, 1988, in the amount of \$59,852 to the Appropriative Pool effective July 1, 1988. In June, 1988, the Ag Pool sold 2,000 acre-feet of water in storage to Cucamonga County Water District. "Funds from this sale are to be held and invested by the Watermaster for future use as determined by the Ag Pool members in the amount of \$246,000." The 2,000 acre-feet of water was purchased in 1978 by the Ag Pool, in anticipation of having a future replenishment obligation. The \$246,000 has earned interest for the past 19 years. The Ag Pool "extra compensation" was taken from these funds beginning in 2001. Various "Mutual Agency Project Costs" have been paid out of the Ag pool funds on six different occasions since 1998 in amounts ranging from \$3,000-\$20,000 per year. The Ag Pool fund balance is approximately \$475,604 as of June 30, 2008. Mr. Feenstra stated one of the large checks distributed from the Ag Pool fund balance was a request from the Regional Water Quality Control Board, having nothing to do with agricultural, which was allowing the RWQCB to finish a report on the perchlorate plume at the Ontario Airport. A discussion regarding Mr. Feenstra's comment ensued and it was noted the funds he is referring to was actually paid from the appropriators. Ms. Rojo stated she would verify this.

Mr. Feenstra stated he is once again inquiring about the funds to be paid at the request of the Agricultural Pool. Mr. Feenstra stated Mr. Rob Vanden Heuvel who is a member of the Agricultural Pool is here to offer comment on this matter. Mr. Feenstra stated he also has some questions of staff and legal counsel regarding special projects. Mr. Vanden Heuvel stated he made a presentation on the TMDL Study recently and gave an updated presentation to the committee members. A lengthy discussion regarding this matter ensued. It was noted the Advisory Committee needs more information on the details of this study prior to making a decision. Mr. Feenstra stated the subject at hand is that the Agricultural Pool has made the determination this is a special project; therefore requesting the Appropriative Pool honor that request per the Peace Agreement/Judgment and pay the monies needed to fund the TMDL study. Mr. Lee offered comment on his findings regarding this matter including what the Peace Agreement/Rules and Regulations/Judgment defines as a special project. A discussion regarding what a special project is ensued.

**D. CEO/STAFF REPORT**

1. Legislative Update

Mr. Manning stated on page 131 of the meeting packet is Inland Empire Utilities Agency Legislative Report which a comprehensive and up-to-date report on both state and federal issues for your review on this item.

2. Recharge Update

Mr. Pak stated an updated handout on the recent recharge activities is available on the back table. Mr. Pak gave a presentation on the current state of the Watermaster recharge basins. Mr. Pak noted in November the storm water recharge as 677 acre-feet and the recycled water recharge was 229 acre-feet. On December 15, there was 1,380 acre-feet of storm water recharge and 600 acre-feet of recycled water recharge and the December numbers will be recalculated at the end of the month. Mr. Manning noted that the 1,380 acre-feet of capture that was the single largest day capture recorded for the Watermaster basins.

3. California Groundwater Coalition (CGC)

Mr. Manning stated Chris Frahm from Brownstein, Hyatt, Farber & Schreck was to be here to make this presentation, however, due to weather conditions she was not able to be here in time. This presentation will be given by Mr. Manning at the Watermaster Board meeting later today.

**E. INLAND EMPIRE UTILITIES AGENCY**

1. Dry Year Yield Expansion Program Oral

Mr. Atwater stated the recent Dry Year Yield Expansion Program was a good meeting and the board did approve the CEQA documentation and thanked all the parties involved in this process.

2. MWD Water Supply Allocation Plan Update Oral

Mr. Atwater stated there will not be any substitutive information available until early January. The storms that we had this week are good news for the Chino Basin including the much needed snow packs that we can see on the mountains this morning. It is understood it looks like there are a few more storms still headed this way this month.

3. IEUA Draft "Strawman" Drought Plan Oral

No comment was made regarding this item.

4. Recycled Water Newsletter

No comment was made regarding this item.

5. Monthly Water Conservation Programs Report

No comment was made regarding this item.

6. State and Federal Legislative Report

No comment was made regarding this item.

7. Community Outreach/Public Relations Report

No comment was made regarding this item.

8. IEUA Regional Conservation Programs

No comment was made regarding this item.

