

OVERLYING (NON-AGRICULTURAL) POOL COMMITTEE

RULES AND REGULATIONS

ARTICLE 1

GENERAL PROVISIONS

1.01 Title/Code. This document shall be known and may be referred to as the “Overlying (Non-Agricultural) Pool Committee Rules and Regulations” adopted pursuant to Judgment entered in Chino Basin Municipal Water District v. City of Chino, et al., S.B. Sup. Ct. No. 164327, on January 27, 1978. To provide convenience in operation under the Judgment certain procedural matters contained therein have been set forth in these rules and regulations, however, should a conflict arise between the Judgment and these rules and regulations the language of the Judgment shall in all cases prevail. Designations hereinafter to “See Judgment” shall refer to verbatim quotations from the Judgment; whereas “Based on Judgment” shall refer to a paraphrase of the Judgment language.

1.02 Definitions. Unless otherwise expressly indicated or compelled by their context, words, phrases, and references appearing herein shall have the same meanings as set forth in the Judgment, including the additional definitions as follows:

- (a) Committee(s) – Any of the Pool Committees or the Watermaster Advisory Committee as the context may compel.

(b) Judgment – The judgment entered in Chino Basin Municipal Water District v. City of Chino et al., San Bernardino Superior Court No. 164327.

(c) Overlying (Agricultural) Pool – The pool consisting of the State of California and all overlying producers who produce water for other than industrial or commercial purposes.

(d) Overlying (Non-agricultural) Pool – The pool consisting of overlying producers who produce water for industrial or commercial purposes or who, at the request of Watermaster and with the consent of the Watermaster Advisory Committee, take substitute water in lieu of producing such ground water.

(e) Appropriative Pool – The pool consisting of owners of appropriative rights, as defined under the Judgment, and any person who produces water for other than overlying use.

1.03 Membership in Pool. The pool shall include all producers of water for overlying industrial or commercial purposes, or such producers within the Pool who may hereafter take substitute water, at the request of Watermaster and with the consent of the Watermaster Advisory Committee, in lieu of producing ground water. The initial members of the Pool are listed in Exhibit “D” to the Judgment. [Based on Judgment, page 65, Section 1.]

1.04 Representation. The Pool Committee shall consist of one representative designated by each member of the pool.

[Based on Judgment, page 65, Section 2.]

1.05 Powers and Duties. The Pool Committee shall have the power and responsibility for developing policy recommendations for administration of its Pool and to adopt an annual budget. All actions and recommendations which require Watermaster implementation shall first be noticed to the other two Pools. If no objection is received in writing within thirty (30) days, such action or recommendation shall be transmitted directly to Watermaster for action. If any such objection is received, such action or recommendation shall be reported to the Watermaster Advisory Committee before being transmitted to Watermaster. [Based on Judgment, page 21, Section 38(a).]

## ARTICLE 2

### PROCEDURES

2.01 Principal Office. The principal office of Pool shall be the Chino Basin Municipal Water District business office, located at 8555 Archibald Avenue, Cucamonga, California 91730; telephone number (714) 987-1712, or at such other location or locations as may be designated from time to time by amendment to these rules and regulations.

2.02 Records. The records of the Pool shall be open to inspection and maintained at the Watermaster's office. [Based on Judgment, page 20, Section 37(d).] Copies of such records may be obtained upon payment of the duplication costs thereof.

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2.03 Regular Meetings. The Pool Committee shall meet annually, at the beginning of each year, at such time and place as the Pool Committee may determine from time to time by resolution, for purpose of conducting the business of the pool and to make such recommendations as may be necessary to properly advise Watermaster. If the time designated for regular meetings shall fall on a legal holiday, the regular meeting shall be held instead on the next succeeding regular business day at the same time and place, or such other day, time and place as may be designated.

2.04 Special Meetings. Special meetings may be called at any time by the Chairperson or by any three (3) members of the Pool Committee. [Based on Judgment, page 20, Section 37(c).]

2.05 Adjournment. Any meeting may be adjourned to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. A copy of the order or notice of adjournment shall be conspicuously posted forthwith on or near the door of the place where the meeting was held. [See Judgment, pages 20-21, Section 37(e).]

2.06 Public Meetings. All meetings, whether regular or special, shall be open to the public.

2.07 Notice. Notices shall be given in writing to all Active Parties within the Pool and each such person who has requested notice in writing, and shall specify the time and place of the meeting and the business to be transacted thereat.

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Delivery of notice shall be deemed made on the date personally given or within 96 hours of deposit thereof in the United States mail, first class, postage prepaid, addressed to the designee and at the address in the latest designation filed by such person.

2.08 Quorum. A majority of the voting power of the Pool Committee shall constitute a quorum for the transaction of its affairs. [Based on Judgment, page 18, Section 35.]

2.09 Voting Procedures. All voting shall be on the basis of one vote for each member, unless a volume vote is demanded by any member, in which case votes shall be allocated as follows:

The volume voting power on the Pool Committee shall be 1,484 votes. Of these, 742 votes shall be allocated on the basis of one vote for each ten (10) acre feet or fraction thereof of decreed shares in Safe Yield. The remaining 742 votes shall be allocated proportionally on the basis of assessments paid to Watermaster during the preceding year; provided, however, that if a member of the Pool takes water pursuant to paragraph 8. of Exhibit G to the Judgment, for purposes of voting only, such producer shall be credited as if it had produced such water so taken and paid the assessment which would have been applicable thereto. [Based on Judgment, Exhibit G, page 65, Section 2.]

