

FEE EXEMPT

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10 (AGRICULTURAL) POOL

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

13 CHINO BASIN MUNICIPAL WATER
14 DISTRICT,

15 Plaintiff,

16 v.

17 CITY OF CHINO et al.,

18 Defendants.

Case No. RCVRS 51010

Assigned for All Purposes to the
Honorable Stanford E. Reichert

**AGRICULTURAL POOL'S
STATEMENT REGARDING
PAYMENT OF MEDIATION FEES**

1 **AGRICULTURAL POOL’S STATEMENT REGARDING PAYMENT OF**
2 **MEDIATION FEES**

3 At the December 11, 2020 hearing, the Overlying (Agricultural) Pool (Agricultural
4 Pool) was directed to brief the Court on or before December 31, 2020 regarding the
5 Agricultural Pool’s intent for payment of mediation expenses. Accordingly, the Agricultural
6 Pool respectfully submits this statement.

7 The Agricultural Pool Committee’s budget is annually approved by the Chino
8 Basin Watermaster Board and includes all costs and expenses of the Agricultural Pool. The
9 Agricultural Pool intends to pay its portion of the mediation fees from the remaining annual
10 budget for the current fiscal year.¹ During the December 11, 2020 hearing counsel for the
11 Agricultural Pool communicated the likelihood of the Agricultural Pool using its remaining
12 budget to pay its portion of the mediation fees and, despite an invitation to speak extended by
13 the Court, no person or party made any objection or comment in response.²

14 Although the Agricultural Pool has budgeted sufficient funds in the current fiscal
15 year to pay for mediation, John Schatz counsel for the Appropriative Pool informed the
16 Watermaster and the Agricultural Pool on December 21, 2020, that many Appropriative Pool
17 members are refusing to make payment of their allocation of the Fiscal Year 2020-21
18 Agricultural Pool legal budget.³ As a result, despite an intention to pay for mediation, the
19 Agricultural Pool’s payment of its portion of the mediation fees from its remaining annual
20 budget for the current fiscal year will be frustrated, as the approved budget will not be fully
21 funded given the Appropriative Pool’s nonpayment of their allocation of the Agricultural
22 Pool’s Fiscal Year 2020-21 expenses assessed by the Watermaster.

23

¹ The Agricultural Pool’s plan to pay its share of the mediation fees is in no way an admission of
24 liability for those fees or waiver of its right to seek compensation and damages for such fees.

25 ² Pursuant to Section 5.4 of the Peace Agreement, the Appropriative Pool pays all assessments
26 and expenses of the Agricultural Pool.

27 ³ As a consequence, the Appropriative Pool is in default of its obligation to pay all assessments
28 and expenses of the Agricultural Pool of the fiscal year 2020-21. (See Exhibit A: Appropriative
29 Pool December 21, 2020 letters Re: FY 20-21 Ag Legal Expenses Assessment Payment.) The
30 Appropriative Pool members are also currently in default of the obligation to pay all assessments
31 and expenses of the Agricultural Pool for the fiscal year ending June 2020 rendering this the
32 second default of the Peace Agreement by members of the Appropriative Pool.

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Dated: December 31, 2020

EGOSCUE LAW GROUP, INC.

By: Tracy J. Egoscue
TRACY J. EGOSCUE
Attorneys for
OVERLYING (AGRICULTURAL) POOL

Exhibit A

Appropriative Pool December 21, 2020 letters Re:
FY 20-21 Ag Legal Expenses Assessment Payment

JOHN J. SCHATZ
ATTORNEY AT LAW
P.O. BOX 7775
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(949) 683-0398
Email: jschatz13@cox.net

December 21, 2020

**Ms. Tracy Egoscue, Esq.
Overlying (Agricultural) Pool
Chino Basin Watermaster
9641 San Bernardino Road
Rancho Cucamonga, CA 91730**

VIA EMAIL

Re: FY 20-21 Ag Legal Expenses Assessment Payment

Dear Ms. Egoscue:

Please see the attached letter to Watermaster regarding payment by members of the Appropriative Pool of the FY 20-21 Ag expenses assessment.