9. Annual Water Use Report for IEUA Service Area

No comment was made regarding this item.

**F. OTHER METROPOLITAN MEMBER AGENCY REPORTS**

No comment was made regarding this item.

**IV. INFORMATION**

**1. Newspaper Articles**

No comment was made regarding this item.

**V. COMMITTEE MEMBER COMMENTS**

No comment was made regarding this item.

**VI. OTHER BUSINESS**

No comment was made regarding this item.

**VII. FUTURE MEETINGS**

December 11, 2008	10:00 a.m.	Joint Appropriative & Non-Agricultural Pool Meeting
December 16, 2008	9:00 a.m.	Agricultural Pool Meeting @ IEUA
December 18, 2008	9:00 a.m.	Advisory Committee Meeting
December 18, 2008	11:00 a.m.	Watermaster Board Meeting
January 8, 2009	9:30 a.m.	Annual Non-Agricultural Pool Elections
January 8, 2009	9:45 a.m.	Annual Appropriative Pool Elections
January 8, 2009	10:00 a.m.	Annual Joint Appropriative & Non-Agricultural Pool Meeting
January 20, 2009	9:00 a.m.	Annual Agricultural Pool Meeting @ IEUA
January 22, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
January 22, 2009	9:00 a.m.	Annual Advisory Committee Meeting
January 22, 2009	11:00 a.m.	Annual Watermaster Board Meeting

The Advisory Committee meeting was dismissed by Chair DeLoach at 10:40 a.m.

Secretary: \_\_\_\_\_

Minutes Approved: January 22, 2009

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**PROOF OF SERVICE**

I declare that:

I am employed in the County of Sacramento, State of California. I am over the age of eighteen years and am not a party to the within action. My business address is ELLISON, SCHNEIDER & HARRIS, L.L.P.: 2600 Capitol Avenue, Suite 400; Sacramento, California, 95816. On April 1, 2016, I caused the foregoing documents described as:

**JURUPA COMMUNITY SERVICES DISTRICT'S RESPONSE TO JUDGE REICHERT'S REQUEST FOR CLARIFICATION, MARCH 22, 2016**

**DECLARATION OF TODD CORBIN IN RESPONSE TO JUDGE REICHERT'S REQUEST FOR CLARIFICATION, MARCH 22, 2016**

to be sent via electronic mail in portable document format ("PDF") to:

Janine Wilson  
Chino Basin Watermaster  
9641 San Bernardino Road  
Rancho Cucamonga, CA 91730

E-Mail: [jwilson@cbwm.org](mailto:jwilson@cbwm.org) For service by Watermaster staff on parties to Judgment.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on April 1, 2016, at Sacramento, California.

  
\_\_\_\_\_  
Patty Slomski

**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 April 1, 2016 I served the following:

1. JURUPA COMMUNITY SERVICES DISTRICT'S RESPONSE TO JUDGE REICHERT'S REQUEST FOR CLARIFICATION, MARCH 22, 2016
2. DECLARATION OF TODD CORBIN IN RESPONSE TO JUDGE REICHERT'S REQUEST FOR CLARIFICATION, MARCH 22, 2016

/ 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 April 1, 2016 in Rancho Cucamonga, California.

  
By: Janine Wilson  
Chino Basin Watermaster



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Don Galleano  
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Eric Fordham  
Eric Garner  
Eric Leuze  
Erika Clement  
Eunice Ulloa  
Frank Brommenschenkel  
Frank LoGuidice  
Frank Yoo  
Gabby Garcia  
Gailyn Watson  
Gene Koopman  
Geoffrey Kamansky  
Geoffrey Vanden Heuvel  
Gerald Yahr  
Giannina Espinoza  
Gloria Rivera  
Grace Cabrera  
Greg Woodside  
Henry DeHaan  
James Curatalo  
James Jenkins  
James McKenzie  
Jane Anderson  
Janine Wilson  
Jasmin A. Hall  
Jason Marseilles  
Jason Pivovarov  
Jean Perry  
Jeanina M. Romero  
Jeannette Vagnozzi  
Jeffrey Bruny  
Jeffrey L. Pierson  
Jesse White  
Jesus Placentia  
Jill Willis  
Jim Bowman  
Jim Taylor  
Jo Lynne Russo-Pereyra  
Joe Graziano  
Joe Grindstaff  
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