Any action or recommendation taken by the Pool Committee shall be transmitted to Watermaster in writing

within five (5) days of such action, together with a report of any dissenting vote or opinion. [Based on Judgment, page 19, Section 35.]

All actions may be adopted by voice vote, but upon demand of any member thereof, the roll shall be called and the ayes and noes recorded in the minutes of the proceedings. Every member of the Pool Committee in attendance, unless disqualified by reason of a conflict of interest, shall be required to vote.

2.10 Agenda. Any person requesting that a matter be considered for action by the Pool Committee, shall request such action in writing delivered to the secretary thereof at least fourteen (14) days prior to said meeting. The priorities of business shall be as stated in the agenda for a particular meeting, subject, however, to matters of business which may arise on an urgency basis, and require the immediate attention and action of the Pool Committee.

2.11 Minutes. The secretary (or in the absence thereof) any person so designated at said meeting) shall prepare and subscribe the minutes of each meeting and make available a copy thereof to the appropriate Active Parties and each person who has filed a request for copies of all minutes or notices in writing. The minutes shall constitute notice of all actions therein reported. [Based on Judgment, page 20, Section 37(d).] Unless a reading of the minutes of a meeting is ordered by a majority vote of its members, each such minutes may be approved without reading.

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2.12 Rules of Order. Except as may be provided herein, the procedures for the conduct of any meeting shall be governed by the latest revised edition of Roberts' Rules of Order. However, such rules, adopted to expedite the transaction of the business in an orderly fashion, are deemed to be procedural only and the failure to strictly observe such rules shall not affect the jurisdiction or invalidate any action taken at a meeting that is otherwise held in conformity with law.

2.13 Compensation. Members of the Pool Committee may by resolution, allow themselves compensation for attendance at meetings, regular or special, in an amount not to exceed twenty-five (\$25.00) dollars per meeting, to a maximum of three hundred (\$300.00) dollars per year, together with reasonable expenses related to the respective activities thereof, subject to applicable provisions of law. [Based on Judgment, page 19, Section 36.]

2.14 Officers. Annually, members of the Pool Committee shall elect one of their number to serve as Chairperson and another of their number to serve as Vice Chairperson. They shall also select a secretary, a treasurer and such assistant secretaries and treasurers may be appropriate, any of whom may, but need not be members of the Pool Committee. All officers are to hold their respective offices subject to the vote of the majority voting power of the Pool Committee. [Based on Judgment, page 19, Section 37(a).]

The Chairperson shall preside over all meetings of

the Pool Committee. In the event of the Chairperson's absence, inability, or disability, those duties shall be performed by the Vice Chairperson or, in the Vice Chairperson's absence, inability, or disability as well, by one of their number so appointed by majority vote as temporary Chairperson for that meeting. The secretary shall prepare and maintain minutes of the meetings of the Pool Committee, and forward the originals for filing with the Watermaster, within ten (10) days of each meeting.

2.15 Advisory Committee Representatives. The number of representatives of the Pool Committee on the Watermaster Advisory Committee shall be as provided by resolution of the Pool Committee from time to time, but the number of said representatives shall at no time exceed ten (10) nor be less than three (3). The voting power of the pool on the Watermaster Advisory Committee shall be exercised as a unit, based upon the vote of a majority of its representatives in attendance. [Based on Judgment, page 17, Section 32, page 65, Section 3.]

2.16 Replenishment. It shall be the responsibility of the members of Pool to provide the funds necessary for purchase of replenishment water to replace any production by the pool in excess of the pool's share of Safe Yield. [Based on Judgment, page 66, Section 4.]

2.17 Assessment. Each member of the pool shall pay an assessment equal to the cost of replenishment water times the number of acre feet of production by such producer

during the preceding year in excess of (a) its decreed share of the Safe Yield, plus (b) any carry-over credit under paragraph 7. of Exhibit G to the Judgment. In addition, the cost of the allocated share of Watermaster administration expense shall be recovered on an equal assessment against each acre foot of production in the pool during such preceding fiscal year or calendar quarter; and in the case of Pool members who take substitute ground water as set forth in paragraph 8. of Exhibit G to the Judgment, such producer shall be liable for its share of administration assessment, as if the water so taken were produced, up to the limit of its decreed share of Safe Yield. [Based on Judgment, page 66, Section 5.]

2.18 Assignment. The rights pertaining to this pool are appurtenant to the land and are only assignable with the land for overlying use thereon; provided, however, that any Appropriator who may, directly or indirectly, undertake to provide water service to such overlying lands may, by an appropriate agency agreement on a form approved by Watermaster, exercise said overlying right to the extent, but only to the extent necessary to provide water service to said overlying lands. [Based on Judgment, page 66, Section 5.]

2.19 Carry-over. Any member of the pool who produces less than its assigned share of Safe Yield may carry such unexercised right forward for exercise in subsequent years. The first water produced during any such subsequent year shall be deemed to be an exercise of its carry-over right.

In the event the aggregate carry-over by any pool member exceeds its share of Safe Yield, such member shall, as a condition of preserving such surplus carry-over, execute a storage agreement with Watermaster. [See Judgment, pages 66-67, Section 7.]

2.20 Amendment. The Pool Committee may amend these rules and regulations from time to time, but not inconsistent with its pooling plan, by majority vote of the voting power. [Based on Judgment, page 67, Section 8; page 19, Section 35.]