As suggested in my December 15th email to you, AP members are willing to submit the requested funds to Watermaster for the Ag Pool's use if there is an agreement with the Ag Pool that it will reimburse or otherwise provide the AP members credit for the Ag Pool's use of any funds that are subsequently determined by the Court or through the mediation process to have been the Ag Pool's responsibility. Despite withholding or designating payment to the existing escrow at this time, AP members remain open to negotiating an agreement.

Sincerely,



John J. Schatz
Appropriative Pool Counsel

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ATTORNEY AT LAW
P.O. BOX 7775
LAGUNA NIGUEL, CA. 92607-7775
(949) 683-0398
Email: jschatz13@cox.net

December 21, 2020

Peter Kavounas
General Manager
Chino Basin Watermaster
9641 San Bernardino Road
Rancho Cucamonga, CA 91730

VIA EMAIL


Re: FY 20-21 Ag Legal Expenses Assessment Payment

Dear Mr. Kavounas:

In view of the ongoing litigation regarding Section 5.4(a) of the Peace Agreement, many Appropriative Pool (AP) members are currently withholding payment of their allocation of Fiscal Year 20-21 Agricultural Pool's (Ag Pool) legal expenses.¹ The AP members are prepared to pay promptly their share of such expenses as determined through mediation and/or the pending Court process. Although some AP members have paid their invoiced Ag expenses or may designate that their payment be deposited to the existing escrow account established in connection with this dispute, they are reserving their right to recover their payment as determined by the Court. In the interim, the AP members are also willing to submit the requested funds to Watermaster for the Ag Pool's use, but only upon first obtaining agreement from the Ag Pool that it will reimburse or otherwise provide the AP members credit for the Ag Pool's use of any funds that are subsequently determined by the Court or through the mediation process to have been the Ag Pool's responsibility. The AP has proposed such an agreement to the Ag Pool; however, this remains unresolved.

The AP members also contend that the funds withheld are not subject to any late fee or other penalties and expects that Watermaster will not seek to impose any late fees or other penalties in relation to this ongoing issue. The AP members are hopeful that this issue will be quickly resolved and will update Watermaster should the parties obtain or reach a complete or temporary resolution.

Sincerely,


John J. Schatz
Appropriative Pool Counsel

Copy To: Tracy Egoscue, Esq., Overlying (Agricultural) Pool

¹ The "Ag Pool Legal Budget-\$500,000" column in the attached matrix shows the amount for each AP member.

Agricultural Pool Legal Services and Other Expenses - FY 2020/21 Budget:

