



May 2, 2022

Joseph S. Joswiak, MBA
Chief Financial Officer
Chino Basin Watermaster
9641 San Bernardino Road
Rancho Cucamonga, CA 91730

Chino Basin Watermaster, Fiscal Year 2022/23 Draft Budget

Dear Mr. Joswiak:

The Cities of Ontario (Ontario) and Chino (Chino) and Monte Vista Water District (MVWD) appreciate the opportunity to review and provide input on the Watermaster Fiscal Year (FY) 2022/23 Draft Budget.

The proposed FY 2022/23 budget includes scoping items related to implementation of projects included in the Optimum Basin Management Program (OBMP) 2020 Update Report, which was completed and adopted by the Watermaster Board on October 22, 2020. During the process of Watermaster developing the OBMP Update Report, with input from the Parties, it was understood that the next steps for implementation would require agreement by the Parties. This was confirmed by Watermaster’s Summary of Engineering Services and Costs for the Budget: “Furthermore, to implement the 2020 OBMP Update, the parties must update the 2000 OBMP Implementation Plan and amend the Peace Agreement.” Under Section 10.14, amendments to the Peace Agreement require unanimous consent. With that in mind, it was understood that this agreement must be completed prior to any further OBMP related work, in line with past practice. If Watermaster intends otherwise, please provide justification.

Watermaster initiated a process to facilitate an update to the OBMP Implementation Plan (IP) through an amendment to the Peace Agreement. A Drafting Session Orientation was held on March 2, 2020, and the first OBMP IP Drafting Session was held on March 16, 2020. The process was put on hold after the first working meeting and has yet to resume.

The proposed scope of work totals \$276,799 for environmental review and other technical work (account 6906.26) along with \$126,200 for legal support (account 6907.45). Watermaster staff has repeatedly stated that this work is discretionary. Further, CEQA review, and Watermaster expense to support it, is not warranted prior to an agreement on the Implementation Plan and Peace Agreement Amendment. While the parties to the Peace Agreement sanctioned CEQA review of the then-agreed-to project elements, CEQA authorization under Section 2.2 of that Agreement does not extend to future projects to which agreement has not been reached. Watermaster’s own

Commented [PK1]: The Budget summary of Engineering Services and Costs’ statement that “to implement the 2020 OBMP Update, the parties must update the 2000 OBMP Implementation Plan and amend the Peace Agreement” is not a statement that the CEQA review of potential IP activities is considered an amendment to the Peace Agreement requiring unanimous consent or that the Peace Agreement amendment itself should take place prior to CEQA review. The “understanding” referenced here is not shared by Watermaster.

Commented [PK2]: The process was put on hold at the request of the parties; Watermaster is prepared to assist the parties in resuming the process and the proposed budget includes funding for that.

Commented [PK3]: It should be noted that the work that is budgeted for under accounts 6906.26 and 6907.45 includes activities associated with assisting in the negotiation, documentation, and approval of a Peace Agreement amendment, as well as the CEQA review of potential implementation activities.

Commented [PK4]: This statement is contrary to the very essence of CEQA, which is that the effects of a project need to be understood and mitigation must be planned before a project is selected. The Peace Agreement does not change that. The central purpose of CEQA is to inform decisionmakers as to the environmental impacts of their decisions when they are considering such decisions – not after they have made them. The CEQA review of a potential project, and its alternatives, does not commit the reviewing entity to going forward with reviewed activities, but rather informs the entity as to the anticipated environmental impacts associated with the potential project activities.

Commented [PK5]: This statement is incorrect: the 2000 PEIR reviewed the 2000 OBMP programmatically, before the Peace Agreement was arrived at, in a process that is parallel to that being proposed.

Commented [PK6]: It is unclear how the authors of the letter believe that Peace Agreement section 2.2 informs the present discussion. Peace Agreement section 2.2 makes clear that the parties’ (many of whom were public agencies) execution of the Peace Agreement did not commit the parties to undertaking projects without CEQA review or commit them to a future project. It does not state that future CEQA review will not be conducted prior to the amendment of the Peace Agreement.

discretionary activities to develop an optimum basin management program, as part of the Judgment's physical solution, are not subject to CEQA review and hence is not a justification for such expense.

While the Parties could all agree to proceed with this scope of work, Ontario, Chino, and MVWD believe a better approach is to reconvene the IP drafting process in advance of any additional scoping and budget. This will allow the Parties responsible for implementation to first develop the scope of implementation and negotiate an amendment to the Peace Agreement, then study the environmental impacts as needed. This process is in line with what Watermaster stakeholders have already committed to complete – an agreement for the implementation.

Commented [PK7]: As pointed out earlier, this is a reverse process

Ontario, Chino, and MVWD are also seeking clarification from Watermaster whether it intends to implement the budgeted discretionary work either upon a simple majority budget approval of the Advisory Committee or upon approval by all Parties. If the former, please provide a legal explanation of Watermaster's authority to impose this onto the Parties to the Peace Agreement.

Commented [PK8]: The Peace Agreement does not provide for the amendment of the Judgment's provisions regarding the Watermaster budget process, nor does it provide any other procedures or requirements as to the budgeting for OBMP expenses. Since the parties' entrance into the Peace Agreement, Watermaster has budgeted for OBMP related expenses in the same manner as it does for Administrative expenses. Such expenses – whether considered "required" or "discretionary" have been approved by the Advisory Committee and Watermaster, not presented to each Peace Agreement signatory for its individual approval.

Thank you for your time and consideration.

Sincerely,

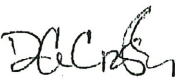


Courtney Jones
City of Ontario Water Resources and Regulatory Affairs Director

Commented [PK9]: Budget approval is through the Advisory Committee.



Justin Scott-Coe
Monte Vista Water District General Manager



Dave Crosley
City of Chino Utilities Engineering and Operations Manager

cc: Peter Kavounas, General Manager, Chino Basin Watermaster
Eduardo Espinoza, Chair, Appropriative Pool Committee