\$ 609,900.00

Party	Ag Pool SY Reallocation					Allocation of Ag Pool Expenses
	AF Total Reallocation	\$463,102.00 \$7.60 AF/Admin	Percentage of Admin Assessment	Ag Pool Legal Budget - \$500,000	Ag Pool Member Comp, Meetings, and Special Exp. - \$109,900	
Arrohead Mtn Spring Water Co	0.0	\$ -	0.000%	\$ -	\$ -	\$ -
Chino Hills, City Of	2431.8	\$ 18,474.66	3.989%	\$ 19,946.64	\$ 4,384.27	\$ 24,330.92
Chino, City Of	11080.1	\$ 84,175.76	18.177%	\$ 90,882.53	\$ 19,975.98	\$ 110,858.51
Cucamonga Valley Water District	2576.1	\$ 19,570.89	4.226%	\$ 21,130.22	\$ 4,644.42	\$ 25,774.64
Desalter Authority	0.0	\$ -	0.000%	\$ -	\$ -	\$ -
Fontana Union Water Compnay	3492.6	\$ 26,533.53	5.730%	\$ 28,647.61	\$ 6,296.74	\$ 34,944.35
Fontana Water Company	834.6	\$ 6,340.44	1.369%	\$ 6,845.62	\$ 1,504.67	\$ 8,350.29
Fontana, City Of	0.0	\$ -	0.000%	\$ -	\$ -	\$ -
Golden State Water Company	224.7	\$ 1,707.14	0.369%	\$ 1,843.16	\$ 405.13	\$ 2,248.28
Jurupa Community Services District	16177.2	\$ 122,898.32	26.538%	\$ 132,690.34	\$ 29,165.34	\$ 161,855.68
Marygold Mutual Water Company	358.0	\$ 2,720.04	0.587%	\$ 2,936.76	\$ 645.50	\$ 3,582.26
Monte Vista Irrigation Company	369.7	\$ 2,808.81	0.607%	\$ 3,032.60	\$ 666.57	\$ 3,699.17
Monte Vista Water District	2741.3	\$ 20,825.99	4.497%	\$ 22,485.32	\$ 4,942.27	\$ 27,427.59
Niagara Bottling, LLC	0.0	\$ -	0.000%	\$ -	\$ -	\$ -
Nicholson Trust	2.1	\$ 15.93	0.003%	\$ 17.20	\$ 3.78	\$ 20.98
Norco, City Of	110.3	\$ 837.64	0.181%	\$ 904.38	\$ 198.78	\$ 1,103.16
Ontario, City Of	10468.7	\$ 79,530.81	17.173%	\$ 85,867.49	\$ 18,873.67	\$ 104,741.17
Pomona, City Of	6128.4	\$ 46,557.16	10.053%	\$ 50,266.64	\$ 11,048.61	\$ 61,315.25
San Antonio Water Company	823.3	\$ 6,254.97	1.351%	\$ 6,753.34	\$ 1,484.38	\$ 8,237.72
San Bernardino, County of (Shooting Park)	0.0	\$ -	0.000%	\$ -	\$ -	\$ -
Santa Ana River Water Company	711.0	\$ 5,401.39	1.166%	\$ 5,831.75	\$ 1,281.82	\$ 7,113.57
Upland, City Of	1558.6	\$ 11,840.73	2.557%	\$ 12,784.15	\$ 2,809.96	\$ 15,594.11
West End Consolidated Water Company	517.7	\$ 3,933.25	0.849%	\$ 4,246.63	\$ 933.41	\$ 5,180.05
West Valley Water District	352.1	\$ 2,674.52	0.578%	\$ 2,887.61	\$ 634.70	\$ 3,522.31
Grand Total AP	60958.3	\$ 463,101.98	100.000%	\$ 500,000.00	\$ 109,900.00	\$ 609,900.00

Account 8411 (Ag Pool Member Compensation)	\$ 2,700.00
Account 8467 (Ag Pool Legal and Technical)	\$ 500,000.00
Account 8470 (Ag Pool Meeting Attendance)	\$ 22,200.00
Account 8471 (Ag Pool Special Projects)	\$ 85,000.00
	\$ 609,900.00

Party	Percentage of Admin Assessment	Allocation of Ag Pool Expenses
Jurupa Community Services District	26.538%	\$ 161,855.68
Chino, City Of	18.177%	\$ 110,858.51
Ontario, City Of	17.173%	\$ 104,741.17
CVWD, FUWC, and FWC	11.325%	\$ 69,069.28
Pomona, City Of	10.053%	\$ 61,315.25
MVIC and MVWD	5.104%	\$ 31,126.76
Chino Hills, City Of	3.989%	\$ 24,330.92
Upland, City Of	2.557%	\$ 15,594.11
San Antonio Water Company	1.351%	\$ 8,237.72
Santa Ana River Water Company	1.166%	\$ 7,113.57
West End Consolidated Water Company	0.849%	\$ 5,180.05
Marygold Mutual Water Company	0.587%	\$ 3,582.26
West Valley Water District	0.578%	\$ 3,522.31
Golden State Water Company	0.369%	\$ 2,248.28
Norco, City Of	0.181%	\$ 1,103.16
Nicholson Trust	0.003%	\$ 20.98
Arrohead Mtn Spring Water Co	0.000%	\$ -
Desalter Authority	0.000%	\$ -
Fontana, City Of	0.000%	\$ -
Niagara Bottling, LLC	0.000%	\$ -
San Bernardino, County of (Shooting Park)	0.000%	\$ -

CHINO BASIN WATERMASTER

Case No. RCVRS 51010

Chino Basin Municipal Water District v. City of Chino, et al.

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 December 31, 2020 I served the following:

1. AGRICULTURAL POOL'S STATEMENT REGARDING PAYMENT OF MEDIATION FEES

/ 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 December 31, 2020 in Rancho Cucamonga, California.



By: Anna Nelson
Chino Basin Watermaster

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